



CITY OF OREGON CITY

CITY COMMISSION REGULAR MEETING - REVISED AGENDA

Commission Chambers, Libke Public Safety Facility, 1234 Linn Ave, Oregon City
Wednesday, July 21, 2021 at 7:00 PM

REGULAR MEETING OF THE CITY COMMISSION

Ways to participate in this public meeting:

- *Attend in person, location listed above.*
- *Register to provide electronic testimony (email recorderteam@orccity.org or call 503-496-1505 by 3 p.m. on the day of the meeting to register)*
- *Email recorderteam@orccity.org (deadline to submit written testimony via email is 3 p.m. on the day of the meeting)*
- *Mail to City of Oregon City, Attn: City Recorder, P.O. Box 3040, Oregon City, OR 97045*

1. FLAG SALUTE

2. CONVENE MEETING AND ROLL CALL

3. CEREMONIES AND PROCLAMATIONS

3a. Oath of Office for New Oregon City Police Officers:

Ariah Cookingham

William Guthridge

Walter Harper

Matthew Huspek

K-9 Named Ronnie

3b. Mayoral Appointment of Hunter Pico to the Citizen Involvement Committee as the Second Representative from Hillendale Neighborhood Association

4. CITIZEN COMMENTS

Citizens are allowed up to 3 minutes to present information relevant to the City but not listed as an item on the agenda. Prior to speaking, citizens shall complete a comment form and deliver it to the City Recorder. The City Commission does not generally engage in dialog with those making comments but may refer the issue to the City Manager. Complaints shall first be addressed at the department level prior to addressing the City Commission.

5. PRESENTATIONS**6. ADOPTION OF THE AGENDA****7. CONSENT AGENDA**

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

[7a.](#) Resolution No. 21-31, Adjusting the Threshold Amount for Reimbursement District Eligibility

[7b.](#) National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Contract (PS 21-024) with Brown and Caldwell, Inc. for 2021-22.

[7c.](#) Minutes of the June 16, 2021 Regular Meeting

8. PUBLIC HEARINGS

[8a.](#) First and Second Reading of Ordinance No. 21-1012, Amending the Oregon City Municipal Code Title 17: Zoning (GLUA 20-33, LEG 20-01, Public Works Code Amendments Package #3 Geo Hazard Overlay District Code) and Declaring an Emergency

[8b.](#) Resolution No. 21-42, Calling for an Election to Authorize Borrowings for Water System Improvements to the Electors of Oregon City

[8c.](#) Resolution No. 21-43, Calling for an Election to Authorize Water Rate Increases of up to 3% Annually Above the Charter Limit for 6 Years to the Electors of Oregon City

9. GENERAL BUSINESS

[9a.](#) First Reading of Ordinance No. 21-1011, Amending the Oregon City Municipal Code Chapter 15.28 and Establishing a Public Art Mural Program (Legislative File LEG-21-00002)

10. COMMUNICATIONS

City Manager

Commissioners

Mayor

11. ADJOURNMENT

PUBLIC COMMENT GUIDELINES

Complete a Comment Card prior to the meeting and submit it to the City Recorder. When the Mayor/Chair calls your name, proceed to the speaker table, and state your name and city of residence into the microphone. Each speaker is given three (3) minutes to speak. To assist in tracking your speaking time, refer to the timer on the table.

As a general practice, the City Commission does not engage in discussion with those making comments.

Electronic presentations are permitted but shall be delivered to the City Recorder 48 hours in advance of the meeting.

ADA NOTICE

The location is ADA accessible. Hearing devices may be requested from the City Recorder prior to the meeting. Individuals requiring other assistance must make their request known 48 hours preceding the meeting by contacting the City Recorder's Office at 503-657-0891.

Agenda Posted at City Hall, Pioneer Community Center, Library, City Website.

Video Streaming & Broadcasts: The meeting is streamed live on the Oregon City's website at www.orcity.org and available on demand following the meeting. The meeting can be viewed on Willamette Falls Television channel 28 for Oregon City area residents as a rebroadcast. Please contact WFMC at 503-650-0275 for a programming schedule.



CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: City Commission
From: Chief of Police Jim Band

Agenda Date: 07/21/2021

SUBJECT:

Oath of Office for New Oregon City Police Officers:

Ariah Cookingham

William Guthridge

Walter Harper

Matthew Huspek

K-9 Named Ronnie

OATH OF OFFICE

Sworn Police Officer
Oregon City Police Department

*I, **Ariah Cookingham**, do solemnly swear that I will uphold the law, and support the Constitution of the United States and the State of Oregon. I will abide by the Law Enforcement Code of Ethics, and the department's rules and regulations, while faithfully performing my duties as Police Officer for Oregon City, Oregon.*

GIVEN THIS 21ST DAY OF JULY 2021

Rachel Lyles Smith, Mayor

SUBSCRIBED AND SWORN to before me this 21st day of July 2021.

Notary Public
State of Oregon
My commission expires: _____

OATH OF OFFICE

Sworn Police Officer
Oregon City Police Department

*I, **William Guthridge**, do solemnly swear that I will uphold the law, and support the Constitution of the United States and the State of Oregon. I will abide by the Law Enforcement Code of Ethics, and the department's rules and regulations, while faithfully performing my duties as Police Officer for Oregon City, Oregon.*

GIVEN THIS 21ST DAY OF JULY 2021

Rachel Lyles Smith, Mayor

SUBSCRIBED AND SWORN to before me this 21st day of July 2021.

Notary Public
State of Oregon
My commission expires: _____

OATH OF OFFICE

Sworn Police Officer
Oregon City Police Department

*I, **Walter Harper**, do solemnly swear that I will uphold the law, and support the Constitution of the United States and the State of Oregon. I will abide by the Law Enforcement Code of Ethics, and the department's rules and regulations, while faithfully performing my duties as Police Officer for Oregon City, Oregon.*

GIVEN THIS 21ST DAY OF JULY 2021

Rachel Lyles Smith, Mayor

SUBSCRIBED AND SWORN to before me this 21st day of July 2021.

Notary Public
State of Oregon
My commission expires: _____

OATH OF OFFICE

Sworn Police Officer
Oregon City Police Department

*I, **Matthew Huspek**, do solemnly swear that I will uphold the law, and support the Constitution of the United States and the State of Oregon. I will abide by the Law Enforcement Code of Ethics, and the department's rules and regulations, while faithfully performing my duties as Police Officer for Oregon City, Oregon.*

GIVEN THIS 21ST DAY OF JULY 2021

Rachel Lyles Smith, Mayor

SUBSCRIBED AND SWORN to before me this 21st day of July 2021.

Notary Public
State of Oregon
My commission expires: _____

OATH OF OFFICE

Sworn Police Officer
Oregon City Police Department

*I, **Ronnie**, do solemnly swear that I will support the Constitution of the United States and the State of Oregon, and I will, to the best of my ability, faithfully perform the duties of Police Officer for Oregon City, Oregon, during my incumbency thereof.*

GIVEN THIS 21ST DAY OF JULY 2021

Rachel Lyles Smith, Mayor

SUBSCRIBED AND SWORN to before me this 21st day of July 2021.

Notary Public
State of Oregon
My commission expires: _____





CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: City Commission
From: Finance Director Matt Zook

Agenda Date: 07/21/2021

SUBJECT:

Resolution No. 21-31, Adjusting the Threshold Amount for Reimbursement District Eligibility

STAFF RECOMMENDATION:

Move to adopt Resolution No. 21-31, A Resolution Adjusting the Threshold Amount for Reimbursement District Eligibility.

EXECUTIVE SUMMARY:

Adoption of this resolution adjusts the threshold amount by approximately 1.5% to \$40,400 and adopts a procedure for staff to adjust the threshold amount annually for inflation thereafter.

BACKGROUND:

Oregon City Municipal Code (OCMC) Chapter 3.20 provides a developer the option of creating a reimbursement district when they build infrastructure larger than what is required for their specific development. For example, they may build a water line from the City main to their new housing development, but it travels past several properties that they do not own. The reimbursement district allows the developer to collect payment from those other property owners when those property owners connect to the water line at some point in the future. The City acts as the conduit to calculate prorated cost amounts, track connections, collect money and reimburse the original developer.

There is a "threshold amount" that must be exceeded before the City will allow the reimbursement district.

The threshold amount was adjusted to \$38,800 effective July 1, 2019 by Resolution 19-24, and to \$39,800 effective July 1, 2020 by Resolution 20-20.

Oregon City Municipal Code (OCMC) 3.20.030 states that the threshold amount shall be adopted by resolution of the City Commission.

Adoption of this resolution adjusts the threshold amount by approximately 1.5% to \$40,400, effective August 6, 2021, based on changes in the CPI-U for the Pacific Division.

Additionally, adoption of this resolution allows staff to adjust the threshold amount annually, on July 1 of each year, to account for inflation.

OPTIONS:

1. Approve and adopt Resolution 21-31
2. Deny Resolution 21-31 and provide staff with direction

BUDGET IMPACT:

Amount: No budget impact

FY(s): n/a

Funding Source(s): n/a

RESOLUTION NO. 21-31**A RESOLUTION ADJUSTING THE THRESHOLD AMOUNT FOR REIMBURSEMENT DISTRICT ELIGIBILITY**

WHEREAS, Oregon City Municipal Code (OCMC) 3.20.040(A) states that a person may apply to the City to form a reimbursement district if certain criteria are met; and

WHEREAS, one criterion is that the public improvement requested to be eligible to be included in a reimbursement district must cost in excess of the current threshold amount; and

WHEREAS, Oregon City Municipal Code (OCMC) 3.20.030 states that the threshold amount shall be adopted by resolution of the City Commission; and

WHEREAS, Resolution 19-24 adjusted the threshold amount to \$38,800 effective July 1, 2019, and Resolution 20-20 adjusted the threshold amount to \$39,800 effective July 1, 2020.

NOW, THEREFORE, OREGON CITY RESOLVES AS FOLLOWS:

Section 1. The City hereby adjusts the threshold amount by approximately 1.5% to \$40,400.

Section 2. Beginning on July 1, 2022, and annually thereafter, the threshold amount shall be adjusted to account for inflation based on changes in the CPI-U for the Pacific Division. The adjustment is determined by dividing the current CPI by the previous CPI. This is then multiplied by the threshold amount to establish the new threshold amount (rounded to the nearest one hundred dollars).

Section 3. This resolution shall take effect August 6, 2021.

Approved and adopted at a regular meeting of the City Commission held on the 21st day of July 2021.

RACHEL LYLES SMITH, Mayor

Attested to this 21st day of July 2021:

Approved as to legal sufficiency:

Kattie Riggs, City Recorder

City Attorney



CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: City Commission
From: Public Works Director John M. Lewis, PE

Agenda Date: 07/21/2021

SUBJECT:

National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Contract (PS 21-024) with Brown and Caldwell, Inc. for 2021-22.

STAFF RECOMMENDATION:

Authorize the City Manager to execute the Contract Agreement in the amount of \$94,176.00 with Brown and Caldwell, Inc. for engineering services related to advising and providing consulting services related to the City's State NPDES Permit for a one-year term.

EXECUTIVE SUMMARY:

The City is scheduled to apply for, and receive, a new National Pollutant Discharge Elimination System (NPDES) permit with new guidance and requirements from the State. The City of Oregon City is a co-permittee on the permit along with other municipalities within Clackamas County. Each co-permittee is responsible for ensuring that its respective agency meets the requirements outlined within the permit for each of their respective agencies.

The Scope of Work reflects activities to be completed in the 2021-2022 fiscal year, including work assisting with the City's annual report, due in November of 2021, associated with the NPDES MS4 permit and Total Maximum Daily Load (TMDL) compliance, and includes potential NPDES MS4 permit negotiations with the Oregon Department of Environmental Quality (DEQ).

BACKGROUND:

On March 15, 2011, the Oregon Department of Environmental Quality issued a renewed Phase I National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer (MS4) permit for the Clackamas County jurisdictions. Brown and Caldwell, Inc. has a long history of providing consulting engineering services to many of the Clackamas County stormwater agencies including Oregon City and oversees the overall

coordination of the permit for the co-permittees. Brown and Caldwell, Inc. is also one of the short-listed consultants on the City's short list for utility infrastructure improvements authorized by the City Commission on February 5, 2020.

OPTIONS:

1. Authorize the City Manager to execute the Agreement.
2. Authorize the City Manager to execute the Agreement with specific modifications.
3. Deny the Agreement. If the Commission chooses to deny the Agreement, staff requests direction on how to proceed.

BUDGET IMPACT:

Amount: \$94,176.00

FY(s): 2021-22

Funding Source(s): Stormwater Fund

**CITY OF OREGON CITY
PERSONAL SERVICES AGREEMENT**

NPDES MS4 AND TMDL SUPPORT (PS 21-024)

This PERSONAL SERVICES AGREEMENT ("Agreement") is entered into between the CITY OF OREGON CITY ("City") and **BROWN AND CALDWELL** ("Consultant").

RECITALS

A. City requires services that Consultant is capable of providing under the terms and conditions hereinafter described.

B. Consultant is able and prepared to provide such services as City requires under the terms and conditions hereinafter described.

The parties agree as follows:

AGREEMENT

1. Term. The term of this Agreement shall be from the date the contract is fully executed until **June 30, 2022**, unless sooner terminated pursuant to provisions set forth below. However, such expiration shall not extinguish or prejudice City's right to enforce this Agreement with respect to (i) breach of any warranty; or (ii) any default or defect in Consultant's performance that has not been cured.

2. Compensation. City agrees to pay Consultant on a time-and-materials basis for the services required. Total compensation, including reimbursement for expenses incurred, shall not exceed **ninety-four thousand one hundred seventy-six dollars and 00/100 dollars (\$94,176.00)**.

3. Scope of Services. Consultant's services under this Agreement shall consist of services as detailed in Exhibit A, attached hereto and by this reference incorporated herein.

4. Standard Conditions. This Agreement shall include all of the standard conditions as detailed in Exhibit B, attached hereto and by this reference incorporated herein.

5. Schedule. The components of the project described in the Scope of Services shall be completed according to Term, above.

6. Integration. This Agreement, along with the description of services to be performed attached as Exhibit A and the Standard Conditions to Oregon City Personal Services Agreement attached as Exhibit B, contain the entire agreement between and among the parties, integrate all the terms and conditions mentioned herein or incidental hereto, and supersede all prior written or oral discussions or agreements between the parties or their predecessors-in-interest with respect to all or any part of the subject matter hereof.

7. Notices. Any notices, bills, invoices, reports or other documents required by this Agreement shall be sent by the parties by United States mail, by hand delivery or by electronic means. All notices shall be in writing and shall be effective when delivered. If mailed, notices shall be deemed effective forty-eight (48) hours after mailing, unless sooner received.

To the City:

City of Oregon City
 PO Box 3040
 625 Center Street
 Oregon City, OR 97045
 Attention: John M. Lewis

To Consultant:

Brown and Caldwell, Inc.
6500 SW Macadam Ave, Suite 200
Portland, OR 97239
Attention: Krista Reininga

Consultant shall be responsible for providing the City with a current address. Either party may change the address set forth in this Agreement by providing notice to the other party in the manner set forth above.

8. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the state of Oregon without resort to any jurisdiction's conflicts of law, rules or doctrines.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly appointed officers on this _____ day of _____, 20____.

CITY OF OREGON CITY

BROWN AND CALDWELL, INC.

By: _____
 Anthony J. Konkol III
 Title: City Manager

By: _____
 Name: _____

DATED: _____, 20____.

Title: _____

By: _____
 John M. Lewis, P.E.
 Title: Public Works Director

DATED: _____, 20____.

DATED: _____, 20____.

ORIGINAL CITY COMMISSION APPROVAL (IF
 APPLICABLE):

DATE: _____

APPROVED AS TO LEGAL SUFFICIENCY:

By: _____
 City Attorney

\\depot\Departments\PublicWorks\CIP_PS_RFQ_RFP\PS_Open\PS 21-024 NPDES MS4 and TMDL Support\CONTRACT\PS 21-024 Brown and Caldwell.docx

Exhibit A

2021-2022 NPDES MS4 Permit Compliance, TMDL Compliance, and Stormwater Management Support Services

Scope of Work

The City of Oregon City (City) is contracting with Brown and Caldwell (BC) to complete tasks associated with implementation of the City's National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) permit. This Scope of Work reflects activities to be completed in the 2021-2022 fiscal year, associated with NPDES MS4 permit and Total Maximum Daily Load (TMDL) compliance.

Phase 1 Support for NPDES MS4 and TMDL Annual Reporting

Objective	To assist the City in preparation of its NPDES MS4 and TMDL annual compliance reports to summarize activities for the 2020/2021 permit year.
Activities	The 2020/2021 reporting year covers the time period between July 1, 2020, through June 30, 2021, and is due to DEQ on November 1, 2021. For the NPDES MS4 annual compliance report, BC previously developed a tabular matrix for use in compiling information to summarize activities conducted during the reporting period. The matrix includes columns for reporting the status of meeting measurable goals and tracking measures as identified in the City's stormwater management plan (SWMP). City staff will complete the tabular matrix documenting City activities and progress toward measurable goals during the reporting period. The City will also update the narrative and TMDL portions of the annual report. Based on information provided by the City, BC will review and comment on the tabular matrix, the narrative report, and any associated data (including monitoring data) for completeness and clarity. BC will also provide support via phone and/or in person to assist the City with this process up to the hours allotted for this phase.
Deliverables	A reviewed copy of the NPDES MS4 and TMDL annual report with suggested revisions completed in track changes and comments provided in the document margins.
Assumptions	Assumptions for Phase 1 include the following: - BC assumes the draft annual report will be provided to BC by September 30, 2021. - BC will provide comments on the draft annual report within 2 weeks of receiving the draft report from the City. - Coordinated efforts between participants involved in the <i>Coordinated Clackamas County Stormwater Monitoring Plan (CCCSMP)</i> may be conducted to develop a joint annual monitoring report. Contracting and coordination for this report has not been included as part of this phase.

Phase 2 Meeting Attendance and Facilitation

Objective	To facilitate (as requested) and attend Clackamas co-permittee coordination meetings and/or meetings with DEQ or other Phase I jurisdictions, on behalf of the City.
Activities	BC will facilitate (as requested) and attend Clackamas co-permittee meetings to ensure consistency, efficiency, and coordination on specific permit compliance issues with other co-permittees. In addition, BC will attend and assist with meetings that may be held with DEQ and/or other Phase I jurisdictions to coordinate on permit compliance issues associated with the anticipated upcoming issuance of the permit.
Deliverables	Agendas, presentation materials, and meeting minutes will be provided for meetings facilitated by BC, or as requested by the City.
Assumptions	Assumptions for Phase 2 include the following: • BC's effort will be billed on a time-and-materials basis for a not to exceed amount as shown in the budget table at the end of this Exhibit. • As necessary, BC will coordinate scheduling of the meetings among interested Clackamas co-permittees. • Meeting venues will be provided by Clackamas co-permittees. • This phase will be cost-shared among other Clackamas co-permittees and Phase I jurisdictions, as contracts allow.

Phase 3 Provide Assistance for Addressing New MS4 Permit and TMDL Related Requirements

Objective	To assist the City and other Clackamas co-permittees, as relevant, in addressing new permit requirements.
Activities	Up to the hours allotted, activities under Phase 3 may include: • Provide assistance in the development of standard operating procedures to address new "cause and contribute" language in the permit. • Prepare a mercury minimization assessment as anticipated to be required in the new permit. • Update the City's TMDL Implementation Plan, due to DEQ by September 2022. • Support the update of related program documents identified as needed based on a review and update of the SWMP under Phase 7 of this scope.
Deliverables	Dependent on requested tasks.
Assumptions	Assumptions for Phase 3 include the following: • BC's effort for this Phase of work will be billed on a time-and-materials basis for a not to exceed amount as shown in the budget table at the end of this Exhibit. • This phase will be cost-shared among other Clackamas co-permittees, as contracts allow.

Phase 4 Development Review and Design Manual Support

Objective	To provide support to City staff in implementation of the City's stormwater design standards and Best Management Practices (BMP) sizing tool.
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Activities	The BC team will provide assistance on an on-call basis to support implementation of the City's stormwater design standards and BMP sizing tool. Potential activities include the following: • Assist the City with adaptive management of the Stormwater and Grading Design Manual. Adaptive management changes may be required based on final permit language. • Assist the City in responding to questions from developers. • Assist in providing information at City Council meetings as requested.
Deliverables	Deliverables will be based on City requested activities.
Assumptions	BC's effort will be billed on a time-and-materials basis for a not to exceed amount as shown in the budget table at the end of this Exhibit.

Phase 5 Sizing Tool Updates

Objective	Update the sizing tool to address agreed upon changes requested by the City, Clackamas County Water Environment Services (WES), and the City of Wilsonville.
Activities	Activities budgeted under Phase 5 include: • Prepare a list of requested changes to the BMP sizing tool and associated costs. • Work with the City, WES, and the City of Wilsonville to develop a finalized list of requested changes to the tool. • Make requested revisions to the BMP sizing tool. • Perform testing on the updated BMP sizing tool. • Update the BMP User's Guide to reflect any changes made to the tool.
Deliverables	Deliverables for Phase 5 include the following: • Draft and final lists of requested changes to the BMP Sizing Tool. • Draft and final versions of the updated BMP Sizing Tool User's Guide reflecting changes.
Assumptions	Assumptions for Phase 5 include the following: • Changes to the tool will be cost-shared with WES and the City of Wilsonville, as contracts allow. • Given that changes are not currently known, BC's effort will be billed on a time-and-materials basis for a not to exceed amount as shown in the budget table at the end of this Exhibit.

Phase 6 Monitoring Plan Support

Objective	To assist the City in addressing new requirements as they arise related to NPDES MS4 permit monitoring.
Activities	BC will review the new conditions in the (pending) reissued NPDES MS4 permit related to monitoring. Support will be provided to comply with new requirements. Potential tasks include the following: • Facilitate and/or attend coordination meetings with Clackamas co-permittees regarding monitoring activities and coordination including the development of agendas,

development of power point presentations, and preparation of meeting notes as requested.

- Provide support to Clackamas co-permittees to update the Comprehensive Clackamas County Stormwater Monitoring Plan (CCCSMP) to address any new monitoring related requirements or update needs, based on the reissued NPDES MS4 permit.

Deliverables Deliverables will be based on City requested activities.

Assumptions Assumptions for Phase 6 include the following:

- BC's effort will be billed on a time-and-materials basis for a not to exceed amount as shown in the budget table at the end of this Exhibit.
- Updates to the CCCSMP will be equally cost-shared amongst participants.

Phase 7 Stormwater Management Plan Updates

Objective To update the City's Stormwater Management Plan for consistency with new permit requirements.

Activities Activities budgeted under Phase 7 include:

- Assist in the identification of required SWMP updates based on new permit requirements.
- Conduct internal meetings to craft updated BMP descriptions and measurable goals/tracking measures.
- Assist in the development of updates to the SWMP. One of the anticipated updates includes addressing requirements for winter maintenance activities.

Deliverables Deliverables will be based on City requested activities.

Assumptions Support will be provided based on hours allotted.

Phase 8 Project Management

Objective To oversee project schedule, scope, and budget and maintain communications with the City.

Activities Activities budgeted under Phase 8 include:

- Overall budget and schedule management
- Monthly invoicing with detailed progress reports

Deliverables Monthly project progress reports with invoices

Assumptions The estimated project duration is 12 months.

Brown and Caldwell Budget

June 10, 2021

Oregon City, City of (OR) -- Oregon City MS4 TMDL Support 21-22												
		Reininga, Krista	Eldon, Miranda	Wieland, Angela M	Davis, Matthew H	Christofferson, Jessica L	Wilson, Joanna B	Pare, Wendy M	Glass, Michael R			
Phase	Phase Description	PM	PA							Total Labor Hours	Total Labor Effort	Total Effort
		\$258	\$92	\$230	\$230	\$195	\$117	\$129	\$129			
001	Annual Reporting Support	0	0	2	0	16	0	0	0	18	3,580	3,580
002	Meeting Facilitation	20	0	20	0	0	0	0	0	40	9,760	9,760
003	MS4 and TMDL Support	20	0	20	0	0	0	8	60	108	18,532	18,532
004	Development Review	8	0	0	0	0	0	0	32	40	6,192	6,192
005	Sizing Tool Updates	24	0	0	60	0	0	0	40	124	25,152	25,152
006	Monitoring Plan Support	4	0	12	0	0	0	6	20	42	7,146	7,146
007	SWMP Updates	8	0	24	0	0	0	8	40	80	13,776	13,776
008	Project Management	24	14	4	0	0	14	0	0	56	10,038	10,038
TOTAL		108	14	82	60	16	14	22	192	508	94,176	94,176

Hours and Dollars are rounded to nearest whole number.

**STANDARD CONDITIONS TO OREGON CITY
PERSONAL SERVICES AGREEMENT**

Item 7b.

1. Consultant Identification. Consultant shall furnish to City its taxpayer identification number, as designated by the Internal Revenue Service, or Consultant's social security number, as City deems applicable.

2. Payment.

(a) Invoices submitted in connection with this Agreement shall be properly documented and shall identify the pertinent agreement and/or purchase order numbers.

(b) City agrees to pay Consultant within thirty (30) days after receipt of Consultant's itemized statement. Amounts disputed by City may be withheld pending settlement.

(c) City certifies that sufficient funds are available and authorized for expenditure to finance the cost of the services to be provided pursuant to this Agreement.

(d) City shall not pay any amount in excess of the compensation amounts set forth in this Agreement, nor shall City pay Consultant any fees or costs that City reasonably disputes.

3. Independent Consultant Status.

(a) Consultant is an independent consultant and is free from direction and control over the means and manner of providing labor or services, subject only to the specifications of the desired results.

(b) Consultant represents that it is customarily engaged in an independently established business and is licensed under ORS chapter 671 or 701, if the services provided require such a license. Consultant maintains a business location that is separate from the offices of the City and bears the risk of loss related to the business as demonstrated by the fixed price nature of the contract, requirement to fix defective work, warranties provided and indemnification and insurance provisions of this Agreement. Consultant provides services for two or more persons within a 12-month period or routinely engages in advertising, solicitation or other marketing efforts. Consultant makes a significant investment in the business by purchasing tools or equipment, premises or licenses, certificates or specialized training and

Consultant has the authority to hire or fire persons to provide or assist in providing the services required under this Agreement.

(c) Consultant is responsible for obtaining all assumed business registrations or professional occupation licenses required by state or local law (including applicable City or Metro business licenses as per Oregon City Municipal Code Chapter 5.04). Consultant shall furnish the tools or equipment necessary for the contracted labor or services. Consultant agrees and certifies that:

(d) Consultant is not eligible for any federal social security or unemployment insurance payments. Consultant is not eligible for any PERS or workers' compensation benefits from compensation or payments made to Consultant under this Agreement.

(e) Consultant agrees and certifies that it is licensed to do business in the State of Oregon and that, if Consultant is a corporation, it is in good standing within the State of Oregon.

4. Early Termination.

(a) This Agreement may be terminated without cause prior to the expiration of the agreed-upon term by mutual written consent of the parties or by the City upon ten (10) days written notice to the Consultant, delivered by certified mail, email, or in person.

(b) Upon receipt of notice of early termination, Consultant shall immediately cease work and submit a final statement of services for all services performed and expenses incurred since the date of the last statement of services.

(c) Any early termination of this Agreement shall be without prejudice to any obligation or liabilities of either party already accrued prior to such termination.

(d) The rights and remedies of the City provided in this Agreement and relating to defaults by Consultant shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

5. No Third-Party Beneficiaries. City and

STANDARD CONDITIONS TO OREGON CITY PERSONAL SERVICES AGREEMENT

Item 7b.

Consultant are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide, any benefit or right, whether directly or indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

6. Payment of Laborers; Payment of Taxes.

(a) Consultant shall:

(i) Make payment promptly, as due, to all persons supplying to Consultant labor and materials for the prosecution of the services to be provided pursuant to this Agreement.

(ii) Pay all contributions or amounts due to the State Accident Insurance Fund incurred in the performance of this Agreement.

(iii) Not permit any lien or claim to be filed or prosecuted against the City on account of any labor or materials furnished.

(iv) Be responsible for all federal, state, and local taxes applicable to any compensation or payments paid to the Consultant under this Agreement and, unless Consultant is subject to back-up withholding, the City will not withhold from such compensation or payments any amount(s) to cover Consultant's federal or state tax obligation.

(v) Pay all employees at least time and one-half for all overtime worked in excess of forty (40) hours in any one week, except for individuals excluded under ORS 653.100 to 653.261 or under 29 U.S.C. §§ 201 to 209 from receiving overtime.

(b) If the Consultant fails, neglects or refuses to make prompt payment of any claim for labor or services furnished by any person in connection with this Agreement as such claim becomes due, the City may pay such claim to the person furnishing the labor or services and shall charge the amount of the payment against funds due or to become due to the Consultant by reason of this Agreement.

(c) The payment of a claim in this manner shall not relieve Consultant or Consultant's surety from obligation with respect to any unpaid claims.

(d) Consultant and subconsultants, if any, are subject employers under the Oregon workers' compensation law and shall comply with ORS 656.017, which requires provision of workers' compensation coverage for all workers.

7. Subconsultants and Assignment.

Consultant shall neither subcontract any of the work, nor assign any rights acquired hereunder, without obtaining prior written approval from the City. The City, by this Agreement, incurs no liability to third persons for payment of any compensation provided herein to the Consultant.

8. Access to Records. City shall have access to all books, documents, papers and records of Consultant that are pertinent to this Agreement for the purpose of making audits, examinations, excerpts and transcripts.

9. Ownership of Work Product; License. All work products of Consultant that result from this Agreement (the "Work Products") are the exclusive property of City. In addition, if any of the Work Products contain intellectual property of Consultant that is or could be protected by federal copyright, patent, or trademark laws, or state trade secret laws, Consultant hereby grants City a perpetual, royalty-free, fully paid, nonexclusive and irrevocable license to copy, reproduce, deliver, publish, perform, dispose of, use and re-use, in whole or in part (and to authorize others to do so), all such Work Products and any other information, designs, plans, or works provided or delivered to City or produced by Consultant under this Agreement. The parties expressly agree that all works produced (including, but not limited to, any taped or recorded items) pursuant to this Agreement are works specially commissioned by City, and that any and all such works shall be works made for hire in which all rights and copyrights belong exclusively to City. Consultant shall not publish, republish, display or otherwise use any work or Work Products resulting from this Agreement without the prior written agreement of City.

10. Compliance With Applicable Law.

STANDARD CONDITIONS TO OREGON CITY PERSONAL SERVICES AGREEMENT (4/2017)

Page 2 of 5

STANDARD CONDITIONS TO OREGON CITY PERSONAL SERVICES AGREEMENT

Item 7b.

Consultant shall comply with all federal, state, and local laws and ordinances applicable to the services to be performed pursuant to this Agreement, including, without limitation, the provisions of ORS 279B.220, 279C.515, 279B.235, 279B.230 and 279B.270. Without limiting the generality of the foregoing, Consultant expressly agrees to comply with (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans With Disabilities Act of 1990 (Pub. L No. 101-336), ORS 659.425, and all regulations and administrative rules established pursuant to those laws; and (iv) all other applicable requirements of federal and state civil rights and rehabilitation and other applicable statutes, rules and regulations.

11. Professional Standards. Consultant shall be responsible, to the level of competency presently maintained by others practicing in the same type of services in City's community, for the professional and technical soundness, accuracy and adequacy of all services and materials furnished under this authorization.

12. Modification, Supplements or Amendments. No modification, change, supplement or amendment of the provisions of this Agreement shall be valid unless it is in writing and signed by the parties hereto.

13. Indemnity and Insurance.

(a) Indemnity. Consultant acknowledges responsibility for liability arising out of Consultant's negligent performance of this Agreement and shall hold City, its officers, agents, Consultants, and employees harmless from, and indemnify them for, any and all liability, settlements, loss, costs, and expenses, including attorney fees, in connection with any action, suit, or claim caused or alleged to be caused by the negligent acts, omissions, activities or services by Consultant, or the agents, Consultants or employees of Consultant provided pursuant to this Agreement.

(b) Workers' Compensation Coverage. Consultant certifies that Consultant has qualified for workers' compensation as required by the State of Oregon. Consultant shall provide the Owner, within ten (10) days after execution of this Agreement, a certificate of insurance evidencing

coverage of all subject workers under Oregon's workers' compensation statutes. The insurance certificate and policy shall indicate that the policy shall not be terminated by the insurance carrier without thirty (30) days' advance written notice to City. All agents or Consultants of Consultant shall maintain such insurance.

(c) Comprehensive, General, and Automobile Insurance. Consultant shall maintain comprehensive general and automobile liability insurance for protection of Consultant and City and for their directors, officers, agents, and employees, insuring against liability for damages because of personal injury, bodily injury, death, and broad-form property damage, including loss of use, and occurring as a result of, or in any way related to, Consultant's operation, each in an amount not less than \$2,000,000 combined, single-limit, per-occurrence/\$4,000,000 annual aggregate. Such insurance shall name City as an additional insured, with the stipulation that this insurance, as to the interest of City, shall not be invalidated by any act or neglect or breach of this Agreement by Consultant.

(d) Errors and Omissions Insurance Consultant shall provide City with evidence of professional errors and omissions liability insurance for the protection of Consultant and its employees, insuring against bodily injury and property damage arising out of Consultant's negligent acts, omissions, activities or services in an amount not less than \$500,000 combined, single limit. Consultant shall maintain in force such coverage for not less than three (3) years following completion of the project. Such insurance shall include contractual liability.

Within ten (10) days after the execution of this Agreement, Consultant shall furnish City a certificate evidencing the dates, amounts, and types of insurance that have been procured pursuant to this Agreement. Consultant will provide for not less than thirty (30) days' written notice to City before the policies may be revised, canceled, or allowed to expire. Consultant shall not alter the terms of any policy without prior written authorization from City. The provisions of this subsection apply fully to Consultant and its Consultants and agents.

**STANDARD CONDITIONS TO OREGON CITY
PERSONAL SERVICES AGREEMENT**

Item 7b.

14. Legal Expenses. In the event legal action is brought by City or Consultant against the other to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and conditions hereby created, the losing party shall pay the prevailing party such reasonable amounts for attorney fees, costs, and expenses as may be set by a court. "Legal action" shall include matters subject to arbitration and appeals.

15. Severability. The parties agree that, if any term or provision of this Agreement is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected.

16. Number and Gender. In this Agreement, the masculine, feminine or neuter gender, and the singular or plural number, shall be deemed to include the others or other whenever the context so requires.

17. Captions and Headings. The captions and headings of this Agreement are for convenience only and shall not be construed or referred to in resolving questions of interpretation or construction.

18. Hierarchy. The conditions contained in this document are applicable to every Personal Services Agreement entered into by the City of Oregon City in the absence of contrary provisions. To the extent there is a conflict, the terms of the Personal Services Agreement will control over the terms of the standard conditions. To the extent there is a conflict between the terms of the standard conditions and any other document, including the scope of services, the terms of the standard conditions shall control those other terms.

19. Calculation of Time. All periods of time referred to herein shall include Saturdays, Sundays and legal holidays in the State of Oregon, except that, if the last day of any period falls on any Saturday, Sunday or legal holiday, the period shall be extended to include the next day that is not a Saturday, Sunday or legal holiday.

20. Notices. Any notices, bills, invoices, reports or other documents required by this Agreement shall be sent by the parties by United

States mail, postage prepaid, or personally delivered to the addresses listed in the Agreement attached hereto. All notices shall be in writing and shall be effective when delivered. If mailed, notices shall be deemed effective forty-eight (48) hours after mailing, unless sooner received.

21. Nonwaiver. The failure of City to insist upon or enforce strict performance by Consultant of any of the terms of this Agreement or to exercise any rights hereunder shall not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms or rights of any future occasion.

22. Information and Reports. Consultant shall, at such time and in such form as City may require, furnish such periodic reports concerning the status of the project, such statements, certificates, approvals, and copies of proposed and executed plans and claims, and other information relative to the project as may be requested by City. Consultant shall furnish City, upon request, with copies of all documents and other materials prepared or developed in relation with or as a part of the project. Working papers prepared in conjunction with the project are the property of City, but shall remain with Consultant. Copies as requested shall be provided free of cost to City.

23. City's Responsibilities. City shall furnish Consultant with all available necessary information, data, and materials pertinent to the execution of this Agreement. City shall cooperate with Consultant in carrying out the work herein and shall provide adequate staff for liaison with Consultant.

24. Arbitration.

All disputes arising out of or under this Agreement shall be timely submitted to nonbinding mediation prior to commencement of any other legal proceedings. The subsequent measures apply if disputes cannot be settled in this manner.

(a) Any dispute arising out of or under this Agreement shall be determined by binding arbitration.

(b) The party desiring such arbitration shall give written notice to that effect to the other party

**STANDARD CONDITIONS TO OREGON CITY
PERSONAL SERVICES AGREEMENT**

Item 7b.

and shall in such notice appoint a disinterested person of recognized competence in the field as arbitrator on its behalf. Within fifteen (15) days thereafter, the other party may, by written notice to the original party, appoint a second disinterested person of recognized competence as arbitrator on its behalf. The arbitrators thus appointed shall appoint a third disinterested person of recognized competence, and the three arbitrators shall, as promptly as possible, determine such matter, provided, however, that:

(i) If the second arbitrator is not appointed as described above, then the first arbitrator shall proceed to determine such matter; and

(ii) If the two arbitrators appointed by the parties are unable to agree, within fifteen (15) days after the second arbitrator is appointed, on the appointment of a third arbitrator, they shall give written notice of such failure to agree to the parties and, if the parties fail to agree on the selection of the third arbitrator within fifteen (15) days after the arbitrators appointed by the parties give notice, then, within ten (10) days thereafter, either of the parties, on written notice to the other party, may request such appointment by the presiding judge of the Clackamas County Circuit Court.

(c) Each party shall each be entitled to present evidence and argument to the arbitrators. The determination of the majority of the arbitrators or the sole arbitrator, as the case may be, shall be conclusive on the parties, and judgment on the same may be entered in any court having jurisdiction over the parties. The arbitrators or the sole arbitrator, as the case may be, shall give written notice to the parties, stating the arbitration determination, and shall furnish to each party a

signed copy of such determination. Arbitration proceedings shall be conducted pursuant to ORS 33.210 et seq. and the rules of the American Arbitration Association, except as provided otherwise.

(d) Each party shall pay the fees and expenses of the arbitrator appointed by such party and one-half of the fees and expenses of the third arbitrator, if any.

25. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the state of Oregon without resort to any jurisdiction's conflicts of law, rules or doctrines.



CITY OF OREGON CITY

CITY COMMISSION REGULAR MEETING

DRAFT MINUTES

Virtual Meeting
Wednesday, June 16, 2021 at 7:00 PM

CITY COMMISSION VIRTUAL EXECUTIVE SESSION:

The City Commission held a virtual Executive Session immediately following the regular City Commission meeting. Please contact the City Recorder's office with any questions: recorderteam@orc.org.

- a. *PURSUANT TO 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.*

VIRTUAL MEETING OF THE CITY COMMISSION

1. CONVENE MEETING AND ROLL CALL

Mayor Rachel Lyles Smith convened the meeting at 7:16 PM.

PRESENT: 5 - Mayor Rachel Lyles Smith, Commissioner Adam Marl, Commissioner Denyse McGriff, Commissioner Frank O'Donnell, and Commissioner Rocky Smith, Jr.

STAFFERS: 14 - City Manager Tony Konkol, Finance Director Matt Zook, Community Development Director Laura Terway, Public Works Director John Lewis, Asst. City Recorder Jakob Wiley, Planner Kelly Reid, Public Works Director John Lewis, Econ. Dev. Manager James Graham, Library Director Greg Williams, Police Chief Jim Band, City Attorney Bill Kabeiseman, Assistant Parks and Recreation Director Denise Conrad, Human Resources Director Patrick Foiles, and Project Engineer Bob Balgos.

2. FLAG SALUTE

3. CEREMONIES AND PROCLAMATIONS

3a. Proclaiming June 19, 2021 as Juneteenth Day in Oregon City

Mayor Lyles Smith proclaimed June 19, 2021 as Juneteenth Day in Oregon City.

4. CITIZEN COMMENTS

Karen Lynch, resident of Oregon City, was representing Unite Oregon City. She expressed appreciation for the proclamation and making a positive change in the City, especially in light of recent issues with white supremacy groups.

William Gifford, resident of Oregon City, thanked Tony Konkol, City Manager, for his efforts during the evacuations, wildfire, ice storm, and other efforts at the helm of Oregon City. He also shared the motto of Scott City, where history and progress meet, to be used as a guideline for Oregon City.

Mr. Konkol recognized staff's efforts in addressing these difficult times.

5. PRESENTATIONS**6. ADOPTION OF THE AGENDA**

Commissioner McGriff asked to remove item 7a from the Consent Agenda. The agenda was adopted as amended.

7. CONSENT AGENDA

Motion made by Commissioner McGriff, seconded by Commissioner Smith, to approve the consent agenda items 7b through 7m, excluding item 7a. The motion passed with the following vote:

Aye: 5 - Mayor Lyles Smith, Commissioner Marl, Commissioner McGriff, Commissioner O'Donnell, and Commissioner Smith

7a. Resolution No. 21-32, Authorization of the Tree Recovery Program in Response to the 2021 Winter Storm Damage

Commissioner McGriff was concerned about the application of the tree removal policy for damaged trees. She did not think removals should be approved without a review.

Mayor Lyles Smith suggested for trees to be removed by the City, they should set a tree size for review.

Commissioner O'Donnell wanted to make the distinction between damaged and diseased trees.

Laura Terway, Community Development Director, discussed the current City tree policies. City Code only required mitigation and did not prevent the removal of trees.

The Commission expressed concerns with extending the exemption until October 2021 and that viable trees might be removed without adequate justification.

Mr. Konkol clarified they were talking about damaged trees in Singer Creek Park, Water Board Park, and the Cemetery. Currently in the Code there was no way to deny the removal of trees. If citizens lost a tree or had to remove a tree due to the ice storm and reported it, they did not have to replace it unless they were in an overlay district and would be on a list to get a tree from Friends of Trees.

Mayor Lyles Smith was willing to support the tree removal in the parks and cemetery, but not a City-wide exemption.

Commissioner McGriff agreed, but did not think it should be extended to October 2021.

Kelly Reid, Planner, said the date in October 2021 was to give people time to report their tree removal and get on the list. It was hard to get a contractor scheduled at this time.

Mayor Lyles Smith suggested changing the wording to clarify citizens had until October 31, 2021 to report any trees that were removed due to damage in the ice storm, not that they could remove trees up to that date.

The consensus was to direct staff to return with this item after adjusting the language and intent of the policy. The Commission would like to see the notice about the reporting before it was sent in the water bills.

- 7b. Resolution No. 21-33, Support of a Technical Assistance Grant to Implement Housing Choices Code Update (HB 2001)
- 7c. Intergovernmental Agreement Transferring a Portion of Maplelane Court and Maplelane Road from Clackamas County to Oregon City
- 7d. Intergovernmental Agreement with Water Environment Services Transferring a Portion of Sanitary Sewer in and near Clackamette Drive to the City of Oregon City
- 7e. Personal Services Agreement with Blue Horizons Technical Solutions, Inc. for the Security Systems and Software for the Oregon City Operations Complex (CI 18-009)
- 7f. Personal Services Agreement with Friends of Trees for the Tree Recovery Program
- 7g. Public Improvement Contract with D & D Concrete and Utilities, Inc. for the Veterans Memorial Plaza Renovation at the Mt. View Cemetery
- 7h. Public Improvement Contract with Paul Brothers, Inc. for the Construction of Filbert Run Park
- 7i. Management, Supervisory and Confidential Employee Salary Cost of Living Adjustment (COLA) FY 2021-22
- 7j. OLCC: Liquor License Application – Distillery, applying as an LLC, Alluvial Beverage Company, LLC, 1625 Washington Street, Suite 101, Oregon City
- 7k. Minutes of the May 19, 2021 Regular Meeting
- 7l. Minutes of the May 11, 2021 Work Session
- 7m. Minutes of the February 23, 2021 Additional City Commission Retreat Meeting

8. PUBLIC HEARINGS

- 8a. Request to Continue the Public Works Code Amendments Package #3 (GLUA 20-33, LEG 20-01) to July 21, 2021

Motion made by Commissioner McGriff, seconded by Commissioner Smith, to continue the public hearing and consideration of GLUA 20-33, LEG 20-01 to July 21, 2021. The motion passed with the following vote:

Aye: 4 - Mayor Lyles Smith, Commissioner Marl, Commissioner O'Donnell, and Commissioner Smith

Nay: 1 - Commissioner McGriff

9. GENERAL BUSINESS

- 9a. First Reading of Ordinance No. 21-1010, Amending the Oregon City Municipal Code Chapter 3.20 – Reimbursement Districts.

Matt Zook, Finance Director, discussed the context and background of the ordinance. These changes would allow for the adjustment of fees based on annual inflation.

Motion made by Commissioner McGriff, seconded by Commissioner Smith, to approve the first reading of Ordinance No. 20-1010, amending Oregon City Municipal Code Chapter 3.20 - Reimbursement Districts. The motion passed by the following vote:

Aye: 5 - Mayor Lyles Smith, Commissioner Marl, Commissioner McGriff, Commissioner O'Donnell, and Commissioner Smith

9b. Second Reading and Final Adoption of Ordinance No. 21-1009, Annexation Code Amendments Title 14, Chapter 14.04 and LEG-21-00001

Mayor Lyles Smith said public comment had been received late this afternoon.

Bill Kabeiseman, City Attorney, said the record was closed and consideration of the material would require reopening of the record. He recommended the City Commission reject the letter.

Motion made by Commissioner O'Donnell, seconded by Commissioner McGriff, to reject the public comment. The motion passed by the following vote:

Aye: 5 - Mayor Lyles Smith, Commissioner Marl, Commissioner McGriff, Commissioner O'Donnell, and Commissioner Smith

Motion made by Commissioner McGriff, seconded by Commissioner O'Donnell, to approve the second reading and final adoption of Ordinance No. 21-1009, annexation code amendments Title 14, Chapter 14.04 and LEG-21-00001. The motion passed by the following vote:

Aye: 5 - Mayor Lyles Smith, Commissioner Marl, Commissioner McGriff, Commissioner O'Donnell, and Commissioner Smith

9c. Resolution No. 21-18, Establishing a Minimum Equivalent Residential Unit Monthly Rate to be Charged for Stormwater Service Provided to Customers Served by Oregon City's Stormwater System

John Lewis, Public Works Director, presented the purpose of the rate increase, proposed capital and maintenance projects, rate methodology, American Rescue Plan (ARP) package, funding options with ARP comparison, customer impacts and examples, and direction options from the City Commission.

The Commission expressed concerns about the substantial increase in the rates for large commercial properties. They discussed the challenges to taking it to a vote, debt scenarios, and the rate calculations. The Commission considered options to reduce the burden on these properties including a discount plan, vacant properties paying their share, cap on the commercial rate, phased in approach, extending the implementation timeline, giving a credit for building additional stormwater facilities on the property, reducing the number of stormwater improvement projects, or adopting a separate rate for commercial properties.

John Ghilarducci, FCS consultant, cautioned the Commission about looking at impacts on individual customers and making accommodations to meet their interests. The rate needed to apply consistently to all customers.

Mr. Kabeiseman confirmed that rates should be uniform and applied equally or it might increase the potential for equity challenges.

There was further discussion regarding giving a credit for pervious surfaces, voter fatigue, competing interests, slowing down the rate increase, and delaying projects.

Motion made by Commissioner O'Donnell, seconded by Commissioner Marl, to deny Resolution No. 21-18 and to direct staff to come back with options to slow down the rate increase over a longer period of time. The motion passed by the following vote:

Aye: 4 - Mayor Lyles Smith, Commissioner Marl, Commissioner O'Donnell, and Commissioner Smith

Abstain: 1 - Commissioner McGriff

9d. Resolution No. 20-37, Update to the Guidelines for Transportation Impact Analyses

Ms. Terway gave a background on the update to the Transportation Impact Analyses (TIA). The changes would bring the guidelines into compliance with current code standards and practices.

Ray Atkinson, resident of Oregon City, was in support of adopting the resolution and wanted to work with the City on future transportation policies. He referenced his more detailed public comments provided at a previous meeting.

Motion made by Commissioner McGriff, seconded by Commissioner Smith, to approve Resolution No. 20-37. The motion passed by the following vote:

Aye: 5 - Mayor Lyles Smith, Commissioner Marl, Commissioner McGriff, Commissioner O'Donnell, and Commissioner Smith

10. COMMUNICATIONS

City Manager

There was no City Manager's report.

Commissioners

Commissioner Smith discussed an event to be held June 18, 2021 at the Municipal Elevator celebrating Sarah Chase's infamous lawsuit about the construction of the elevator.

Commissioner Marl noted that his first appearance before the City Commission was one year ago.

Commissioner McGriff discussed an Arch Bridge cleanup event on June 22, 2021.

Mayor

Mayor Lyles Smith discussed the recent ribbon cutting for D.C. Latourette Park.

11. ADJOURNMENT

Mayor Lyles Smith adjourned the meeting at 10:00 PM.

Respectfully submitted,

Kattie Riggs, City Recorder



CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: City Commission **Agenda Date:** 07/21/2021
From: Community Development Director Laura Terway

SUBJECT:

First and Second Reading of Ordinance No. 21-1012, Amending the Oregon City Municipal Code Title 17: Zoning (GLUA 20-33, LEG 20-01, Public Works Code Amendments Package #3 Geo Hazard Overlay District Code) and Declaring an Emergency

STAFF RECOMMENDATION:

Approve the First and Second Reading of Ordinance No. 21-1012, Amending the Oregon City Municipal Code Title 17: Zoning (GLUA 20-33, LEG 20-01, Public Works Code Amendments Package #3 Geo Hazard Overlay District Code).

EXECUTIVE SUMMARY:

Staff has proposed code revisions to the Geologic Hazards Overlay District and other ancillary Public Works related development code & standards such as refinements to Public Utility Easements (PUE), requirements for undergrounding utilities, sanitary sewer standards, and the adoption of policies relating to sidewalk obstructions and undergrounding of utilities.

As there are multiple chapters proposed for revision, the larger package of amendments was divided into a series of smaller amendments, which will each be considered independently for adoption through separate ordinances at multiple City Commission meetings. This approach will allow the City Commission and the public the ability to review each package closely while moving efficiently through the review process. The first two code packages were adopted spring 2021. The proposed amendments to the Geo Hazard code is the last remaining package (#3) and with its adoption, the Public Works Code Amendments File GLUA 20-33, LEG 20-01 will be complete.

The revisions proposed in the OCMC 17.44 Geo Hazards code update provide clarification to existing standards, references the new landslide guide, and codifies the waiver program the City currently follows. Construction specifications, calendar exceptions, and retaining wall standards have also been added. Density, review standards, and stormwater standards have been further clarified. In addition to providing additional data, these standards largely codify existing practice.

The City Commission discussed the proposed Amendments to OCMC 17.44 Geologic Hazard Overlay District at the May 24, 2021 and July 13, 2021 work sessions. At the July 13th Work session, the City Commission directed staff to return for adoption of the proposed amendments at

the July 21, 2021 City Commission Hearing, allow for a first and second reading of the Ordinance that evening and indicated they wished to Code Amendments be effective July 21, 2021.

OPTIONS:

1. Approve the First and Second Reading of Ordinance No. 21-1012 Amending the Oregon City Municipal Code Title 17: Zoning (GLUA 20-33, LEG 20-01, Public Works Code Amendments Package #3 Geo Hazard Overlay District Code)
2. Continuation to a different date certain.

ORDINANCE NO. 21-1012

AN ORDINANCE OF THE CITY OF OREGON CITY AMENDING THE OREGON CITY MUNICIPAL CODE TITLE 17: ZONING AND DECLARING AN EMERGENCY

WHEREAS, the City of Oregon City Public Works Department is implementing a number of projects which all require various changes to the City Code; and

WHEREAS, the City's Comprehensive Plan anticipates the need for amendments from time to time, in order to maintain a balance of predictability for developers and neighborhood livability for residents; and

WHEREAS, the Oregon City Municipal Code contains development standards for private and public development and construction; and

WHEREAS, the proposed code revisions generally address the need for clarifications in technical development review and will provide greater certainty for developers and property owners; and

WHEREAS, as there are multiple chapters involved with this proposal, the larger package of amendments will be divided into a series of smaller amendments, which will each be considered independently through separate Ordinances at multiple City Commission Hearings. This approach will allow the City Commission and public the ability to review each package closely while moving efficiently through the review process; and

WHEREAS, the amendments will result in greater transparency within the Oregon City Municipal Code; and

WHEREAS, the proposed amendments to the Oregon City Municipal Code Chapter 17.44 – US – Geologic Hazards is the last remaining package (#3) and with its adoption, the Public Works Code Amendments File GLUA 20-33, LEG 20-01 will be complete.

NOW, THEREFORE, OREGON CITY ORDAINS AS FOLLOWS:

Section 1. The City hereby amends the portions of the existing Oregon City Municipal Code, Title 17: Zoning of The Oregon City Municipal Code; which are attached hereto as Exhibit 'A'.

Section 2. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

Section 3. Emergency Effectiveness. As these amendments provide safeguards to prevent undue hazards to property, the environment and further the public health, welfare, and safety within geologic hazard areas, this ordinance shall take effect immediately upon the date of adoption.

Read for the first and second time at a regular meeting of the City Commission held on the 21st day of July 2021 and enacted by the City Commission this 21st day of July 2021.

RACHEL LYLES SMITH, Mayor

Attested to this 21st day of July 2021:

Approved as to legal sufficiency:

Kattie Riggs, City Recorder

City Attorney

Attachment:

Exhibit A – Amended Sections of the Oregon City Municipal Code

Oregon City Municipal Code

GLUA 20-33 (LEG 20-01)

Public Works Code Amendments Package #3

Ordinance No. 21-1012

OCMC 17.44 US-Geologic Hazards



Version: Clean Copy



Oregon City Municipal Code

Chapter 17.44 Geologic Hazards

Footnotes:

--- (21) ---

Editor's note— Ord. No. 08-1014, adopted July 1, 2009, repealed Chapter 17.44 in its entirety and enacted new provisions to read as herein set out. Prior to amendment, Chapter 17.44 pertained to similar subject matter. See Ordinance Disposition List for derivation.

17.44.10 - Intent and purpose.

The intent and purpose of the provisions of this chapter are:

- A. To ensure that activities in geologic hazard areas are designed based on detailed knowledge of site conditions in order to reduce the risk of private and public losses;
- B. To establish standards and requirements for the use of lands within geologic hazard areas;
- C. To provide safeguards to prevent undue hazards to property, the environment, and public health, welfare, and safety in connection with use of lands within geologic hazard areas;
- D. To mitigate risk associated with geologic hazard areas, not to act as a guarantee that the hazard risk will be eliminated, nor as a guarantee that there is a higher hazard risk at any location. Unless otherwise provided, the geologic hazards regulations are in addition to generally applicable standards provided elsewhere in the Oregon City Municipal Code.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.25 - When required; regulated activities; permit and approval requirements.

No person shall develop land, construct, reconstruct, structurally alter, relocate or enlarge any building or structure for which a land development, sign, or building permit is required on a property that contains an area mapped within the adopted Oregon City Geologic Hazards Overlay Zone without first obtaining permits or approvals as required by this chapter.:

The requirements of this chapter are in addition to other provisions of the Oregon City Municipal Code. Where the provisions of this chapter conflict with other provisions of the Oregon City Municipal Code, the provisions that are the more restrictive of regulated development activity shall govern.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.30 - Procedures.

Oregon City Municipal Code

No building or site development permit or other authorization for development shall be issued until the plans and other documents required by this chapter have been reviewed and found by the review authority to comply with the requirements of this chapter.

- A. Where the development is part of an application that otherwise requires a Type III procedure, review shall occur in the manner established in Chapter 17.50 for a consolidated Type III review.
- B. Where the development is part of an application that otherwise requires a Type II procedure, review shall occur in the manner established in Chapter 17.50 for a consolidated Type II review.
- C. For any other proposed development not otherwise subject to review as part of a development proposal that requires land use review, review shall occur in the manner established in Chapter 17.50 for a Type II procedure.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.35 - Exemptions.

The following activities, and persons engaging in same, are EXEMPT from the provisions of this chapter.

- A. An excavation which is less than two feet in depth, or which involves less than twenty-five cubic yards of volume;
- B. A fill which does not exceed two feet in depth or which includes less than twenty-five cubic yards of volume;
- C. A combined cut and fill that does not involve more than twenty-five cubic yards of volume.
- D. Installation, new construction, addition or structural alteration of any existing structure of less than five hundred square feet in building footprint that does not involve grading as defined in this chapter;
- E. Installation, construction, reconstruction, or replacement of public and private utility lines in the hardscape portion of the city right-of-way, existing utility crossings, existing basalt lined drainage channels, or public easement, not including electric substations;
- F. Tree removal on slopes 25 percent or greater where canopy area removal is less than 25 percent of the portion of the lot which contains 25 percent or greater slopes. For the purpose of this chapter, "tree" shall be as defined in OCMC 17.04.1315.
- G. The removal or control of noxious vegetation;
- H. Emergency actions which must be undertaken immediately to prevent an imminent threat to public health or safety, or prevent imminent danger to public or private property. The person undertaking emergency action shall notify the building official on all regulated activities associated with any building permit or City Engineer/Public Works Director on all others within one working day following the commencement of the emergency activity. If the City Engineer/Public Works Director or building official determine that the action or part of the action taken is beyond the scope of allowed emergency action, enforcement action may be taken.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.50 - Development—Application requirements and review procedures and approvals.

Except as provided by subsection C. of this section, an application for a geologic hazards overlay review shall include the following:

A geological assessment and geotechnical report that specifically includes, but is not limited to:

1. Comprehensive information and data regarding the nature and distribution of underlying geology, the physical and chemical properties of existing soils and groundwater; an opinion of site geologic stability, and conclusions regarding the effect of geologic conditions on the proposed development. In addition to any field reconnaissance or subsurface investigation performed for the site, the following resources, as a minimum, shall be reviewed to obtain this information and data:
 - a. The State of Oregon Department of Geology and Mineral Industries (DOGAMI) in Bulletin 99, Geology and Geological Hazards of North Clackamas County, Oregon (1979), or in any subsequent DOGAMI mapping for the Oregon City area;
 - b. Portland State University study entitled "Environmental Assessment of Newell Creek Canyon, Oregon City, Oregon" (1992);
 - c. Portland State University study, "Landslides in the Portland, Oregon, Metropolitan Area Resulting from the Storm of February 1996: Inventory Map, Database and Evaluation" (Burns and others, 1998);
 - d. DOGAMI Open File Report O-06-27, "Map of Landslide Geomorphology of Oregon City, Oregon, and Vicinity Interpreted from LIDAR Imagery and Aerial Photographs" (Madin and Burns, 2006);
 - e. "Preliminary Geologic Map of the Oregon City Quadrangle, Clackamas County, Oregon" (Madin, in press);
 - f. Landslide Hazards Land Use Guide for Oregon Communities (October 2019), prepared by the State of Oregon Department of Geology and Mineral Industries (DOGAMI) and the Oregon Department of Land Conservation and Development (DLCD);
 - g. Landslide hazard and risk study of northwestern Clackamas County, Oregon: Oregon Department of Geology and Mineral Industries, Open-File Report O-13-08, 74 map plates; Burns, W.J., Mickelson, K.A., Jones, C.B., Pickner, S.G., Hughes, K.L., Sleeter, R., 2013.
 - h. Mapped Landslide Data shall be from the City's Maps as a minimum but may be supplemented with maps from items a through f above.
2. Information and recommendations regarding existing local drainage, proposed permit activity impacts on local drainage, and mitigation to address adverse impacts;
3. Comprehensive information about site topography;
4. Opinion as to the adequacy of the proposed development from an engineering standpoint;
5. Opinion as to the extent that instability on adjacent properties may adversely affect the project;
6. Description of the field investigation and findings, including logs of subsurface conditions and laboratory testing results;
7. Conclusions regarding the effect of geologic conditions on the proposed development, tree removal, or grading activity;
8. Specific requirements and recommendations for plan modification, corrective grading, and special techniques and systems to facilitate a safe and stable site;
9. Recommendations and types of considerations as appropriate for the type of proposed development:
 - a. General earthwork considerations, including recommendations for temporary and permanent cut and fill slopes and placement of structural fill;
 - b. Location of residence on lot;
 - c. Building setbacks from slopes;
 - d. Erosion control techniques applicable to the site;

- e. Surface drainage control to mitigate existing and potential geologic hazards;
 - f. Subsurface drainage and/or management of groundwater seepage;
 - g. Foundations;
 - h. Embedded/retaining walls;
 - i. Management of surface water and irrigation water;
 - j. Impact of the development on the slope stability of the lot and the adjacent properties; -
 - k. Construction phasing and implementation schedule as it relates to foundation excavation, allowance for stockpiles, imported backfill, site subsurface drainage or dewatering, provision for off season site protections;
 - l. Stormwater Management; and
 - m. Construction Methods
10. Scaled drawings that describe topography and proposed site work, including:
- a. Natural physical features, topography at two or ten-foot contour intervals, locations of all test excavations or borings, watercourses both perennial and intermittent, ravines and all existing and manmade structures or features all fully dimensioned, trees six-inch caliper or greater measured four feet from ground level, rock outcroppings and drainage facilities;
 - b. All of the features and detail required for the site plan above, but reflecting preliminary finished grades and indicating in cubic yards whether and to what extent there will be a net increase or loss of soil.
 - c. A cross-section diagram, indicating depth, extent and approximate volume of all excavation and fills.
11. For properties greater than one acre and any property that has any portion of its property existing within a mapped landslide, where the activity is not exempted by 17.44.35, a preliminary hydrology report, prepared by a suitably qualified and experienced hydrology expert, addressing the effect upon the watershed in which the proposed development is located; the effect upon the immediate area's stormwater drainage pattern of flow, the impact of the proposed development upon downstream areas and upon wetlands and water resources; and the effect upon the groundwater supply.
- B. Review procedures and approvals require the following:
- 1. Examination to ensure that:
 - a. Required application requirements are completed;
 - b. Geologic assessment and geotechnical report procedures and assumptions are generally accepted; and
 - c. All conclusions and recommendations are supported and reasonable.
 - 2. Conclusions and recommendations stated in an approved assessment or report shall then be directly incorporated as permit conditions or provide the basis for conditions of approval for the regulated activity.
 - 3. All geologic assessments and geotechnical reports shall be reviewed by an engineer certified for expertise in geology or geologic engineering and geotechnical engineering, respectively, as determined by the city. The city will prepare a list of prequalified consultants for this purpose. The cost of review by independent review shall be paid by the applicant.
- C. The City Engineer may waive one or more requirements of subsections A and B of this section if the City Engineer determines that site conditions, size or type or development of grading requirements do not warrant such detailed information. If one or more requirements are waived, the City Engineer shall, in

the staff report or decision, identify the waived provision(s), explain the reasons for the waiver, and state that the waiver may be challenged on appeal and may be denied by a subsequent review authority.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.60- Development standards.

Notwithstanding any contrary dimensional or density requirements of the underlying zone, the following standards shall apply to the review of any development proposal subject to this chapter. Requirements of this chapter are in addition to other provision of the Oregon City Municipal Code. Where provision of this chapter conflict with other provision of the Oregon City Municipal Code, the provisions that are more restrictive of regulated development activity shall govern.

- A. All developments shall be designed to avoid unnecessary disturbance of natural topography, vegetation and soils. To the maximum extent practicable as determined by the review authority, tree and ground cover removal and fill and grading for residential development on individual lots shall be confined to building footprints and driveways, to areas required for utility easements and for slope easements for road construction, and to areas of geotechnical remediation.
- B. All grading, drainage improvements, or other land disturbances shall only occur from May 1 to October 31. "Land disturbance" is defined as any movement of earth, placement of earth, or movement of heavy trucks on earth, not including the right of way. Erosion control measures shall be installed and functional prior to any disturbances. Erosion control measures shall also be functioning and in a winterized stable condition once all land disturbance work has ceased for the year. The City Engineer may allow grading, drainage improvements or other land disturbances to begin before May 1 (but no earlier than March 16) and end after October 31 (but no later than November 30), based upon weather conditions and the recommendation and direction of the project's geotechnical engineer. The City Engineer may use the expertise of a City contracted geotechnical consultant to make the decision to allow any work before May 1 or after October 31. The City Engineer has full authority to not allow any extension of work before May 1 or after October 31. In no case shall the applicant be allowed to begin work before May 1 or complete work after October 31 if the average monthly rainfall in any individual month between September and April is exceeded.

When allowed by the City Engineer, the modification of dates shall be the minimum necessary, based upon the evidence provided by the applicant, to accomplish the necessary project goals. Temporary protective fencing shall be established around all trees and vegetation designed for protection prior to the commencement of grading or other soil disturbance.

- C. Designs shall minimize the number and size of cuts and fills.
- D. Cut and fill slopes greater than seven feet in height (as measured vertically) shall be terraced. Faces on a terraced section shall not exceed five feet. Terrace widths shall be a minimum of three feet and shall be vegetated. Total cut and fill slopes shall not exceed a vertical height of fifteen feet. Except in connection with geotechnical remediation plans approved in accordance with the chapter, cuts shall not remove the toe of any slope that contains a known landslide or is greater than twenty-five percent slope. The top of cut or fill slopes not utilizing structural retaining walls shall be located a minimum of one-half the height of the cut slope from the nearest property line.
- E. Any structural fill shall be designed by a suitably qualified and experienced civil or geotechnical engineer licensed in Oregon in accordance with standard engineering practice. The applicant's engineer shall certify that the fill has been constructed as designed in accordance with the provisions of this chapter. The structural fill design must be provided prior to any fill being placed onsite. The structural fill design must contain the stamp and signature of a professional engineer licensed in the State of Oregon.
- F. Retaining walls shall be constructed in accordance with the Oregon Structural Specialty Code adopted by the State of Oregon.
 - 1. Retaining walls that are four feet or greater in height, tiered walls with a total height four feet or

greater, and walls on slopes steeper than 2:1 must be designed by a professional engineer licensed in the State of Oregon which includes a stamped and signed set of plans.

2. The construction of the wall must be inspected by the professional engineer responsible for the design and must be certified prior to the structure receiving temporary occupancy. The certification must contain the stamp and signature of a professional engineer licensed in the State of Oregon.
 3. All retaining walls required to be designed by a professional engineer shall be reviewed by the City, when expertise exists on staff, or by the City's consultant. When reviewed by the City's consultant, the applicant shall reimburse the City for time spent by the City's consultant to review the design.
- G. Roads shall be the minimum width necessary to provide safe vehicle and emergency access, minimize cut and fill and provide positive drainage control. The review authority may grant a variance from the city's required road standards upon findings that the variance would provide safe vehicle and emergency access and is necessary to comply with the purpose and policy of this chapter.
- H. Density shall be determined as follows:
1. Slope
 - a. For those areas with slopes less than twenty-five percent between grade breaks, the allowed density shall be that permitted by the underlying zoning district, unless further limited by the following code section;
 - b. For those areas with slopes of twenty-five to thirty-five percent between grade breaks, the density shall not exceed two dwelling units per acre except as otherwise provided in subsection I of this section;
 - c. For those areas with slopes over thirty-five percent between grade breaks, development shall be prohibited except as otherwise provided in subsection I.4. of this section.
 2. Existing landslide (as shown in the Geologic Hazard Overlay Zone)
 - a. For those areas with historic landslides where the structure or ground disturbance will be located within any portion of the mapped landslide or buffer zone, the density shall not exceed two dwelling units per acre except as otherwise provided in subsection I of this section;
- I. For properties with slopes of twenty-five to thirty-five percent between grade breaks or are located within any portion of a mapped landslide and buffer zone:
1. For those portions of the property with slopes of twenty-five to thirty-five percent or located within any portion of a mapped landslide and buffer zone, the maximum residential density shall be limited to two dwelling units per acre; provided, however, that where the entire site is less than one-half acre in size, a single dwelling shall be allowed on a lot or parcel existing as of January 1, 1994 and meeting the minimum lot size requirements of the underlying zone;
 2. An individual lot or parcel with slopes between twenty-five and thirty-five percent or located within any portion of a mapped landslide and buffer zone, shall have no more than fifty percent or four thousand square feet of the surface area, whichever is smaller, graded or stripped of vegetation or covered with structures or impermeable surfaces.
 3. No cut into a slope of twenty-five to thirty-five percent or located within any portion of a mapped landslide and buffer zone, for the placement of a housing unit shall exceed a maximum vertical height of fifteen feet for the individual lot or parcel.
 4. For those portions of the property with slopes over thirty-five percent between grade breaks:
 - a. Notwithstanding any other city land use regulation, development other than roads, utilities, public facilities and geotechnical remediation shall be prohibited; provided, however, that the review authority may allow development upon such portions of land upon demonstration by an applicant that failure to permit development would deprive the property owner of all economically beneficial use of the property. This determination shall be made considering the

entire parcel in question and contiguous parcels in common ownership on or after January 1, 1994, not just the portion where development is otherwise prohibited by this chapter. Where this showing can be made on residentially zoned land, development shall be allowed and limited to one single-family residence. Any development approved under this chapter shall be subject to compliance with all other applicable city requirements as well as any applicable state, federal or other requirements;

- b. To the maximum extent practicable as determined by the review authority, the applicant shall avoid locating roads, utilities, and public facilities on or across slopes exceeding thirty-five percent.
- J. The geotechnical engineer of record shall review final grading, drainage, and foundation plans and specifications and confirm in writing that they are in conformance with the recommendations provided in their report.
- K. At the city's discretion, peer review shall be required for the geotechnical evaluation/investigation report submitted for the development and/or lot plans. The peer reviewer shall be selected by the city. The applicant's geotechnical engineer shall respond to written comments provided by the city's peer reviewer prior to issuance of building permit.
- L. The review authority shall determine whether the proposed methods of rendering a known or potential hazard site safe for construction, including proposed geotechnical remediation methods, are feasible and adequate to prevent landslides or damage to property and safety. The review authority shall consult with the city's geotechnical engineer in making this determination. Costs for such consultation shall be paid by the applicant. The review authority may allow development in a known or potential hazard area as provided in this chapter if specific findings are made that the specific provisions in the design of the proposed development will prevent landslides or damage. The review authority may impose any conditions, including limits on type or intensity of land use, which it determines are necessary to assure that landslides or property damage will not occur.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.070 - Access to property.

- A. Shared private driveways may be required if the City Engineer or principal planner determines that their use will result in safer location of the driveway and lesser amounts of land coverage than would result if separate private driveways are used.
- B. Innovations in driveway design and road construction shall be permitted in order to keep grading and cuts or fills to a minimum and to achieve the purpose and policy of this chapter.
- C. Points of access to arterials and collectors shall be minimized.
- D. The City Engineer or principal planner shall verify that adequate emergency services can be provided to the site.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.080 - Utilities.

All new utilities (storm sewer, sanitary sewer, potable water, and gas), both on-site and off-site, shall be placed underground and under roadbeds where practicable. All other service utilities (including, but not limited to, electric, telephone, telecom, cable, fiberoptic) shall be placed above ground on existing poles if poles exist. If no poles exist, the service lines shall be placed underground. Every effort shall be made to minimize the impact of utility construction. Underground utilities require the geologic hazards permitting and review prescribed herein when applicable.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.090 - Stormwater drainage.

The applicant shall submit a permanent and complete stormwater control plan. The program shall include, but not be limited to the following items as appropriate: curbs, gutters, inlets, catch basins, detention facilities and stabilized outfalls. Detention facilities shall be designed to city standards as set out in the city's drainage master plan and design standards. The review authority may impose conditions to ensure that waters are drained from the development so as to limit degradation of water quality consistent with Oregon City's Title III section of the Oregon City Municipal Code Chapter 17.49 and the Oregon City Stormwater and Grading Design Standards or other adopted standards subsequently adopted by the city commission. The review authority may also impose conditions to limit the volume, velocity, or flow rate of water such that it does not negatively impact the underlying drainageway cross section. Drainage design shall be approved by the City Engineer before construction, including grading or other soil disturbance, has begun.

A geotechnical report must include analysis and solutions for infiltration facilities located in areas where these facilities could impact nearby slopes of greater than 10 percent. Infiltration shall be minimized as practicable for any site located within a Geologic Hazard Overlay. Infiltration is not allowed for any site located in areas greater than 25 percent.

The project's civil or geotechnical engineer shall inspect any stormwater management feature and must certify that the stormwater management feature was constructed per plan and with the recommendations of the geotechnical engineer prior to receiving temporary occupancy. The certification must contain the stamp and signature of a professional engineer licensed in the State of Oregon.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.100 - Construction standards.

During construction on land subject to this chapter, the following standards shall be implemented by the developer:

- A. All development activity shall minimize vegetation removal and soil disturbance and shall provide positive erosion prevention measures in conformance with OCMC Chapter 17.47—Erosion and Sediment Control.
- B. No grading, clearing or excavation of any land shall be initiated prior to approval of the grading plan, except that the City Engineer shall authorize the site access, brush to be cleared and the location of the test pit digging prior to approval of such plan to the extent needed to complete preliminary and final engineering and surveying. The grading plan shall be approved by the City Engineer as part of the city's review under this chapter. The developer shall be responsible for the proper execution of the approved grading plan.
Measures shall be taken to protect against landslides, mudflows, soil slump and erosion. Such measures shall include sediment fences, straw bales, erosion blankets, temporary sedimentation ponds, interceptor dikes and swales, undisturbed buffers, grooving and stair stepping, check dams, etc. The applicant shall comply with the measures described in the Oregon City Public Works Standards for Erosion and Sedimentation Control (Ordinance 99-1013). Erosion control measures shall be in place at all times during construction to the maximum extent practicable.
- C. All disturbed vegetation shall be replanted with suitable vegetation upon completion of the grading of the steep slope area.
- D. Existing vegetative cover shall be maintained to the maximum extent practicable. No grading, compaction or change in ground elevation, soil hydrology and/or site drainage shall be permitted within the drip line of trees designated for protection, unless approved by the city.
- E. Existing perennial and intermittent watercourses shall not be disturbed unless specifically authorized by the review authority. This includes physical impacts to the stream course as well as siltation and erosion impacts. The City, at its discretion, is not required to but may request the examination and assessment by

other State agencies to determine if impacts are acceptable.

- F. All soil erosion and sediment control measures shall be maintained during construction and for one year after development is completed, or until soils are stabilized by revegetation or other measures to the satisfaction of the City Engineer. Such maintenance shall be the responsibility of the developer. If erosion or sediment control measures are not being properly maintained or are not functioning properly due to faulty installation or neglect, the City may order work to be stopped. (Ord. 03-1014, Att. B3 (part), 2003; Ord. 94-1001 §2(part), 1994)
- G. All newly created lots, either by subdivision or partition, shall contain building envelopes with a slope of thirty-five percent or less.
- H. The applicant's geotechnical engineer shall provide special inspection during construction to confirm that the subsurface conditions and assumptions made as part of their geotechnical evaluation/investigation are appropriate. This will allow for timely design changes if site conditions are encountered that are different from those anticipated. Inspection is required on a daily basis for any day that earth disturbance is occurring or after any rainfall event of ½ inch or greater.
- I. Prior to issuing an occupancy permit, the geotechnical engineer shall prepare a summary letter stating that the soils- and foundation-related project elements were accomplished in substantial conformance with their recommendations. The summary letter must contain the stamp and signature of a professional engineer licensed in the State of Oregon.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.110 - Approval of development.

The City Engineer shall review the application and verify, based on the applicant's materials and the land use record, whether the proposed development constitutes a hazard to life, property, natural resources or public facilities. If, in the City Engineer's opinion, a particular development poses such a hazard, the City Engineer shall recommend to the review authority permit conditions designed to reduce or eliminate the hazard. These conditions may include, but are not limited to, prohibitions on construction activities between November 1st and April 30th.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.120 - Liability.

Approval of an application for development on land subject to this chapter shall not imply any liability on the part of the city for any subsequent damage due to earth slides. Prior to the issuance of a building permit, a waiver of damages and an indemnity and hold harmless agreement shall be required which releases the city from all liability for any damages resulting from the development approved by the city's decision. The indemnity and hold harmless agreement shall be recorded on the property and run with the property.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.130 - Compliance.

Nothing contained in this chapter shall relieve the developer of the duty to comply with any other provision of law. In the case of a conflict, the more restrictive regulation shall apply.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.140 - Appeal.

The review authority's decision may be appealed in the manner set forth in Chapter 17.50.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)



Community Development

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LEGISLATIVE STAFF REPORT AND RECOMMENDATION

A preliminary analysis of the applicable approval criteria for a legislative proposal is enclosed within the following report. The applicant understands that all applicable criteria shall be met, or met with conditions, in order to be approved. The Planning Commission may choose to adopt the findings as recommended by staff or alter any finding as determined appropriate.

December 28, 2020

HEARING DATE: Planning Commission: September 28, 2020
FILE NUMBER: GLUA 20-00033 LEG-20-00001 Public Works Code Amendments
APPLICATION TYPE: Legislative (OCMC 17.50.170)
APPLICANT: Oregon City Public Works
 C/O Josh Wheeler PE, Assistant City Engineer
 PO Box 3040
 Oregon City, OR 97045
REQUEST: Proposed code revisions to the Geologic Hazards Overlay District, and other ancillary Public Works related development code, including refinements to Public Utility Easements (PUE) and undergrounding utility requirements.
LOCATION(S): City Wide

I. BACKGROUND:

1. Existing Conditions

The City of Oregon City Public Works Department proposes changes to the following sections of the Municipal Code :

- 12.04 Streets, Sidewalks, and Public Places (Ordinance 18-1009, adopted July 3, 2019)
- 13.04 Water Service System (Ordinance 10-1003, adopted July 7, 2010)
- 13.08 Sewer Regulations (Ordinance 10-1003, adopted July 7, 2010)
- 13.24 Telecommunications Facilities (Ordinance 13-1014, adopted November 6, 2013)
- 13.34 Utility Facilities in Public Rights-of-Way (Ordinance 13-1014, adopted November 6, 2013)

- 16.12 Minimum Public Improvements and Design Standards for Development (Ordinance 18-1009, adopted July 3, 2019)
- 17.04 Definitions (Ordinance 18-1009, adopted July 3, 2019)
- 17.08 Low-Density Residential Districts (Ordinance 18-1009; adopted July 3, 2019)
- 17.10 Medium Density Residential Districts (Ordinance 18-1009; adopted July 3, 2019)
- 17.12 High-Density Residential Districts (Ordinance 18-1009; adopted July 3, 2019)
- 17.24 NC Neighborhood Commercial District (Ordinance 18-1009; adopted July 3, 2019)
- 17.26 HC Historic Commercial District (Ordinance 18-1009; adopted July 3, 2019)
- 17.29 MUC Mixed-Use Corridor District (Ordinance 18-1009; adopted July 3, 2019)
- 17.31 MUE Mixed-Use Employment District (Ordinance 18-1009; adopted July 3, 2019)
- 17.32 C General Commercial District (Ordinance 18-1009; adopted July 3, 2019)
- 17.34 MUD Mixed-Use Downtown District (Ordinance 18-1009; adopted July 3, 2019)
- 17.35 Willamette Falls Downtown Design District (Ordinance 18-1009; adopted July 3, 2019)
- 17.36 GI General Industrial District (Ordinance 18-1009; adopted July 3, 2019)
- 17.37 CI Campus Industrial District (Ordinance 18-1009; adopted July 3, 2019)
- 17.39 I Institutional District (Ordinance 18-1009; adopted July 3, 2019)
- 17.44 US Geologic Hazards (Ordinance 10-1003; adopted July 7, 2010)
- 17.52 Off-Street Parking and Loading (Ordinance 18-1009; adopted July 3, 2019)
- 17.62 Site Plan and Design Review (Ordinance 18-1009; adopted July 3, 2019)
- 17.80 Communication Facilities (Ordinance 18-1005; adopted May 2, 2018)

These codes have been established and revised over the years. The most recent adopted revision is stated in parentheses.

2. Project Description

The City of Oregon City Public Works Department is implementing a number of projects which all require various changes to the City Code. Those projects are an enhanced Geologic Hazard Code, an Inflow/Infiltration Reduction Pilot Project, a new policy on Undergrounding Existing Overhead Utilities, and policy on Sidewalk Seating and Obstructions of a Sidewalk. Please refer to the *Detailed Summary of Proposed Changes* and the *GLUA 20-0003 Draft Code Revised August 18, 2020*, attached to the staff report for additional detail. Revision to the draft code that occur during the hearings process will be incorporated in updated versions of these two documents.

The proposed code revisions generally address the need for clarifications in technical development review and to address new policy direction on obstructions in the Right of Way. Larger policy questions about how to strike an appropriate balance between development interests and geologic hazard protections should be addressed during the existing Oregon City Comprehensive Plan Update (www.oc2040.com), which looks at broader community policy within a robust public outreach framework which could result in additional code revisions in the future.

Enhanced Geologic Hazard Code

Oregon City is keenly aware of its location in landslide country and its obligation to reduce and mitigate natural hazards risks in its community. Landslides in Newell Creek Canyon in the 1990s and early 2000s spurred action for the City to enhance geologic reporting and construction

requirements in areas of steep slope initially, and later historic landslides areas with the arrival of Lidar data for the region.

In October 2019, the Department of Land Conservation and Development (DLCD) and the Department of Geology and Mineral Industries (DOGAMI) published a new State landslide hazards document titled “Preparing for Landslide Hazards: A Land Use Guide for Oregon Communities” (Exhibit 9). This document provides cities and counties with a high risk of landslides, such as Oregon City, additional tools and analysis to help them better meet Oregon Land Use Goal 7: Natural Hazards (Exhibit 10) by further reducing landslide risk in their communities. This document provides:

“Landslides are a chronic problem in our state, affecting both infrastructure and private property. Approximately 13,048 documented landslides have occurred in Oregon in the last 150 years The combination of geology, precipitation, topography, and seismic activity makes portions of Oregon especially prone to landslides. The Coast Range and the Cascades Range have the most significant landslide hazards in Oregon; these geographic areas and the valley between them contain the bulk of Oregon’s population. We know that precipitation, earthquakes, and human activity are the main triggers of landslides. While we cannot control precipitation and earthquakes, we can change our human activity. Addressing landslide risk is everyone’s responsibility and is codified in Oregon Revised Statute

(ORS) 195.2533: The Legislative Assembly declares that it is the policy of the State of Oregon that: Each property owner, each highway user and all federal, state and local governments share the responsibility for making sound decisions regarding activities that may affect landslide hazards and the associated risks of property damage or personal injury.”¹

As every jurisdiction chooses how best to respond to risk (legal or geologic) and the need to balance the sometimes competing Oregon Land Use Goals and community’s comprehensive Plan and policies, this important document should not be seen as a prescriptive path or regulatory document with approval criteria. Rather, it should be used as a guide to help evaluate the effectiveness of a jurisdictions approach to addressing geologic hazards in their community. Oregon City Development Services, does however, see value in referencing the document in the Geologic Hazards code as a background educational document for the public, applicants, and consultants to better understand the context of geologic hazards in development review.

“DOGAMI and DLCD collaborated on this Guide to help Oregon communities reduce potential losses from landslide events. To do this, we identify land use tools and strategies. The Guide is focused on land use planning approaches to reduce landslide hazard risk and is not intended to address the full range of efforts needed for overall landslide risk reduction and hazard preparedness. Land use planning to reduce landslide hazard risk uses comprehensive plan and implementation provisions (e.g., zoning code, building code, and so forth) and is based on science and policy. Science is a basis for policy, implementation, and decision-making, while policies also shape the science that is pursued and obtained. Much of the expressed need for this Guide (Chapter 4, section C, Key Questions from Interviewees, and Chapter 5, section C, Landslide

¹ Preparing for Landslide Hazards: A Land Use Guide for Oregon Communities, 2019 DOGAMI, DLCD (pages ii)

Guide Interviewees' Key Points) stemmed from communities that pursued and obtained lidar-based land slide mapping with DOGAMI.”²

The Guide is an omnibus look at geologic hazards within Oregon- with a goal of sharing knowledge/provide guidance to both jurisdictions and the general public within the framework of land use review. Chapters topics include types of landslide hazards, the role of geotechnical engineering, types of mitigation, the role of lidar mapping, review of existing codes, and links to other resources. The importance of lidar mapping is a strong theme in the Guide.

“Lidar, a form of laser technology, has significantly increased the ability to locate and map existing landslides. Lidar allows mappers to see the earth’s surface with a much higher level of detail than has ever been available, and as the technology continues to improve, so too does the level of detail. Lidar imagery even allows mappers to see the ground beneath vegetation and trees, as if the earth had been stripped bare. This gives geologists the ability to identify and map landslide features that may have previously been unrecognized or overlooked”³

As one of the earliest pilot areas, Oregon City has been fortunate to have access to Lidar data since 2006, which greatly influenced previous code changes in 2009/2011. Both during the creation of this current Guide and after its adoption, Oregon City staff consulted with staff from both DOGAMI and DLCD to understand the strengths and weaknesses of the current Geologic Hazards code, how it compared to other jurisdictions, and how it could be strengthened.

The Guide identifies the following features of a strong Geologic Hazard Zoning Codes (p.79.):

- Are supported by and incorporate the best available science-based landslide hazard maps and analysis.
- Have clear submittal requirements and approval criteria.
- Employ factors in addition to slope to determine when a geotechnical report is required.
- Define and establish the qualified geoprofessional(s) for the required report in accordance with state licensing regulations.
- Require geotechnical reports to determine whether a proposed development is within the community’s risk tolerance level and to properly condition development.
- Link requirements to degree of risk and geotechnical report recommendations.
- Address soil stabilization through grading, erosion control, vegetation management, and water management.
- Require monitoring by the geotechnical report author during construction.
- Are enforced.
- Contain strong grading, erosion control, and land use planning codes. These codes provide clarity in what is applicable; protect the people, property, and environment; and are effective in limiting or preventing deleterious soil movement.
- Are based on maps and reports that provide details on the hazard areas.

² Preparing for Landslide Hazards: A Land Use Guide for Oregon Communities, 2019 DOGAMI, DLCD (page 2)

³ Preparing for Landslide Hazards: A Land Use Guide for Oregon Communities, 2019 DOGAMI, DLCD (pages 2-3)

- Include specific references to the materials used to establish the code provisions (such as maps and reports) and have those materials adopted and incorporated into the regulatory provisions;
- Have clearly identified application materials (with checklists and handouts to help explain the information) and processes of review.
- Have information located on the community's website so that the code is clear and accessible.
- Have replaced outdated Unified Building Code or UBC references with current International Building Code or IBC references in the code.

In October 2019, DLCD and DOGAMI presented their new landslide guide to the Oregon City City Commission. The City Commission directed staff to review the current city code and determine if any enhancements were needed to achieve these objectives.

As part of furthering this effort, DLCD and DOGAMI commended Oregon City for its use of lidar data and generally meeting all the requirements for a strong geohazard code; however, they recommended improved tracking and reporting post development approval. Since that time, City staff have mapped in the City's GIS system all available geotechnical reports and indemnity agreements received from developers so that this information is now available to the public. In addition, staff identified areas where the code was inconsistent, ambiguous or was the source of confusion for applicants and revisions are proposed to address those issues.

The revisions proposed in this code update provide clarification to existing standards, references the new landslide guide, and codifies the waiver program the City currently follows. Construction specifications, calendar exceptions, and retaining wall standards have also been added. Density, review standards, and stormwater standards have been further clarified. In addition to providing additional data, these standards largely codify existing practice. As mentioned above, the more robust policy discussion about the extent to which development on steep slopes should be limited or development interests protected is reserved for consideration with the new comprehensive plan.

Inflow/Infiltration Reduction Pilot Project

This Pilot Project implements new construction recommended from the Sanitary Sewer Master Plan. Construction recommendations including capital improvement projects. Those projects include installing new storm sewers that will allow disconnection of existing storm sewers from the sanitary sewer system. The Plan also recommends the disconnection of private storm sewers from the sanitary sewer system as well as repair of private sanitary sewer laterals. These two construction projects will reduce inflow and infiltration, respectively, minimizing the amount of stormwater treated at the Tri-City Wastewater Treatment Plant. The Pilot Project is a 5-year project within the McLoughlin and Rivercrest neighborhoods. By using flow monitoring pre and post-construction, the City will determine the success of the Pilot Project. If successful and if budget allows, the City will continue beyond these neighborhoods into other areas of the City.

To implement this project, City Code and Sanitary Sewer Design Standards and Chapter 13.08 of the Oregon City Municipal Code need to be amended to address cross-connections, right of entry, condition of service lines, sewer rates, service lateral improvement program, and reduced rates. Other sections: failure to comply with rules and unlawful substances have also been

revised. Language has been proposed referencing the state administrative rule outlining that property on septic must connect to City sewer if the septic is failing and if that property is physically (of the proper elevation and within 300 feet) and legally available (in city limits or able to be annexed) to the existing public sewer. The code also now proposes to explicitly disallow any cross-connections - any place where connections of storm sewer connect with sanitary sewer. New party line sewers are proposed to be prohibited. Property owners are explicitly required to keep their pipes in good condition to prevent infiltration. The proposed code change also gives the right of public works staff to enter the property so that a service can be televised and inspected. The proposed code changes clarify the sewer rate establishment and reduced rate program to be in line with the water rate program. The service lateral improvement program is also proposed to be codified. Lastly, these code revisions designate the following as unlawful substances within sewer lines: Stormwater, Surface water, groundwater, roof runoff, and subsurface drainage. This follows standards engineering practice. A section prohibiting sending stormwater or groundwater to the sanitary sewer system has also been proposed.

In addition to these changes, staff has taken the opportunity to review the entire sanitary sewer Code - Section 13.08 - to ensure it meets best practices and standards. As a result, the code relating to Sewer Connection – Exemptions, Connections to Existing Work, and Applications Outside City Limits have been revised.

Revisions have also been proposed to Section 13.04 of the Oregon City Municipal Code – Water Service - in order to comply with the Sewer Code of 13.08. Various clarifications have been added to be in conformance with current practices and to be consistent with changes in 13.04.

The Sanitary Sewer Design Standards have proposed revisions to add that no stormwater should be conveyed to the sanitary sewer system. In addition, staff took advantage of the Standards being open to allow for for a greater number construction materials and processes to be used as well as changes to Drop Manholes to be in conformance with the current industry standards.

Undergrounding Existing Overhead Utilities Policy

The City of Oregon City Municipal Code currently requires all development to place utility lines underground. This code has been interpreted to apply to all new utilities as well as existing utilities. With the rising cost of moving existing utilities underground, the City is proposing changes to existing code to reduce the requirement to only those properties where undergrounding will have a greater impact and where it is proportional to do so.

The proposed changes create limits of when an existing overhead line must be placed underground-if the property is at least 200 feet long, at least 1.0 acre in size, or if the subdivision is 6 lots or more, the undergrounding requirement is waived for existing overhead lines. The code changes propose to more specifically define the public utility easement, being 10 feet in most zones, and 5 feet in certain other urban zones. This addresses a conflict that has existed within practice, policy, and the code for quite some time. Definitions of Easement have been updated to be consistent throughout code.

Sidewalk Obstructions Policy

In December 2019, the City Commission requested a review of the current ROW obstruction policies. In response, a new written policy outlining current practices of the Department with respect to the permitting of sidewalk seating and sidewalk obstructions in the downtown area

and 7th Street and amendments to Chapter 12.04 are proposed. These amendments more clearly define the types of obstructions that require a permit.

It should be noted that in summer 2020, the City Commission passed a resolution to waive the fee for sidewalk seating and allow the use of parklets in the right-of-way to address business needs during COVID-19. These code changes are separate from that Resolution. The purpose of the code change is to add a 3rd type of obstruction called 'temporary long term', which would be for temporary items (not attached to the ground) for a period of 61-365 days. The current code defines a temporary item for 0-60 days, and a permanent (attached) obstruction has an indefinite time period.

If adopted, this code change more clearly defines the temporary use of the right of way for items like sidewalk seating or parklets when meeting criteria set forth by the Public Works Department thru consultation with the City Commission.

1. **To implement the above projects, The City of Oregon City Public Works Department anticipates adopting revisions to the following chapters by Ordinance.** Please refer to the Detailed Summary of Proposed Changes for more information on specific recommend changes.

- 12.04 Streets, Sidewalks, and Public Places
- 13.04 Water Service System
- 13.08 Sewer Regulations
- 13.24 Telecommunications Facilities
- 13.34 Utility Facilities in Public Rights-of-Way
- 16.12 Minimum Public Improvements and Design Standards for Development
- 17.04 Definitions
- 17.08 Low-Density Residential Districts
- 17.10 Medium Density Residential Districts
- 17.12 High-Density Residential Districts
- 17.24 NC Neighborhood Commercial District
- 17.26 HC Historic Commercial District
- 17.29 MUC Mixed-Use Corridor District
- 17.31 MUE Mixed-Use Employment District
- 17.32 C General Commercial District
- 17.34 MUD Mixed-Use Downtown District
- 17.35 Willamette Falls Downtown Design District
- 17.36 GI General Industrial District
- 17.37 CI Campus Industrial District
- 17.39 I Institutional District
- 17.44 US Geologic Hazards
- 17.52 Off-Street Parking and Loading
- 17.62 Site Plan and Design Review
- 17.80 Communication Facilities

The City of Oregon City Public Works Department also proposes the following changes be adopted by Ordinance:

- Sanitary Sewer Design Standards
- Engineering Fee Schedule- (*adopting a new fee for Temporary Long-Term ROW obstruction through a separate process after code amendment approval*)

-

The City of Oregon City Public Works Department also proposes the following changes be adopted by Resolution:

- Sidewalk Obstructions Policy
- Undergrounding Private Utilities Policy

3. Public Notice and Comments

Public Works staff presented the proposal to the public at the following public meetings:

- Citizen Involvement Committee – December 2, 2019
 - o Discussed Inflow/Infiltration Policy
 - o Discussed Undergrounding Overhead Utility Policy
- Development Stakeholders Group – November 14, 2019, and February 13, 2020
(No published meeting minutes available for the 2-12-20 meeting)
 - o Discussed Inflow/Infiltration Policy
 - o Discussed Undergrounding Overhead Utility Policy
 - o Discussed revisions to Geologic Hazards Code
- City Commission Work Session Meeting – December 10, 2019
 - o Discussed Existing unwritten sidewalk policy
- City Commission Work Session Meeting – October 8, 2019
 - o Presentation by DLCD and DOGAMI of new Landslide Guide (No published meeting minutes available)
- Planning Commission – September 23, 2019 (No published meeting minutes available)
 - o Overview of existing Geologic Hazard Code and preview during LEG 19-00003
- City Commission Work Session – June 9, 2020
 - o Presentation of Geologic Hazards Code
- Natural Resource Committee – June 10, 2020
 - o Presentation of Geologic Hazards Code
- City Commission Work Session – June 7, 2020
 - o Presentation of Sidewalk Obstructions and Chapter 16 and 17 revisions
- City Commission Work Session – May 20, 2020
 - o Presentation of Chapter 13 revisions on utilities
- September 23, 2020 Online Geologic Hazards Community Forum. Noticed as part of the Measure 56 Land Use Notice (Exhibit 11)

Only one written comment from AKS Engineering (Exhibit 12a) was received by the public at any of these informational meetings. AKS recommended revisions to sewer specifications, which were added to the revised Sanitary Sewer Design Standards as they provide additional direction for constrained areas and incorporated them into the proposed document.

GLUA 20-00033 LEG-20-00001 Public Works Code Amendments Land Use Public Comment

GLUA 20-00033 LEG-20-00001 Public Works Code Amendments

An overview of the public comment categories submitted to date can be found below. They are separated into technical questions and more policy questions. Please refer to the public comments matrix attached as an exhibit to this staff report for additional detail. The matrix will be updated throughout the Public Hearings process.

Technical Questions

“Preparing for Landslide Hazards: A Land Use Guide for Oregon Communities” (Exhibit 9) As discussed above, the Guide will be added as a reference document in OCMC 17.44 Geologic Hazards this document should not be seen as a prescriptive path or regulatory document with approval criteria. Oregon City Development Services, does, however, see value in referencing the document in the Geologic Hazards code as a background educational document for the public, applicants, and consultants to better understand the context of geologic hazards in development review.

The text of Oregon Land Use Goal 7 should be added or referenced in the code.

Goal 7, Areas Subject to Natural Hazards (Oregon DLCD, is one of the 19 Oregon Statewide Planning Goals.) It contains both requirements and guidelines that are intended to be implemented by local governments as part of their comprehensive plan and zoning efforts. As part of this planning effort, Goal 7 objectives must be balanced against the other goals and implemented in a way that makes sense for Oregon City. Evaluating and balancing the policy objectives set forth in the Goals is done on a city-wide legislative basis rather than as part of individual quasi-judicial development reviews as a means to streamline review as well as avoid ad hoc decision-making. Rather than adopt Goal 7 as a code criterion, the City has elected to rely on the joint DLCD and DOGAMI created Guide, discussed above, which provides more specific guidance on how to best implement the requirements of Goal 7. In fact, DLCD and DOGAMI staff have never raised any concerns that the current Geologic Hazards code does not meet Goal 7 requirements.

How do we trust the staff with the probability of risk based on existing data?

Acknowledging that there is always some risk with any development anywhere, City staff and its licensed consultants are the most qualified to evaluate this risk. They are educated, trained, hold professional engineering licenses and years of experience,. City staff also have geotechnical consultants available through on-call contracts to seek advice and analysis when a second opinion is appropriate. . Staff also rely on the Lidar data provided through DOGAMI and have relationships with DLCD and DOGAMI when needed, additional advisement is warranted.

Need to ensure an active discovery process during construction and not rely on applicant consultants

The City does not rely solely on an applicant consultant. Rather, in addition to staff qualification, the City has four geotechnical consultants available for on-call services. These consultants all have professional engineers, geologists, and structural engineers who can design, analyze, and advise on development or properties that are proposing to do work within a mapped geologic hazard.

Policy Questions Reserved for the 2040 Comprehensive Plan

Clackamas County Multi-Jurisdictional Natural Hazard Mitigation Plan should be added to Comprehensive Plan as part of this project. In 2019, Clackamas County updated this Multi-Jurisdictional Natural Hazards Mitigation Plan (NHMP) to prepare for the long-term effects resulting from hazards. As part of this process, Oregon City also created an updated addendum that is incorporated as part of that

Plan. The relevant substance of the updated Plan and addendum will be considered in the upcoming Comprehensive Plan update process, and specific sections may be added or referenced as part of that review.

Holly Lane should be removed from Transportation System Plan, and a grade-separated interchange should be added to the intersection of Highway 213 and Beavercreek Road based on geohazard of Holly Lane area. As part of the 2013 Transportation Plan update, the City removed the grade-separated interchange at 213 and Beavercreek Road as a transportation project. Any discussion about Transportation Plan projects and their relationship with natural hazards can and should occur during the upcoming Comprehensive Plan update process, where these larger policy questions can be discussed with the context of all the State Land Use Goals and Oregon City Comprehensive Plan policies.

OCMC 17.44 Geologic Hazard Overlay should further restrict development. Oregon City is not doing enough, especially in very high-risk areas, and reductions in density should not be based on lots of record; they should be based on the area of the historic landslide. Any large-scale changes in the Geologic Hazards code that affect larger policy questions, such as striking the best balance between housing needs, hazard risk, and property rights, will be addressed during the existing Oregon City Comprehensive Plan Update (www.oc2040.com), which looks at broader community policy within a robust public outreach framework and could result in additional code revisions in the future.

II. DECISION-MAKING CRITERIA

Chapter 17.68 - Zoning Changes and Comprehensive Plan Amendments

17.68.010 - Initiation of the amendment.

A text amendment to the comprehensive Plan, or an amendment to the zoning code or map or the Comprehensive Plan map, may be initiated by:

- A. A resolution request by the City Commission;*
- B. An official proposal by the Planning Commission;*
- C. An application to the Planning Division; or.*
- D. A Legislative request by the Planning Division.*

All requests for amendment or change in this title shall be referred to the Planning Commission.

Finding: Complies as Proposed. The proposal qualifies as initiated as a legislative request by the Public Works Director.

17.68.015 –Procedures.

Applications shall be reviewed pursuant to the procedures set forth in Chapter 17.50.

17.50.170 - Legislative hearing process.

A. Purpose. Legislative actions involve the adoption or amendment of the City's land use regulations, comprehensive Plan, maps, inventories and other policy documents that affect the entire City or large portions of it. Legislative actions which affect land use shall begin with a public hearing before the planning commission.

B. Planning Commission Review.

1. Hearing Required. The planning commission shall hold at least one public hearing before recommending action on a legislative proposal. Any interested person may appear and provide written or oral testimony on the proposal at or prior to the hearing. The community development director shall notify the Oregon Department of Land Conservation and Development (DLCD) as required by the post-acknowledgment procedures of ORS 197.610 to 197.625, as applicable.

Finding: Complies as Proposed. This legislative action will follow the procedures found in OCMC 17.50.170 including meetings with the Planning Commission, and City Commission where applicable.

17.68.020 - Criteria.

The criteria for comprehensive plan amendment or text or map amendment in the zoning code are set forth as follows:

A. The proposal shall be consistent with the applicable goals and policies of the comprehensive Plan;

Finding: Complies as Proposed. This legislative action will be consistent with the applicable goals and policies of the Comprehensive Plan. Therefore, the proposed amendments are consistent with Criterion (A).

The proposed code changes implement several ancillary plans to the Oregon City Comprehensive Plan. Regular Updates to Ancillary Documents like the Sewer Master Plan assure consistency with the Oregon City Comprehensive Plan. The applicable sections of the Comprehensive Plan are addressed below as well as State Land Use Goals. No revisions to the Master Plans or Comprehensive Plan are proposed.

The 2004 Oregon City Comprehensive Plan contains criteria for approving changes to the comprehensive Plan and ancillary documents. Review of the Comprehensive Plan should consider:

1. Plan implementation process.
2. Adequacy of the Plan to guide land use actions, including an examination of trends.
3. Whether the Plan still reflects community needs, desires, attitudes and conditions. This shall include changing demographic patterns and economics.
4. Addition of updated factual information including that made available to the City of regional, state and federal governmental agencies.

“Statements of Principle - Page 3.

Provide efficient and cost-effective services. Water, sewer, fire protection, police services, streets, storm drainage, and other public services are directly affected by land-use decisions. This Plan ensures that land-development decisions are linked to master plans for specific services such as water or sewer and to capital improvement plans that affect budgets and require taxes to build. The City Commission believes that citizens are economically well-served through compact urban form, redevelopment of existing areas, and public investments (for example, street improvements) that are carefully tied to private investments when development occurs.”

“Implementing the Plan – Page 4

The Oregon City Comprehensive Plan is implemented through City Codes, **ancillary plans**, concept plans, and master plans.

Ancillary plans are adopted by the City Commission for such things as parks and recreation, transportation systems, water facilities, and sewer facilities. Usually prepared by City departments through a public process, ancillary plans are approved by the City Planning Commission and adopted by the City Commission to provide operational guidance to city departments in planning for and carrying out city services. These plans are updated more frequently than the comprehensive Plan.”

“Ancillary Plans. – Page 15

Since 1982, several documents have been adopted as ancillary to the 1982 Comprehensive Plan: the *Public Facilities Plan* (1990), *Oregon City Transportation System Plan* (2001), *Oregon City Downtown Community Plan* (1999), *Oregon City Waterfront Master Plan* (2002), *City of Oregon City Water Master Plan* (2003), *City of **Oregon City Sanitary Sewer Master Plan (2003)***, *Drainage Master Plan* (1988, updated in 1999 as the *City of Oregon City Public Works Stormwater and Grading Design Standards*), *Caufield Basin Master Plan* (1997), *South End Basin Master Plan* (1997), *Molalla Avenue Boulevard and Bikeway Improvements Plan* (2001), the *Oregon City Park and Recreation Master Plan* (1999), and the *Oregon City Trails Master Plan* (2004).”

Applicable Comprehensive Plan and Statewide Planning Goals and Policies

Goal 7.1 Natural Hazards

Protect life and reduce property loss from the destruction associated with natural hazards.

Policy 7.1.1

Limit loss of life and damage to property from natural hazards by regulating or prohibiting development in areas of known or potential hazards.

Policy 7.1.8

Provide standards in City Codes for planning, reviewing, and approving development in areas of potential landslides that will prevent or minimize potential landslides while allowing appropriate development.

Finding: Complies as Proposed. This legislative update includes revisions to the Geologic Hazard Code Chapter 17.44. The goal of the code amendments is to address concerns we have heard from the public and the elected officials as well as ensure the code conforms to the document titled “Preparing for Landslide Hazards : A Land Use Guide for Oregon Communities” which was published in October 2019 by the Department of Land Conservation and Development (DLCD) and the Department of Geology and Mineral Industries (DOGAMI).

Although the revisions do not map any new or expand existing mapped landslide areas or steep slopes, the revisions provide clarity and consistency between when the geologic hazard code applies and when development is exempt. The revisions include a reference to the new State landslide document. This reference is made in addition to other State Documents that are to be referenced when reviewing a site

for geologic hazards. It is merely another reference to ensure a fully thought out review of the mapped geologic hazard. The revisions also include additional requirements to address stormwater impacts to a mapped geologic hazard and clarifies that an existing mapped geologic hazard can include steep slopes or historic landslide areas.

Other miscellaneous improvements have been made. The waiver process that the City has been using via in-house policy is now proposed to be codified. Additional criteria have been added to determine when a site work may occur outside of the codified months of the year. Retaining wall design requirements have been added. Language has been added, ensuring indemnification documents are recorded and run with the property.

These revisions improve or enhance the protection of life and property by implementing current scientific understanding of landslide susceptibility for lands currently mapped within the Geologic Hazard Overlay, ensuring that these conditions will be addressed by the applicants during the development review process. Including the DOGAMI landslide guide as an application submittal requirement will offer city staff and its consultants a better understanding of current conditions allowing them to make decisions about development that will reduce the likelihood of loss of life or property.

Goal 9.1 Improve Oregon City's Economic Health

Provide a vital, diversified, innovative economy including an adequate supply of goods and services and employment opportunities to work toward an economically reasonable, ecologically sound and socially equitable economy

Finding: Complies as Proposed. This legislative code update will continue to provide a vibrant economy by ensuring downtown businesses can use sidewalks in a way that is beneficial, by reducing stormwater from entering the sanitary system reducing unneeded treatment at the sewer treatment plant which in turn keeps rates low, and by exempting smaller developments from the requirement of relocating overhead utilities underground in turn reducing the cost to develop.

The Sidewalk Code in Chapter 12.04 is proposed to be amended to include standards for sidewalk seating in the right of way as a long term permanent obstruction. This will allow seating to be used for downtown businesses in a way that supplements the business while also allowing for pedestrian movements. This will help in the economic vitality of those businesses. The code amendment also allows for businesses to provide sidewalk sales on a seasonal basis, whereas currently, the code restricts those sales. This amendment should also assist in the economic vitality of those businesses.

The sewer code amendments set forth in OCMC 13.08 will be amended to require that all stormwater be redirected from the sanitary system back to the stormwater system. Currently, due to the City originally consisting of a combined sewer system, many older areas of the City remain connected improperly to the sanitary system, which contributes unnecessary flows to the Tri-City Wastewater Treatment Plant. As that Plant near capacity, rates and system development charges have had to be raised to add new infrastructure. This code amendment will reduce the flows and ensure that no future expansion will be needed beyond what new housing requires. The effect will be to stabilize sewer rates and system development charges rather than a continued substantial increase to those fees.

Amendments to OCMC Chapter 16.12 will exempt the current requirement that all existing overhead utilities be relocated underground. This imposes an undue burden on smaller developments with very little benefit to the neighborhood. While undergrounding is a requirement that reduces visual air

pollution, which can stagnate property values, it only makes an impact when completed in a larger manner. This code amendment has the potential to retain or improve property values while also reducing the burden on developments.

Goal 9.2 Cooperative Partnerships

Create and maintain cooperative partnerships with other public agencies and business groups interested in promoting economic development.

Policy 9.2.1

Seek input from local businesses when making decisions that will have a significant economic impact on them.

Policy 9.2.2

Carefully consider the economic impacts of proposed programs and regulations in the process of implementing the City's Comprehensive Plan.

Policy 9.2.3

Simplify, streamline, and continuously improve the permitting and development review process.

Finding: Complies as Proposed. This legislative code amendment has been proposed as a response to what other public agencies, local business, and citizens have conveyed to the City.

Tri-City Sewer Treatment Plant, operated by Water Environment Services(WES), is nearing capacity, and WES has requested a reduction of stormwater flows into the sanitary sewer system. This is completed by inflow and infiltration reduction and is implemented by policy and code changes in OCMC Chapter 13.08.

The Downtown Oregon City Association and Oregon City Chamber of Commerce are partners with respect to the vitality of downtown businesses. The Chamber of Commerce requested the City review its policies with respect to sidewalk obstructions and temporary obstructions. Proposed amendments to OCMC Chapter 12.04 are in response to this request.

In October, 2019, DOGAMI / DLCD issued a document entitled "Preparing for Landslide Hazards: A Land Use Guide for Oregon Communities.". In response, the Oregon City Planning Commission, the Oregon City City Commission, and citizens, proposed amendments to OCMC Chapter 17.44 have to address the Guide recommendations.

The Oregon City Development Stakeholders Group (DSG) requested the City look at the requirement to underground existing overhead utilities. During this investigation, the City met with Portland General Electric(PGE) to discuss the reasons this requirement has become expensive compared to previous years. In that discussion, a conversation also occurred concerning the provision for a Public Utility Easement (PUE) commonly used for electric, gas, telephone, cable, fiberoptic franchise utilities. While OCMC Chapters 13.24 and 13.34 provide regulation on franchise utilities, the development code had only minor references to the PUE. The code amendments within OCMC Chapter 16.12 reflect the discussions with not only PGE and the DSG, but also the City of Oregon City Community Development Department. These discussions led to the proposed revisions of not only reducing the undergrounding requirement but also more clearly regulating the provision for and use of the PUE.

All revisions relate to economic impacts and are intended to streamline the development process by providing clarity and common-sense solutions recommended by these proposed revisions.

Goal 11.1 Provision of Public Facilities

Serve the health, safety, education, welfare, and recreational needs of all Oregon City residents through the planning and provision of adequate public facilities.

Policy 11.1.2

Provide public facilities and services consistent with the goals, policies and implementing measures of the Comprehensive Plan, if feasible.

Policy 11.1.4

Support development on underdeveloped or vacant buildable land within the city where public facilities and services are available or can be provided and where land-use compatibility can be found relative to the environment, zoning, and Comprehensive Plan goals.

Policy 11.1.5

Design the extension or improvement of any major public facility and service to an area to complement other public facilities and services at uniform levels.

Policy 11.1.7

Develop and maintain a coordinated Capital Improvements Plan that provides a framework, schedule, prioritization, and cost estimate for the provision of public facilities and services within the City of Oregon City and its Urban Growth Boundary.

Finding: Complies as Proposed. This legislative code amendment relates to the provision of public facilities while also implementing Capital Improvement Plans.

Concerning proposed amendments to OCMC Chapter 12.04 on sidewalks and temporary obstructions, the purpose is to ensure the public sidewalk is maintained for use by the public while also allowing it to be used for seating for adjacent businesses.

Concerning proposed amendments to OCMC Chapter 13.08, the sewer amendments implement plans and programs set forth in the Sanitary Sewer Master Plan.

Proposed amendments to OCMC Chapter 16.12 provide a clearer definitive space for the franchise utilities to be located so that their service can be provided to all developments with ease of maintenance and reduced disruption of service.

Proposed amendments to OCMC Chapter 17.44 support safe development on underdeveloped or vacant buildable land where utilities exist and ensure that these developments are designed in a safer, effective, and more sustainable manner based on the current science available for geologic hazards.

Goal 11.2 Wastewater

Seek the most efficient and economic means available for constructing, operating, and maintaining the City's wastewater collection system while protecting

the environment and meeting state and federal standards for sanitary sewer systems.

Policy 11.2.2

Plan, operate and maintain the wastewater collection system for all current and anticipated city residents within the existing Urban Growth Boundary. Plan strategically for future expansion areas.

Policy 11.2.4

Seek economical means to reduce inflow and infiltration of surface- and groundwater into the wastewater collection system. As appropriate, plant riparian vegetation to slow stormwater, and to reduce erosion and stream sedimentation.

Policy 11.2.5

Implement the City's wastewater policies through the *City of Oregon City Sanitary Sewer Master Plan*.

Finding: Complies as Proposed. This legislative code amendment proposes changes to OCMC Chapter 13.08 concerning sewer flows. These amendments are necessary to implement the inflow and infiltration (I&I) reduction plan. These amendments implement the City of Oregon City Sanitary Sewer Master Plan.

Goal 11.7 Private Utility Operations

Coordinate with utilities that provide electric, gas, telephone and television cable systems, and high-speed internet connection to Oregon City residents to ensure adequate service levels.

Policy 11.7.1

Require local service lines in new subdivisions be placed underground.

Policy 11.7.2

Coordinate with private utility providers to install infrastructure during Street construction and maintenance to reduce the need to repeatedly cut into newly paved streets.

Policy 11.7.3

Adopt lighting practices in streets and other public facilities, and encourage them in private development, that reduce glare, light pollution, light trespass, and energy use, while maintaining even lighting ensuring good visibility and safety for the public.

Policy 11.7.4

Encourage development of broadband networks in street rights-of-way in a coordinated way to provide state-of-the-art technology to residents.

Finding: Complies as Proposed. This legislative code amendment provides for an appropriate Public Utility Easement (PUE) for the franchise utilities (electric, gas, telephone, cable, fiberoptic) and provides exemptions for the relocation of existing overhead utilities to underground. This exemption will not change the requirement to install all new utilities underground to be in line with Policy 11.7.1. The Pavement Cut Standards are not proposed to be amended as part of these amendments; therefore,

Policy 11.7.2 is retained. No changes to the lighting requirements are proposed; therefore, Policy 11.7.3 is retained. The details and clarification of the PUE will improve the execution of Policy 11.7.4.

Goal 12.5 Safety

Develop and maintain a transportation system that is safe.

Policy 12.5.1

Identify improvements that are needed to increase the safety of the transportation system for all users.

Policy 12.5.2

Identify and implement ways to minimize conflict points between different modes of travel.

Policy 12.5.3

Improve the safety of vehicular, rail, bicycle, and pedestrian crossings.

Finding: Complies as Proposed. These legislative code amendments will enhance safety thru the proposed revisions to OCMC 12.04 and 17.44. By ensuring proper space for pedestrians on sidewalks by regulating the seating in the right of way through the changes to the temporary obstruction codes, safety will be improved for pedestrians. By providing more stringent standards to the geologic hazard code, developers of vacant property will have safer properties to build on and those properties that could be affected by a landslide are less likely impacted.

Goal 13.1 Energy Sources

Conserve energy in all forms through efficient land-use patterns, public transportation, building siting and construction standards, and city programs, facilities, and activities.

Finding: Complies as Proposed. This legislative code amendment will not affect the City's adopted public facilities master plans.

B. That public facilities and services (water, sewer, storm drainage, transportation, schools, police and fire protection) are presently capable of supporting the uses allowed by the zone or plan amendment, or can be made available prior to issuing a certificate of occupancy. Service shall be sufficient to support the range of uses and development allowed by the zone or plan amendment;

Finding: Complies as Proposed. This legislative action will have no negative effect on the provision of public facilities and services.

Inflow/Infiltration : The amendments to OCMC 13.04 and 13.08 will have no negative effect on the public water and sewer systems. In fact, the proposed amendments will improve the public systems by reducing the negative effects of inflow and infiltration currently being experienced by the system. These amendments implement improvements from the City's Sanitary Sewer and Stormwater Master Plans. Zoning is not impacted by this amendment. These amendments allow for proper implementation of the City's Stormwater and Grading Standards and Sanitary Sewer Standards.

Undergrounding overhead utilities and revising development standards as they relate to the Public Works Standards: The amendments to OCMC 13.24, 13.34, 16.12, and Chapter 17 will have no negative effect on the public transportation system. Reducing the requirement of moving existing utilities underground will retain more physical space for the transportation system and other utilities that may be needed within the public right of way. No impact to the City's Transportation System Plan or Utility Master Plans is anticipated. These amendments will not affect the zoning designations for any lands. However, these amendments will address conflicts within current development standards relating to

the provision of a PUE and adjustments to how setbacks are measured as a result as well as limiting development review for activities occurring solely with the City right-of-way. This amendment will remove those conflicts and let zoning standards and public works standards apply in concert with one another.

Sidewalks: The amendments to OCMC 12.04 will have no negative effect on the public transportation system. The amendment and subsequent policy will provide guidelines and requirements for the use of the public right of way, which should reduce the negative impacts experienced in the traveled way. This amendment ensures proper space for sidewalks as described in the City's Transportation System Plan. Zoning is not affected by this amendment.

Geologic Hazards: The amendments to OCMC 17.44 will have no negative effects to public transportation or utility systems. The amendments strengthen requirements to those properties seeking development within geologic hazards. This will enhance the safety of utilities and roadways and will further minimize negative impacts to those systems. No utility or transportation master plan is affected by this amendment. This amendment does not affect zoning. The current properties with mapped geologic hazards will remain as mapped. Therefore, the proposed amendments are consistent with Criterion (B).

C. The land uses authorized by the proposal are consistent with the existing or planned function, capacity and level of service of the transportation system serving the proposed zoning district or plan amendment; and

Finding: Complies as Proposed.: Not applicable. None of the proposed amendments will have any impact on the existing or planned functions, capacity, and level of service of the transportation system. Therefore, the proposed amendments are consistent with Criterion (C).

D. Statewide planning goals shall be addressed if the Comprehensive Plan does not contain specific policies or provisions which control the amendment.

STATEWIDE PLANNING GOAL 1:

To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

Finding: Complies as Proposed. This goal is implemented through the applicable Goals and Policies in Section 1 of the Oregon City Comprehensive Plan: Citizen Involvement. Development of the Plan included a public involvement effort. The applicant, Oregon City Public Works Department, has presented the update for input to the Development Stakeholders Group on May 9, 2019. The update was provided on the City's website during the months of February through May 2019. Local civil engineering consultants and developers were notified via email on February 5, 2019 and April 24, 2019. The standards were presented in a City Commission Work Session on May 7, 2019. The City Commission considered these standards for approval on July 17, 2019. An online Geologic Hazards Community Forum was held on September 23, 2020, which was noticed as part of the Measure 56 Land Use Notice sent to all Oregon City households.

September 23, 2020, Virtual online Community Forum

The purpose of the Community Forum was to educate the public on the municipal code with respect to geotechnical issues, educate the public on various facets of geotechnical science, and to listen to concerns from the public so that the City may implement the best-revised code possible as it looks to update existing codes. The Community Forum consisted of a panel of speakers who spoke about geologic hazards in general, as well as the recommended code revisions. The meeting also contained a Question & Answer session. A link to the video will be added to the staff report as soon as it is uploaded to the city website.

Panel Members and Speaking Topics :

- Dr. Scott Burns, PhD - Portland State University, Department of Geology

Slopes and when to be concerned. History of Oregon City.

- George Freitag, CEG, LEG, LHG - GRI, Principal

Rainfall relationship to geologic hazards

- Tim Pfeiffer, PE, GE - Foundation Engineering, Senior Geotechnical Engineer

Geologic and Geotechnical Basis for the City of Oregon City Geologic Hazards Code

- Tricia Sears, Natural Hazards Planner - Dept. Of Land Conservation and Development (DLCD)

Geologic Hazards Planning in Oregon

- Josh Wheeler, PE - City of Oregon City, Assistant City Engineer

Proposed Code Updates to OCMC 17.44

STATEWIDE PLANNING GOAL 2:

To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Finding: Complies as Proposed. This goal is implemented through the applicable Goals and Policies in Section 2 of the Oregon City Comprehensive Plan: Land Use. Because the Plan is an ancillary document to the City's Comprehensive Plan, the application was processed pursuant to the legislative hearing process outlined in Section 17.50.170 of the Oregon City Municipal Code.

Goal 2 also provides that the public and "affected governmental units" be given the opportunity to review and comment on proposed amendments. In furthering that effort, the City has provided the Oregon Department of Fish and Wildlife notice of the proposed amendment and requested comment and no response was received.

STATEWIDE PLANNING GOAL 3: Agricultural Lands and GOAL 4: Forest Lands

Finding: Not Applicable. By definition, Oregon City does not have rural resource lands such as for agricultural or forest use within its city limits or UGB, and therefore, those goals are not applicable.

STATEWIDE PLANNING GOAL 5:

To protect natural resources and conserve scenic and historic areas and open spaces.

Finding: Complies as Proposed OAR 660-023-0250 specifies the circumstances that trigger Goal 5 review. In relevant part, an amendment affects a Goal 5 resource if the PAPA "amends a resource list or a portion of an acknowledged plan or land use regulation adopted in order to protect a significant Goal 5 resource." The proposed amendments do not amend any Goal 5 adopted resource list or any standard

adopted in order to protect Goal 5 resources. Therefore, this Goal is met. These amendments further Goal 5 objectives by providing more rigorous review and greater clarity in the Natural Hazards Chapter 17.44 amendments. By clarifying and enhancing the geologic hazard code, natural resources will receive increased protection. The code revisions require stormwater evaluation, which relates to groundwater as well as overland flow and requires the applications to address any downstream impacts or regional impacts relating to stormwater flow, which in some cases relates to designated Natural Resources. No other code revisions relate to Goal 5. See responses under Comprehensive Plan Goal 7.1 for more information.

The first step in the general Goal 5 process is to compile an inventory of resources to determine which resources are significant. OAR 660-023-0030. The proposed amendment does not alter or amend the City's riparian or wetland inventories.⁴ The quantity, quality, and significance determinations for riparian resources similarly remain unchanged. Therefore, this inventory analysis step is not applicable to the City's adoption of The Geologic Hazards Overlay District Code amendments, or the other revisions to utility standards. The second step is determining a program to achieve Goal 5 based on "an analysis of the economic, social, environmental, and energy (ESEE) consequences that could result from a decision to allow, limit, or prohibit a conflicting use." OAR 660-023-0040. A "conflicting use" is defined by OAR 660-023-0010 to include "a land use, or other activity reasonably and customarily subject to land use regulations, that could adversely affect a significant Goal 5 resource."

The proposed amendments add clarity to the existing standard; they generally do not further restrict or allow development. To the extent, changes occur, the only effects will be to further limit development that could conflict with riparian areas in favor of providing greater protection for Goal 5 inventoried riparian resources. Given that the proposed amendments will have a negligible impact on development, compliance with Goal 5 can be achieved through a very limited ESEE analysis. As a result, examples of the clarifications, along with a discussion of the identified ESEE consequences include:

- Additional requirements to address stormwater impacts to a mapped geologic hazard and clarifies that an existing mapped geologic hazard can either include steep slopes or historic landslide areas or both.

With the minor amendments to the Geologic Hazards Overlay District Code amendments, the City has chosen to amend its program to achieve Goal 5 with respect to inventoried riparian resources by adopting additional measures to protect those resources from an identified conflicting development uses.

STATEWIDE PLANNING GOAL 6: Air and Water Quality

To maintain and improve the quality of the air, water and land resources of the state

Finding: Complies as Proposed. This application meets Goal 6 by how it addresses removing stormwater from the sanitary sewer system in the Code revisions of 13.08. This will improve the function of the Tri City Wastewater Treatment Plant as regulated by the Department of Environmental Quality (DEQ). See response under Comprehensive Plan Goal 11.2 for more information.

STATEWIDE PLANNING GOAL Goal 7: Areas Subject to Natural Hazards

To protect life and property from natural disasters and hazards.

Finding: Complies as Proposed This legislative update includes revisions to the Geologic Hazard Code Chapter 17.44. The goal of the code amendments is to address concerns we have heard from the public and the elected officials as well as ensure the code conforms to the document titled “Preparing for Landslide Hazards : A Land Use Guide for Oregon Communities” which was published in October 2019 by the Department of Land Conservation and Development (DLCD) and the Department of Geology and Mineral Industries (DOGAMI).

Although the revisions do not map any new or expand existing mapped landslide areas or steep slopes, the revisions provide clarity and consistency between when the geologic hazard code applies and when development is exempt from further review. The revisions include a reference to the new State landslide document that should be considered by applicants and result in a more robust analysis occurring as part of development review. The proposed code revisions also include additional requirements to address stormwater impacts to a mapped geologic hazard and clarifies that an existing mapped geologic hazard can either include steep slopes or historic landslide areas or both.

Other miscellaneous improvements have been made, including:

- The waiver of review in very limited circumstances where the impact of development are deemed to have a *de minimis* impact, as consistent with current city policy. requirements .
- Additional criteria that dictate when site work may occur.
- Retaining wall design requirements have been added.
- Language has been added ensuring indemnification documents are recorded and run with the property.

These revisions improve or enhance the protection of life and property by ensuring current science concerning landslide susceptibility will be addressed. By referencing the new DOGAMI landslide guide, the review requirements have added an additional tool to ensure potential landslide impacts are addressed. Additional tools should make the analysis more informed, potentially leading to reduced risk. If adopted, these standards will be implemented for the review and approval of properties with mapped geologic hazards.

STATEWIDE PLANNING GOAL Goal 9: Economic Development

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Finding: Complies as Proposed. This legislative code update will continue to provide a vibrant economy by ensuring downtown businesses can use sidewalks in a way that is beneficial by reducing stormwater from entering the sanitary system reducing unneeded treatment at the sewer treatment plant which in turn keeps rates low, and by exempting smaller developments from the requirement of relocating overhead utilities underground, in turn, reducing the cost to develop.

The Sidewalk Code in Chapter 12.04 is proposed to be amended to include standards for sidewalk seating in the right of way as a long term permanent obstruction. This will allow seating to be used for

downtown businesses in a way that supplements the business while also allow for pedestrian movements. This will help in the economic vitality of those businesses. The code amendment also allows for businesses to provide sidewalk sales on a seasonal basis, whereas now the code restricts those sales. This amendment should also assist in the economic vitality of those businesses.

The sewer code amendments set forth in OCMC 13.08 will be amended to require all stormwater to be redirected from the sanitary system back to the stormwater system. Currently, due to the City originally consisting of a combined sewer system, many older areas of the City remain connected improperly to the sanitary system, which contributes unnecessary flows to the Tri-City Wastewater Treatment Plant. As that Plant nears capacity, rates and system development charges have had to be raised to add new infrastructure. This code amendment will reduce the flows and ensure that no future expansion will be needed beyond what new housing will require stable rates and system development charges rather than a continued substantial increase to those fees.

Amendments to OCMC Chapter 16.12 will exempt the current requirement that all existing overhead utilities shall be relocated underground. This provides an undue burden on smaller developments with very little benefit to the neighborhood. While undergrounding is a requirement that reduces visual air pollution, which can stagnate property values, it only makes an impact when completed in a larger manner. This code amendment has the potential to retain or improve property values while also reducing the burden on development.

Revisions to the Geologic Hazards Overlay District provided additional clarity in the development review process for all parties. Reducing uncertainty provides real value in the larger analysis a property owner makes in determining if a site will be developed or not.

STATEWIDE PLANNING GOAL 10: Housing

To provide for the housing needs of citizens of the state.

Finding: Complies as Proposed. Revisions to 16.12 and 17.44 positively impact housing. By reducing the burden on smaller developments through exemptions for undergrounding existing overhead utilities, the amendments will make developments cost-effective; therefore, enhancing the likely development of the City's buildable lands. By strengthening the geologic hazard code, the lands become more buildable with less risk due to the rigorous reviews necessary to ensure the site is safe. Without this code revisions, a site may have become unbuildable due to the lack of certainty.

STATEWIDE PLANNING GOAL 11: Urban Development

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Finding: Complies as Proposed. This goal is implemented through the applicable Goals and Policies in Section 11 of the Oregon City Comprehensive Plan: Public Facilities. As stated in Section 11, the Code amendments are necessary to maintain compliance with Statewide Planning Goal 11, Public Facilities. Goal 11 requires that public facilities and services be provided in a timely, orderly, and efficient manner. The goal's central concept is that local governments should plan public services in accordance with the community's needs as a whole rather than be forced to respond to individual developments as they occur. The proposed municipal code amendments are created to serve the health, safety, education, welfare, and recreational needs of all Oregon City residents through the planning and provision of adequate public facilities.

Goal 12: Transportation

To provide and encourage a safe, convenient and economic transportation system.

Finding: Complies as Proposed. Revisions to 12.04 enhance the pedestrian areas in the downtown area by ensuring proper areas are available for pedestrians while also allowing for sidewalk seating. Revisions to 16.12 allow for a proper Public Utility Easement (PUE) to ensure the actual right of way is clear of any additional utilities that could cause disruptions to service when under maintenance or create additional obstructions due to the settlement of sidewalk and roadways.

17.68.025 - Zoning for land annexed into the City.

Upon annexation into the City, the property shall be rezoned from County zoning to the corresponding City zoning designation as identified in Table 17.06.030, provided the criteria for a zone change can be met.

Finding: Not applicable. No land is being rezoned as part of this legislative application.

17.68.040 - Approval by the Commission. If the Planning Commission finds that the request or application for an amendment, or change, complies with the criteria of OCMC 17.68.020, it shall forward its findings and recommendation to the City Commission for action thereon by that body.

Finding: Not applicable. No Planning Commission recommendation will relate to OCMC 17.68.020 as no rezoning or annexation is occurring with this legislative application.

17.68.050 - Conditions.

In granting a change in zoning classification to any property, the Commission may attach such conditions and requirements to the zone change as the Commission deems necessary in the public interest and such conditions and restrictions shall thereafter apply to the zone change or map amendment.

Finding: Not applicable. No land is being rezoned as part of this legislative application.

Chapter 17.50 Administration and Procedures

17.50.050 – Pre-application conference.

A. Pre-application Conference. Prior to a Type II – IV or Legislative application, excluding Historic Review, being deemed complete, the applicant shall schedule and attend a pre-application conference with City staff to discuss the proposal, unless waived by the Community Development Director. The purpose of the pre-application conference is to provide an opportunity for staff to provide the applicant with information on the likely impacts, limitations, requirements, approval standards, fees and other information that may affect the proposal.

- 1. To schedule a pre-application conference, the applicant shall contact the Planning Division, submit the required materials, and pay the appropriate conference fee.*
- 2. At a minimum, an applicant should submit a short narrative describing the proposal and a proposed site plan, drawn to a scale acceptable to the City, which identifies the proposed land uses, traffic circulation, and public rights-of-way and all other required plans.*
- 3. The Planning Division shall provide the applicant(s) with the identity and contact persons for all affected neighborhood associations as well as a written summary of the pre-application conference.*

B. A pre-application conference shall be valid for a period of six months from the date it is held. If no application is filed within six months of the conference or meeting, the applicant shall schedule and attend another conference before the City will accept a permit application. The Community

Development Director may waive the pre-application requirement if, in the Director's opinion, the development has not changed significantly and the applicable municipal code or standards have not been significantly amended. In no case shall a pre-application conference be valid for more than one year.

- C. *Notwithstanding any representations by City staff at a pre-application conference, staff is not authorized to waive any requirements of this code, and any omission or failure by staff to recite to an applicant all relevant applicable land use requirements shall not constitute a waiver by the City of any standard or requirement.*

Finding: Complies as Proposed. Public Works attended PA 19-69 on December 3, 2019

17.50.055 - Neighborhood association meeting.

Neighborhood Association Meeting. The purpose of the meeting with the recognized neighborhood association is to inform the affected neighborhood association about the proposed development and to receive the preliminary responses and suggestions from the neighborhood association and the member residents.

- A. *Applicants applying for annexations, zone change, comprehensive plan amendments, conditional use, Planning Commission variances, subdivision, or site plan and design review (excluding minor site plan and design review), general development master plans or detailed development plans applications shall schedule and attend a meeting with the City-recognized neighborhood association in whose territory the application is proposed no earlier than one year prior to the date of application. Although not required for other projects than those identified above, a meeting with the neighborhood association is highly recommended.*
- B. *The applicant shall request via email or regular mail a request to meet with the neighborhood association chair where the proposed development is located. The notice shall describe the proposed project. A copy of this notice shall also be provided to the chair of the Citizen Involvement Committee.*
- C. *A meeting shall be scheduled within thirty days of the date that the notice is sent. A meeting may be scheduled later than thirty days if by mutual agreement of the applicant and the neighborhood association. If the neighborhood association does not want to, or cannot meet within thirty days, the applicant shall host a meeting inviting the neighborhood association, Citizen Involvement Committee, and all property owners within three hundred feet to attend. This meeting shall not begin before six p.m. on a weekday or may be held on a weekend and shall occur within the neighborhood association boundaries or at a City facility.*
- D. *If the neighborhood association is not currently recognized by the City, is inactive, or does not exist, the applicant shall request a meeting with the Citizen Involvement Committee.*
- E. *To show compliance with this section, the applicant shall submit a copy of the email or mail notice to the neighborhood association and CIC chair, a sign-in sheet of meeting attendees, and a summary of issues discussed at the meeting. If the applicant held a separately noticed meeting, the applicant shall submit a copy of the meeting flyer, postcard or other correspondence used, and a summary of issues discussed at the meeting and submittal of these materials shall be required for a complete application.*

Finding: Complies as Proposed. Attendance at the Citizen Involvement Committee occurred on December 2, 2019 concerning the inflow/infiltration Policy and Code Amendments and the Undergrounding Overhead Utility Policy and Code amendments. The Citizen Involvement Committee was also invited to participate in the September 23, 2020 Geologic Hazards Webinar, which included a question and answer portion.

17.50.070 - Completeness review and one hundred twenty-day rule.

- C. *Once the Community Development Director determines the application is complete enough to process, or the applicant refuses to submit any more information, the City shall declare the application complete. Pursuant to ORS 227.178, the City will reach a final decision on an application within one hundred twenty calendar days from the date that the application is determined to be or deemed complete unless the applicant agrees to suspend the one hundred twenty calendar day time line or unless State law provides otherwise. The one hundred twenty-day period, however, does not apply in the following situations:*
- 1. Any hearing continuance or other process delay requested by the applicant shall be deemed an extension or waiver, as appropriate, of the one hundred twenty-day period.*
 - 2. Any delay in the decision-making process necessitated because the applicant provided an incomplete set of mailing labels for the record property owners within three hundred feet of the subject property shall extend the one hundred twenty-day period for the amount of time required to correct the notice defect.*
 - 3. The one hundred twenty-day period does not apply to any application for a permit that is not wholly within the City's authority and control.*
 - 4. The one hundred twenty-day period does not apply to any application for an amendment to the City's comprehensive plan or land use regulations nor to any application for a permit, the approval of which depends upon a plan amendment.*
- D. *A one-hundred day period applies in place of the one-hundred-twenty day period for affordable housing projects where:*
- 1. The project includes five or more residential units, including assisted living facilities or group homes;*
 - 2. At least 50% of the residential units will be sold or rented to households with incomes equal to or less than 60% of the median family income for Clackamas County or for the state, whichever is greater; and*
 - 3. Development is subject to a covenant restricting the owner and successive owner from selling or renting any of the affordable units as housing that is not affordable for a period of 60 years from the date of the certificate of occupancy.*
- E. *The one hundred twenty-day period specified in OCMC 17.50.070.C or D may be extended for a specified period of time at the written request of the applicant. The total of all extensions may not exceed two hundred forty-five calendar days.*
- F. *The approval standards that control the City's review and decision on a complete application are those which were in effect on the date the application was first submitted.*

Finding: Complies as Proposed.

Not applicable. Legislative actions are not subject to this standard.

III. Staff recommendation:

Based on the findings identified above and including all items entered into the record, the proposal to amend the Titles 12, 13, 16 and 17 of the Oregon City Municipal Code, is consistent with the Oregon City Comprehensive Plan and State Land Use Goals. Staff recommends approval of Planning file GLUA 20-00033 LEG-20-00001 Public Works Code Amendments.



Community Development – Planning

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Oregon City Municipal Code Chapter 17.44 Geologic Hazards

Footnotes:

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Editor's note— Ord. No. 08-1014, adopted July 1, 2009, repealed Chapter 17.44 in its entirety and enacted new provisions to read as herein set out. Prior to amendment, Chapter 17.44 pertained to similar subject matter. See Ordinance Disposition List for derivation.

17.44.10 - Intent and purpose.

The intent and purpose of the provisions of this chapter are:

- A. To ensure that activities in geologic hazard areas are designed based on detailed knowledge of site conditions in order to reduce the risk of private and public losses;
- B. To establish standards and requirements for the use of lands within geologic hazard areas;
- C. To provide safeguards to prevent undue hazards to property, the environment, and public health, welfare, and safety in connection with use of lands within geologic hazard areas;
- D. To mitigate risk associated with geologic hazard areas, not to act as a guarantee that the hazard risk will be eliminated, nor as a guarantee that there is a higher hazard risk at any location. Unless otherwise provided, the geologic hazards regulations are in addition to generally applicable standards provided elsewhere in the Oregon City Municipal Code.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.25 - When required; regulated activities; permit and approval requirements.

No person shall develop land, construct, reconstruct, structurally alter, relocate or enlarge any building or structure for which a land development, sign, or building permit is required on a property that contains an area mapped engage in any of the following regulated activities on areas mapped within the adopted Oregon City Geologic Hazards Overlay Zone as defined in section 17.04.515 of the Oregon City Municipal Code without first obtaining permits or approvals as required by this chapter.:

A. ——— Installation or construction of a new accessory structure which is 500 square feet or greater in footprint;

A.B. — Expansion of an existing building where the new expansion is greater than 500 square feet or greater in total area or in building footprint in area;

B.C. — Development of land, construction, reconstruction, structural alteration, relocation or enlargement of any building or structure for which a land development, sign or building permit

~~approval is required pursuant to the Oregon City Municipal Code;~~

~~C.D. Tree removal on slopes greater than 25 percent or greater where canopy area removal exceeds 25 percent of the portion of the lot which contains 25 percent or greater slopes. For the purpose of this chapter, "tree" shall be as defined in OCMC 17.04.1315.~~

~~D.E. Excavation which equals exceeds two feet or more in depth, or which involves twenty five or more cubic yards of volume;~~

~~F. Fill which equals two feet or more in depth, or which involves twenty five or more cubic yards of volume.~~

~~G. Cut or Fill combined that involves twenty five or more cubic yards of volume.~~

~~H. Any development activity identified by a suitably qualified geotechnical engineer or engineering geologist who is licensed in Oregon and derives his or her livelihood principally from that profession as being subject to soil instability, slumping or earth flow, high groundwater level, and landslide as defined in OCMC 17.04.515.~~

~~I. Land disturbance as defined as any movement of earth, placement of earth, or movement of heavy trucks on earth, not including the right of way.~~

~~J. Square footage of a development is measured in area and is only considered for the footprint of the structure or development.~~

The requirements of this chapter are in addition to other provisions of the Oregon City Municipal Code. Where the provisions of this chapter conflict with other provisions of the Oregon City Municipal Code, the provisions that are the more restrictive of regulated development activity shall govern.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.30 - Procedures.

No building or site development permit or other authorization for development shall be issued until the plans and other documents required by this chapter have been reviewed and found by the review authority to comply with the requirements of this chapter.

- ~~A. Where the development is part of an application that otherwise requires a Type III procedure and use permit application, review shall occur in the manner established in Chapter 17.50 for a consolidated Type III review review of land use decisions.~~
- ~~B. Where the development is part of an application that otherwise requires a Type II procedure limited land use permit application, review shall occur in the manner established in Chapter 17.50 for a consolidated Type II review of limited land use decisions.~~
- ~~C. Where the development is solely part of a grading permit or building permit, the City Engineer may allow review to occur in the manner established in Title 15, Chapters 15.04 and 15.48 if the application meets Section 17.44.060 development standards.~~
- C. For any other proposed development not otherwise subject to review as part of a development proposal that requires land use review a land use or limited land use permit application, review shall occur in the manner established in Chapter 17.50 for a Type II procedure limited land use decisions.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.35 - Exemptions.

The following activities, and persons engaging in same, are EXEMPT from the provisions of this chapter.

- A. An excavation which is less than two feet in depth, or which involves less than twenty-five cubic yards of
- Oregon City Municipal Code ~~Effective July 21, 2017~~

volume;

- B. A fill which does not exceed two feet in depth or ~~which includes~~volves less than twenty-five cubic yards of volume;
- C. ~~B.~~A combined cut and fill that does not involve more than twenty-five cubic yards of volume.
- D. Installation, new construction, addition or structural alteration of any existing structure of less than five hundred square feet in building footprint that does not involve grading as defined in this chapter;
- ~~D. C.E. Installation or construction of any new structure less than five hundred square feet that does not involve grading as defined in this chapter;~~
- ~~E.D.E.~~ Installation, construction, reconstruction, or replacement of public and private utility lines in the hardscape portion of the city right-of-way, existing utility crossings, existing basalt lined drainage channels, or public easement, not including electric substations;
- F. Tree removal on slopes 25 percent or greater where canopy area removal is less than 25 percent of the portion of the lot which contains 25 percent or greater slopes. For the purpose of this chapter, "tree" shall be as defined in OCMC 17.04.1315.
- G. The removal or control of noxious vegetation;
- H. Emergency actions which must be undertaken immediately to prevent an imminent threat to public health or safety, or prevent imminent danger to public or private property. The person undertaking emergency action shall notify the building official on all regulated activities associated with any building permit or City Engineer/Public Works Director on all others within one working day following the commencement of the emergency activity. If the City Engineer/Public Works Director or building official determine that the action or part of the action taken is beyond the scope of allowed emergency action, enforcement action may be taken.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.50 - Development—Application requirements and review procedures and approvals.

Except as provided by subsection CB. of this section, an application for a geologic hazards overlay review shall include the following ~~requirements apply to all development proposals subject to this chapter:~~

A geological assessment and geotechnical report that specifically includes, but is not limited to:

1. Comprehensive information and data regarding the nature and distribution of underlying geology, the physical and chemical properties of existing soils and groundwater; an opinion of site geologic stability, and conclusions regarding the effect of geologic conditions on the proposed development. In addition to any field reconnaissance or subsurface investigation performed for the site, the following resources, as a minimum, shall be reviewed to obtain this information and data:
 - a. The State of Oregon Department of Geology and Mineral Industries (DOGAMI) in Bulletin 99, Geology and Geological Hazards of North Clackamas County, Oregon (1979), or in any subsequent DOGAMI mapping for the Oregon City area;
 - b. Portland State University study entitled "Environmental Assessment of Newell Creek Canyon, Oregon City, Oregon" (1992);
 - c. Portland State University study, "Landslides in the Portland, Oregon, Metropolitan Area Resulting from the Storm of February 1996: Inventory Map, Database and Evaluation" (Burns and others, 1998);
 - d. DOGAMI Open File Report O-06-27, "Map of Landslide Geomorphology of Oregon City, Oregon,

and Vicinity Interpreted from LIDAR Imagery and Aerial Photographs" (Madin and Burns, 2006);

- e. "Preliminary Geologic Map of the Oregon City Quadrangle, Clackamas County, Oregon" (Madin, in press);
 - f. Landslide Hazards Land Use Guide for Oregon Communities (October 2019), prepared by the State of Oregon Department of Geology and Mineral Industries (DOGAMI) and the Oregon Department of Land Conservation and Development (DLCD);
 - g. Landslide hazard and risk study of northwestern Clackamas County, Oregon: Oregon Department of Geology and Mineral Industries, Open-File Report O-13-08, 74 map plates; Burns, W.J., Mickelson, K.A., Jones, C.B., Pickner, S.G., Hughes, K.L., Sleeter, R., 2013.
 - h. Mapped Landslide Data shall be from the City's Maps as a minimum but may be supplemented with maps from items a through f above.
2. Information and recommendations regarding existing local drainage, proposed permit activity impacts on local drainage, and mitigation to address adverse impacts;
 3. Comprehensive information about site topography;
 4. Opinion as to the adequacy of the proposed development from an engineering standpoint;
 5. Opinion as to the extent that instability on adjacent properties may adversely affect the project;
 6. Description of the field investigation and findings, including logs of subsurface conditions and laboratory testing results;
 7. Conclusions regarding the effect of geologic conditions on the proposed development, tree removal, or grading activity;
 8. Specific requirements and recommendations for plan modification, corrective grading, and special techniques and systems to facilitate a safe and stable site;
 9. Recommendations and types of considerations as appropriate for the type of proposed development:
 - a. General earthwork considerations, including recommendations for temporary and permanent cut and fill slopes and placement of structural fill;
 - b. Location of residence on lot;
 - c. Building setbacks from slopes;
 - d. Erosion control techniques applicable to the site;
 - e. Surface drainage control to mitigate existing and potential geologic hazards;
 - f. f. Subsurface drainage and/or management of groundwater see page;
 - g. ~~f.g.~~ Foundations;
 - h. ~~g.h.~~ Embedded/retaining walls;
 - i. ~~h.i.~~ Management of surface water and irrigation water; ~~and~~
 - j. Impact of the development on the slope stability of the lot and the adjacent properties; ~~-~~
 - k. Construction phasing and implementation schedule as it relates to foundation excavation, allowance for stockpiles, imported backfill, site subsurface drainage or dewatering, provision for off season site protections;
 - l. Stormwater Management; and
 - m. Construction Methods
 10. Scaled drawings that describe topography and proposed site work, including:

- a. Natural physical features, topography at two or ten-foot contour intervals locations of all test excavations or borings, watercourses both perennial and intermittent, ravines and all existing and manmade structures or features all fully dimensioned, trees six-inch caliper or greater measured four feet from ground level, rock outcroppings and drainage facilities;
 - b. All of the features and detail required for the site plan above, but reflecting preliminary finished grades and indicating in cubic yards whether and to what extent there will be a net increase or loss of soil.
 - c. A cross-section diagram, indicating depth, extent and approximate volume of all excavation and fills.
11. For properties greater than one acre and any property that has any portion of its property existing within a mapped landslide, where the activity is not exempted by 17.44.35, a preliminary hydrology report, prepared by a suitably qualified and experienced hydrology expert, addressing the effect upon the watershed in which the proposed development is located; the effect upon the immediate area's stormwater drainage pattern of flow, the impact of the proposed development upon downstream areas and upon wetlands and water resources; and the effect upon the groundwater supply.
- B. Review procedures and approvals require the following:
- 1. Examination to ensure that:
 - a. Required application requirements are completed;
 - b. Geologic assessment and geotechnical report procedures and assumptions are generally accepted; and
 - c. All conclusions and recommendations are supported and reasonable.
 - 2. Conclusions and recommendations stated in an approved assessment or report shall then be directly incorporated as permit conditions or provide the basis for conditions of approval for the regulated activity.
 - 3. All geologic assessments and geotechnical reports shall be reviewed by an engineer certified for expertise in geology or geologic engineering and geotechnical engineering, respectively, as determined by the city. The city will prepare a list of prequalified consultants for this purpose. The cost of review by independent review shall be paid by the applicant.
- C. The City Engineer may waive one or more requirements of subsections A and B of this section if the City Engineer determines that site conditions, size or type or development of grading requirements do not warrant such detailed information. If one or more requirements are waived, the City Engineer shall, in the staff report or decision, identify the waived provision(s), explain the reasons for the waiver, and state that the waiver may be challenged on appeal and may be denied by a subsequent review authority.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.60- Development standards.

Notwithstanding any contrary dimensional or density requirements of the underlying zone, the following standards shall apply to the review of any development proposal subject to this chapter. Requirements of this chapter are in addition to other provision of the Oregon City Municipal Code. Where provision of this chapter conflict with other provision of the Oregon City Municipal Code, the provisions that are more restrictive of regulated development activity shall govern.

- A. All developments shall be designed to avoid unnecessary disturbance of natural topography, vegetation and soils. To the maximum extent practicable as determined by the review authority, tree and ground cover removal and fill and grading for residential development on individual lots shall be confined to building footprints and driveways, to areas required for utility easements and for slope easements for

road construction, and to areas of geotechnical remediation.

- B. All grading, drainage improvements, or other land disturbances shall only occur from May 1 to October 31. "Land disturbance" is defined as any movement of earth, placement of earth, or movement of heavy trucks on earth, not including the right of way. Erosion control measures shall be installed and functional prior to any disturbances. Erosion control measures shall also be functioning and in a winterized stable condition once all land disturbance work has ceased for the year. The City Engineer may allow grading, drainage improvements or other land disturbances to begin before May 1 (but no earlier than March 16) and end after October 31 (but no later than November 30), based upon weather conditions and the and in consultation with the recommendation and direction of the project's geotechnical engineer. The City Engineer may use the expertise of a City contracted geotechnical consultant to make the decision to allow any work before May 1 or after October 31. The City Engineer has full authority to not allow any extension of work before May 1 or after October 31. In no case shall the applicant be allowed to begin work before May 1 or complete work after October 31 if the average monthly rainfall in any individual month between September and April is exceeded.

When allowed by the City Engineer, tThe modification of dates shall be the minimum necessary, based upon the evidence provided by the applicant, to accomplish the necessary project goals. Temporary protective fencing shall be established around all trees and vegetation designed for protection prior to the commencement of grading or other soil disturbance.

- C. Designs shall minimize the number and size of cuts and fills.
- D. Cut and fill slopes, ~~such as those for a street, driveway accesses, or yard area,~~ greater than seven feet in height (as measured vertically) shall be terraced. Faces on a terraced section shall not exceed five feet. Terrace widths shall be a minimum of three feet and shall be vegetated. Total cut and fill slopes shall not exceed a vertical height of fifteen feet. Except in connection with geotechnical remediation plans approved in accordance with the chapter, cuts shall not remove the toe of any slope that contains a known landslide or is greater than twenty-five percent slope. The top of cut or fill slopes not utilizing structural retaining walls shall be located a minimum of one-half the height of the cut slope from the nearest property line.
- E. Any structural fill shall be designed by a suitably qualified and experienced civil or geotechnical engineer licensed in Oregon in accordance with standard engineering practice. The applicant's engineer shall certify that the fill has been constructed as designed in accordance with the provisions of this chapter. The structural fill design must be provided prior to any fill being placed onsite. The structural fill design must contain the stamp and signature of a professional engineer licensed in the State of Oregon.
- F. Retaining walls shall be constructed in accordance with the Oregon Structural Specialty Code adopted by the State of Oregon.
1. Retaining walls that are four feet or greater in height, tiered walls with a total height four feet or greater, and walls on slopes steeper than 2:1 must be designed by a professional engineer licensed in the State of Oregon which includes a stamped and signed set of plans.
 2. The construction of the wall must be inspected by the professional engineer responsible for the design and must be certified prior to the structure receiving temporary occupancy. The certification must contain the stamp and signature of a professional engineer licensed in the State of Oregon.
 - ~~1.3.~~ All retaining walls required to be designed by a professional engineer shall be reviewed by the City, when expertise exists on staff, or by the City's consultant. When reviewed by the City's consultant, the applicant shall reimburse the City for time spent by the City's consultant to review the design.
- ~~F-G.~~ Roads shall be the minimum width necessary to provide safe vehicle and emergency access, minimize cut and fill and provide positive drainage control. The review authority may grant a variance from the city's required road standards upon findings that the variance would provide safe vehicle and emergency access and is necessary to comply with the purpose and policy of this chapter.

- H. Density shall be determined as follows:

1. Slope

- a. For those areas with slopes less than twenty-five percent between grade breaks, the allowed density shall be that permitted by the underlying zoning district, unless further limited by the following code section;
 - b. For those areas with slopes of twenty-five to thirty-five percent between grade breaks, the density shall not exceed two dwelling units per acre except as otherwise provided in subsection I of this section;
 - c. For those areas with slopes over thirty-five percent between grade breaks, development shall be prohibited except as otherwise provided in subsection I.4. of this section.
- 2. Existing landslide (as shown in the Geologic Hazard Overlay Zone)
 - a. For those areas with historic landslides where the structure or ground disturbance will be located within any portion of the mapped landslide or buffer zone, the density shall not exceed two dwelling units per acre except as otherwise provided in subsection I of this section;
- I. For properties with slopes of twenty-five to thirty-five percent between grade breaks or are located within any portion of a mapped landslide and buffer zone:
 - 1. For those portions of the property with slopes of twenty-five to thirty-five percent or located within any portion of a mapped landslide and buffer zone, the maximum residential density shall be limited to two dwelling units per acre; provided, however, that where the entire site is less than one-half acre in size, a single dwelling shall be allowed on a lot or parcel existing as of January 1, 1994 and meeting the minimum lot size requirements of the underlying zone;
 - 2. An individual lot or parcel with slopes between twenty-five and thirty-five percent or located within any portion of a mapped landslide and buffer zone, shall have no more than fifty percent or four thousand square feet of the surface area, whichever is smaller, graded or stripped of vegetation or covered with structures or impermeable surfaces.
 - 3. No cut into a slope of twenty-five to thirty-five percent or located within any portion of a mapped landslide and buffer zone, for the placement of a housing unit shall exceed a maximum vertical height of fifteen feet for the individual lot or parcel.
 - 4. For those portions of the property with slopes over thirty-five percent between grade breaks:
 - a. Notwithstanding any other city land use regulation, development other than roads, utilities, public facilities and geotechnical remediation shall be prohibited; provided, however, that the review authority may allow development upon such portions of land upon demonstration by an applicant that failure to permit development would deprive the property owner of all economically beneficial use of the property. This determination shall be made considering the entire parcel in question and contiguous parcels in common ownership on or after January 1, 1994, not just the portion where development is otherwise prohibited by this chapter. Where this showing can be made on residentially zoned land, development shall be allowed and limited to one single-family residence. Any development approved under this chapter shall be subject to compliance with all other applicable city requirements as well as any applicable state, federal or other requirements;
 - b. To the maximum extent practicable as determined by the review authority, the applicant shall avoid locating roads, utilities, and public facilities on or across slopes exceeding thirty-five percent.
- J. The geotechnical engineer of record shall review final grading, drainage, and foundation plans and specifications and confirm in writing that they are in conformance with the recommendations provided in their report.
- K. At the city's discretion, peer review shall be required for the geotechnical evaluation/investigation report submitted for the development and/or lot plans. The peer reviewer shall be selected by the city. The applicant's geotechnical engineer shall respond to written comments provided by the city's peer reviewer

prior to issuance of building permit.

- L. The review authority shall determine whether the proposed methods of rendering a known or potential hazard site safe for construction, including proposed geotechnical remediation methods, are feasible and adequate to prevent landslides or damage to property and safety. The review authority shall consult with the city's geotechnical engineer in making this determination. Costs for such consultation shall be paid by the applicant. The review authority may allow development in a known or potential hazard area as provided in this chapter if specific findings are made that the specific provisions in the design of the proposed development will prevent landslides or damage. The review authority may impose any conditions, including limits on type or intensity of land use, which it determines are necessary to assure that landslides or property damage will not occur.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.070 - Access to property.

- A. Shared private driveways may be required if the City Engineer or principal planner determines that their use will result in safer location of the driveway and lesser amounts of land coverage than would result if separate private driveways are used.
- B. Innovations in driveway design and road construction shall be permitted in order to keep grading and cuts or fills to a minimum and to achieve the purpose and policy of this chapter.
- C. Points of access to arterials and collectors shall be minimized.
- D. The City Engineer or principal planner shall verify that adequate emergency services can be provided to the site.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.080 - Utilities.

All new ~~service~~-utilities (storm sewer, sanitary sewer, potable water, and gas), both on-site and off-site, shall be placed underground and under roadbeds where practicable. All other service utilities (including, but not limited to, electric, telephone, telecom, cable, fiberoptic) shall be placed above ground on existing poles if poles exist. If no poles exist, the service lines shall be placed underground. Every effort shall be made to minimize the impact of utility construction. Underground utilities require the geologic hazards permitting and review prescribed herein when applicable.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.090 - Stormwater drainage.

The applicant shall submit a permanent and complete stormwater control plan. The program shall include, but not be limited to the following items as appropriate: curbs, gutters, inlets, catch basins, detention facilities and stabilized outfalls. Detention facilities shall be designed to city standards as set out in the city's drainage master plan and design standards. The review authority may impose conditions to ensure that waters are drained from the development so as to limit degradation of water quality consistent with Oregon City's Title III section of the Oregon City Municipal Code Chapter 17.49 and the Oregon City Stormwater and Grading Design Standards Public Works Stormwater Management Design Manual and Standards Plan or other adopted standards subsequently adopted by the city commission. The review authority may also impose conditions to limit the volume, velocity, or flow rate of water such that it does not negatively impact the underlying drainageway cross section. Drainage design shall be approved by the City Engineer before construction, including grading or other soil disturbance, has begun. A geotechnical report must include analysis and solutions for infiltration facilities located in areas where these

facilities could impact nearby slopes of greater than 10 percent. Infiltration shall be minimized as practicable for any site located within a Geologic Hazard Overlay. Infiltration is not allowed for any site located in areas greater than 25 percent.

The project's civil or geotechnical engineer shall inspect any stormwater management feature and must certify that the stormwater management feature was constructed per plan and with the recommendations of the geotechnical engineer prior to receiving temporary occupancy. The certification must contain the stamp and signature of a professional engineer licensed in the State of Oregon.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.100 - Construction standards.

During construction on land subject to this chapter, the following standards shall be implemented by the developer:

- A. All development activity shall minimize vegetation removal and soil disturbance and shall provide positive erosion prevention measures in conformance with OCMC Chapter 17.47—Erosion and Sediment Control.
- B. No grading, clearing or excavation of any land shall be initiated prior to approval of the grading plan, except that the City Engineer shall authorize the site access, brush to be cleared and the location of the test pit digging prior to approval of such plan to the extent needed to complete preliminary and final engineering and surveying. The grading plan shall be approved by the City Engineer as part of the city's review under this chapter. The developer shall be responsible for the proper execution of the approved grading plan.
Measures shall be taken to protect against landslides, mudflows, soil slump and erosion. Such measures shall include sediment fences, straw bales, erosion blankets, temporary sedimentation ponds, interceptor dikes and swales, undisturbed buffers, grooving and stair stepping, check dams, etc. The applicant shall comply with the measures described in the Oregon City Public Works Standards for Erosion and Sedimentation Control (Ordinance 99-1013). Erosion control measures shall be in place at all times during construction to the maximum extent practicable.
- C. All disturbed vegetation shall be replanted with suitable vegetation upon completion of the grading of the steep slope area.
- D. Existing vegetative cover shall be maintained to the maximum extent practicable. No grading, compaction or change in ground elevation, soil hydrology and/or site drainage shall be permitted within the drip line of trees designated for protection, unless approved by the city.
- E. Existing perennial and intermittent watercourses shall not be disturbed unless specifically authorized by the review authority. This includes physical impacts to the stream course as well as siltation and erosion impacts. The City, at its discretion, is not required to but may request the examination and assessment by other State agencies to determine if impacts are acceptable.
- F. All soil erosion and sediment control measures shall be maintained during construction and for one year after development is completed, or until soils are stabilized by revegetation or other measures to the satisfaction of the City Engineer. Such maintenance shall be the responsibility of the developer. If erosion or sediment control measures are not being properly maintained or are not functioning properly due to faulty installation or neglect, the City may order work to be stopped. (Ord. 03-1014, Att. B3 (part), 2003; Ord. 94-1001 §2(part), 1994)
- G. All newly created lots, either by subdivision or partition, shall contain building envelopes with a slope of thirty-five percent or less.
- H. The applicant's geotechnical engineer shall provide special inspection during construction to confirm that the subsurface conditions and assumptions made as part of their geotechnical evaluation/investigation are appropriate. This will allow for timely design changes if site conditions are encountered that are different from those anticipated. Inspection is required on a daily basis for any day that earth disturbance is occurring or after any rainfall event of ½ inch or greater.

- I. Prior to issuing an occupancy permit, the geotechnical engineer shall prepare a summary letter stating that the soils- and foundation-related project elements were accomplished in substantial conformance with their recommendations. The summary letter must contain the stamp and signature of a professional engineer licensed in the State of Oregon.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.110 - Approval of development.

The ~~C~~city ~~E~~ngineer shall review the application and verify, based on the applicant's materials and the land use record, whether the proposed development constitutes a hazard to life, property, natural resources or public facilities. If, in the ~~C~~city ~~E~~ngineer's opinion, a particular development poses such a hazard, the ~~C~~city ~~E~~ngineer shall recommend to the review authority permit conditions designed to reduce or eliminate the hazard. These conditions may include, but are not limited to, prohibitions on construction activities between November 1st and ~~April~~ ~~March~~ 30~~1st~~th.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.120 - Liability.

Approval of an application for development on land subject to this chapter shall not imply any liability on the part of the city for any subsequent damage due to earth slides. Prior to the issuance of a building permit, a waiver of damages and an indemnity and hold harmless agreement shall be required which releases the city from all liability for any damages resulting from the development approved by the city's decision. The indemnity and hold harmless agreement shall be recorded on the property and run with the property.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.130 - Compliance.

Nothing contained in this chapter shall relieve the developer of the duty to comply with any other provision of law. In the case of a conflict, the more restrictive regulation shall apply.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.140 - Appeal.

The review authority's decision may be appealed in the manner set forth in Chapter 17.50.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

REFERENCE LINK TO PREVIOUS AGENDA ITEMS AND EXHIBITS FOR GLUA 20-00033 LEG-20-00001 PUBLIC WORKS CODE AMENDMENTS

September 28, 2020 Planning Commission Meeting

[Commission Report.pdf](#) (0.04 MB)
[GLUA 20-00033 LEG 20-00001 Staff Report.pdf](#) (0.56 MB)
[Exhibit 1 Public Works Code Amendments Overview.pdf](#) (1.27 MB)
[Exhibit 2 Public Works Code Amendments FAQ.pdf](#) (0.14 MB)
[Exhibit 3 Detailed Summary of Proposed Changes.pdf](#) (0.28 MB)
[Exhibit 4 GLUA 20-00033 Draft Code Revised September 21, 2020.pdf](#) (2.97 MB)
[Exhibit 5 Sanitary Standards -Proposed Revisions.pdf](#) (0.41 MB)
[Exhibit 6 Sidewalk Obstructions Policy.pdf](#) (0.43 MB)
[Exhibit 7. Undergrounding Utilities Policy- Proposed Revisions.pdf](#) (0.85 MB)
[Exhibit 8 Applicant's Narrative.pdf](#) (0.48 MB)
[Exhibit 9 Preparing for Landslide Hazards A Land Use Guide For Oregon Communities.pdf](#) (19.86 MB)
[Exhibit 10.Goal 7 Natural Hazards.pdf](#) (0.02 MB)
[Exhibit 12 Public Comment Matrix \(as of 9.21.20\).pdf](#) (1.02 MB)

November 9, 2020 Planning Commission Meeting

[Commission Report 11.9.20.pdf](#) (0.04 MB)
[October 30, 2020 Memo from Josh Wheeler, Assistant City Engineer.pdf](#) (0.13 MB)
[OCMC 13.08 -Sewer Regulations Revised for 11.9.20 PC Hearing.pdf](#) (0.09 MB)
[OCMC 16.12 Minimum Public Improvements - Revised for 11.9.20 PC Hearing.pdf](#) (0.40 MB)
[OCMC 17.44 Geologic Hazards Revised for 11.9.20 PC Hearing.pdf](#) (0.27 MB)
[OCMC 17.80 Revised for 11.9.20 PC Hearing.pdf](#) (0.26 MB)
[September 23, 2020 Geologic Hazards Presentation Final.pdf](#) (10.28 MB)
[September 23, 2020 Q&A Session Geologic Hazards Webinar.pdf](#) (0.19 MB)
[GLUA 20-00022 LEG 20-00001 PW Code Amendments Public Comment Matrix 11.09.20- Combined.pdf](#) (13.39 MB)
[New Public Comment: October 10, 2020 Mike Mitchell Email and Public Works Response.pdf](#) (0.18 MB)
[New Public Comment: September 14, 2020 Paul Edgar Email.pdf](#) (0.48 MB)
[New Public Comment: September 30, 2020 Paul Edgar Email.pdf](#) (0.01 MB)
[New Public Comment: September 29, 2020 Paul Edgar Email 2.pdf](#) (0.10 MB)
[New Public Comment: September 29, 2020 Paul Edgar Email 1.pdf](#) (0.90 MB)

November 18, 2020 City Commission Hearing

[Staff Report.pdf](#) (0.04 MB)
[Public Comment Matrix.pdf](#) (13.39 MB)
[October 30, 2020 Memo from Josh Wheeler, Assistant City Engineer.pdf](#) (0.13 MB)
[September 23, 2020 Geologic Hazards Presentation Final.pdf](#) (10.28 MB)
[September 23, 2020 Q&A Session Geologic Hazards Webinar.pdf](#) (0.19 MB)

December 8, 2020 City Commission Worksession

Infiltration and Inflow (I/I) Abatement Program Municipal Code Amendments
[Staff Report.pdf](#) (0.05 MB)
[Proposed Code Amendments - OCMC 13.08.pdf](#) (0.09 MB)

December 16, 2020 City Commission Worksession

Proposed Code Amendments to Oregon City Municipal Code Chapter 12.04
[Staff Report.pdf](#) (0.04 MB)
[OCMC Chapter 12.04 with Redlines.pdf](#) (0.14 MB)

December 16, 2020 City Commission Hearing

Request for Continuance of the Public Works Code Amendments to January 6, 2021 (GLUA 20-33, LEG 20-01
[Staff Report.pdf](#) (0.04 MB)

January 6, 2021 City Commission Hearing

Proposed 1st Reading of the Public Works Code Amendments (GLUA 20-33, LEG 20-01)

[Staff Report.pdf](#) (0.05 MB)

[Ordinance No 21-1003.pdf](#) (0.02 MB)

[Exhibit A- Amended Sections of the Oregon City Municipal Code.pdf](#) (0.61 MB)

[Exhibit B - Staff Report.pdf](#) (0.56 MB)

[Exhibit 1 Memo, Josh Wheeler- Additional Revisions OCMC Chapter 12.04.pdf](#) (0.12 MB)

[Exhibit 2 Memo, Josh Wheeler- Additional Revisions OCMC Chapter 13.08.pdf](#) (0.12 MB)

[Exhibit 3 Proposed Revisions to Chapter 13.04 Water Service System- redline.pdf](#) (0.16 MB)

[Exhibit 4 Proposed Revisions to OCMC 12.04 Streets Sidewalks - redline.pdf](#) (0.15 MB)

[Exhibit 5 Proposed Revisions to Chapter 13.08 Sewer Regulations - redline.pdf](#) (0.19 MB)

[Exhibit 6 Proposed Revisions to OCMC 17.80 Communications Facilities- redline.pdf](#) (0.26 MB)

[Exhibit 7 Reference link to previous agenda items and exhibits.pdf](#) (0.19 MB)

January 20, 2021 City Commission Hearing

First Reading of Ordinance No. 21-1003, Amending the Oregon City Municipal Code; Title 12: Streets, Sidewalks, and Public Places, Title 13: Public Services, and Title 17: Zoning (GLUA 20-33, LEG 20-01, Public Works Code Amendments Package #1)

- [Staff Report.pdf](#) (0.05 MB)
- [Ordinance 21-1003.pdf](#) (0.02 MB)
- [Exhibit A – Amended Sections of the Oregon City Municipal Code.pdf](#) (0.81 MB)
- [Exhibit B - Planning Staff Report.pdf](#) (0.56 MB)
- [Exhibit B.1 Memo, Josh Wheeler - Additional Revisions- All Chapters.pdf](#) (0.13 MB)
- [Exhibit B.3 Memo, Josh Wheeler- Additional Revisions OCMC Chapter 13.08.pdf](#) (0.12 MB)
- [Exhibit B.2 Memo, Josh Wheeler- Additional Revisions OCMC Chapter 12.04.pdf](#) (0.12 MB)
- [Exhibit B.4 Proposed Revisions to OCMC 12.04 Streets Sidewalks- Redlined.pdf](#) (0.15 MB)
- [Exhibit B.5 Proposed Revisions to OCMC 13.04 Water Service System - Redlined.pdf](#) (0.16 MB)
- [Exhibit B.6 Proposed Revisions to OCMC 13.08 Sewer Regulations- Redlined.pdf](#) (0.18 MB)
- [Exhibit B.7 Proposed Revisions to OCMC 17.80 Communications Facilities - Redlined.pdf](#) (0.27 MB)
- [Exhibit B.8 Reference Links to Previous Agendas- Revised.pdf](#) (0.20 MB)

February 3, 2021 City Commission Hearing

Second Reading of Ordinance No. 21-1003, Amending the Oregon City Municipal Code; Title 12: Streets, Sidewalks, and Public Places, Title 13: Public Services, and Title 17: Zoning (GLUA 20-33, LEG 20-01, Public Works Code Amendments Package #1)

- [Staff Report.pdf](#) (0.05 MB)
- [Ordinance No. 21-1003.pdf](#) (0.02 MB)
- [Exhibit A – Amended Sections of the Oregon City Municipal Code- Revised.pdf](#) (0.81 MB)
- [Exhibit B - Planning Staff Report.pdf](#) (0.56 MB)
- [Exhibit B.1 Memo, Josh Wheeler - Additional Revisions- All Chapters.pdf](#) (0.13 MB)
- [Exhibit B.2 Memo, Josh Wheeler- Additional Revisions OCMC Chapter 12.04.pdf](#) (0.12 MB)
- [Exhibit B.3 Memo, Josh Wheeler- Additional Revisions OCMC Chapter 13.08.pdf](#) (0.12 MB)
- [Exhibit B.4 Proposed Revisions to OCMC 12.04 Streets Sidewalks- Redlined.pdf](#) (0.15 MB)
- [Exhibit B.5 Proposed Revisions to OCMC 13.04 Water Service System - Redlined.pdf](#) (0.16 MB)

- [Exhibit B.6 Proposed Revisions to OCMC 13.08 Sewer Regulations -Revised Redline.pdf](#) (0.19 MB)
- [Exhibit B.7 Proposed Revisions to OCMC 17.80 Communications Facilities - Redlined.pdf](#) (0.27 MB)
- [Exhibit B.8 REFERENCE LINK TO PREVIOUS AGENDA Exhibits- Revised.pdf](#) (0.26 MB)

City Commission Worksession- March 9, 2021

City Code Amendments to Chapters 16.12 and 17.04; Define Capital Improvement Project (CIP) and Including Exemptions from Land Use Process

- [Staff Report.pdf](#) (0.04 MB)
- [Summary of Revisions to OCMC 17.04.pdf](#) (1.21 MB)
- [Summary of Revisions to OCMC 16.12.pdf](#) (0.62 MB)
- [Other Jurisdictions Memo.pdf](#) (0.21 MB)

April 7, 2021 City Commission Hearing

First Reading of Ordinance No. 21-1007, Amending the Oregon City Municipal Code; Title 13: Public Services, Title 16: Land Divisions, and Title 17: Zoning (GLUA 20-33, LEG 20-01, Public Works Code Amendments Package #2)

- [Staff Report.pdf](#) (0.05 MB)
- [Ordinance No. 21-1007.pdf](#) (0.02 MB)
- [Exhibit A – Amended Sections of the Oregon City Municipal Code.pdf](#) (2.16 MB)
- [Exhibit B - Planning Staff Report.pdf](#) (0.56 MB)
- [Redline Versions of Proposed Code Amendments.pdf](#) (2.66 MB)
- [Memo from Josh Wheeler Assistant City Engineer - Summary of Revisions.pdf](#) (0.15 MB)
- [Reference to Previous Agenda Exhibits- Revised.pdf](#) (0.23 MB)

April 17, 2021 City Commission Hearing

Second Reading of Ordinance No. 21-1007, Amending the Oregon City Municipal Code; Title 13: Public Services, Title 16: Land Divisions, and Title 17: Zoning (GLUA 20-33, LEG 20-01, Public Works Code Amendments Package #2)

- [Staff Report.pdf](#) (0.05 MB)
- [Ordinance No. 21-1007.pdf](#) (0.02 MB)
- [Exhibit A – Amended Sections of the Oregon City Municipal Code.pdf](#) (2.16 MB)
- [Exhibit B - Planning Staff Report.pdf](#) (0.56 MB)
- [Redline Versions of Proposed Code Amendments.pdf](#) (2.66 MB)
- [Memo from Josh Wheeler Assistant City Engineer - Summary of Revisions.pdf](#) (0.15 MB)
- [Reference to Previous Agenda Exhibits- Revised.pdf](#) (0.23 MB)

The following meeting agendas, videos, staff report and exhibits for this project are available for viewing at <https://www.orcity.org/meetings> and are part of the record.

Citizen Involvement Committee – December 2, 2019
 City Commission Work Session Meeting – December 10, 2019
 City Commission Work Session Meeting – October 8, 2019
 Planning Commission – September 23, 2019
 City Commission Work Session – June 9, 2020
 Natural Resource Committee – June 10, 2020
 City Commission Work Session – June 7, 2020
 City Commission Work Session – May 20, 2020
 Planning Commission Meeting- September 28, 2020
 Planning Commission Meeting- October 26, 2020
 Planning Commission Meeting- November 9, 2020
 City Commission Hearing - November 18, 2020
 City Commission Work Session- December 8, 2020
 City Commission Work Session- December 16, 2020

City Commission Hearing- December 16, 2020
City Commission Hearing- January 6, 2021
City Commission Hearing- January 20, 2021
City Commission Hearing- February 3, 2021
City Commission Worksession- March 9, 2021
City Commission Hearing- April 7, 2021
City Commission Hearing- April 17, 2021
City Commission Worksession- May 24, 2021
City Commission Worksession- July 13, 2021

From: [Laura Terway](#)
To: [Christina Robertson-Gardiner](#)
Subject: FW: Comments/Testimony for July 13th Work Session of the City Commission
Date: Tuesday, July 13, 2021 7:44:05 PM
Attachments: [LandslidesOregonCity%ofSlope2017.doc](#)
[TestimonyOCCCommLandslideCodeRevisionsJuly132021.odt](#)

From: Kattie Riggs <kriggs@orcity.org>
Sent: Tuesday, July 13, 2021 2:50 PM
To: Tony Konkol <tkonkol@orcity.org>
Cc: Josh Wheeler <jjwheeler@orcity.org>; John M. Lewis <jmlewis@orcity.org>; Laura Terway <lterway@orcity.org>; recorderteam <recorderteam@orcity.org>
Subject: FW: Comments/Testimony for July 13th Work Session of the City Commission

FYI, Paul send the email below to the Commission.



Kattie Riggs, CMC
City Recorder
kriggs@orcity.org
 City of Oregon City
 PO Box 3040
 625 Center Street
 Oregon City, Oregon 97045
 Office Hours: Mon – Fri, 8 am – 5 pm
 503-496-1505 Direct phone
 503-657-0891 City phone
 503-657-7026 fax

Website: www.orcity.org | [Recorder Page](#) | [Facebook!](#) | [Twitter](#)
PUBLIC RECORDS LAW DISCLOSURE: This e-mail is subject to the State Retention Schedule and may be made available to the public.

The City of Oregon City continues to offer services and programs in-person and online - find facility hours of operation [here](#). We encourage visitors to reschedule in-person visits if you are feeling unwell.

From: Paul Edgar <pauloedgar@q.com>
Sent: Tuesday, July 13, 2021 2:47 PM
To: Kattie Riggs <kriggs@orcity.org>; Denyse McGriff <dmcgriff@orcity.org>; Adam Marl <amarl@orcity.org>; Rocky Smith, Jr. <rsmith@orcity.org>; Frank O'Donnell <fodonnell@orcity.org>; Rachel Lyles Smith <rlsmith@orcity.org>
Cc: Christine Kosinski <britenshin@aol.com>; John M. Lewis <jmlewis@orcity.org>
Subject: Fwd: Comments/Testimony for July 13th Work Session of the City Commission

TO: Oregon City, City Commission, I Paul Edgar, are in total support of the testimony included in the letter and attachment, sent by Christine Kosinski..

Paul Edgar, Oregon City

Fwd: Comments/Testimony for July 13th Work Session of the City Commission, from Christine Kosinski

Paul, here is the testimony and information I am submitting to the City Commission for tonight's Work Session.

Christine

-----Original Message-----

From: britenshin@aol.com

To: kriggs@orccity.org <kriggs@orccity.org>; recorderteam@orccity.org <recorderteam@orccity.org>

Cc: britenshin@aol.com

Sent: Tue, Jul 13, 2021 10:42 am

Subject: Comments/Testimony for July 13th Work Session of the City Commission

Kattie,

I am attaching my comments/testimony for tonight's City Commission Work Session. I am as well attaching, for the Commissioner's review, a study I did in 2017 regarding slope percentages which the Commission will be addressing tonight.

Kattie, because this is a Work Session tonight, rather than a Regular Session, are both my testimony and slope study able to become part of the record for the Hazard Code Revisions. I didn't know if I had to present this information at a Regular meeting for them to become part of the record?

Also, I am hoping to watch the Work Session on Zoom, will I need a code? This week is very busy for me, but I am hoping to be able to watch. If I miss, I will watch later in the week.

Thanks so much for your assistance

Christine Kosinski

503-656-1029

Kattie Riggs

From: britenshin@aol.com
Sent: Tuesday, July 13, 2021 10:43 AM
To: Kattie Riggs; recorderteam
Cc: britenshin@aol.com
Subject: Comments/Testimony for July 13th Work Session of the City Commission
Attachments: LandslidesOregonCity%ofSlope2017.doc;
TestimonyOCCCommLandslideCodeRevisionsJuly132021.odt

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Thanks so much for your assistance
Christine Kosinski
503-656-1029

Oregon City Commission Work Session
July 13, 2021

RE: Discussion Item #2 – Geologic Hazards Code 17.44 Revisions

Testimony of: Christine Kosinski, Holly Ln – Future Urban Reserve – Unincorporated Clack. Co.

I feel it is of no value to consider approval of the Revisions to the City's Geologic Hazards Code, at this time, without including the Future Urban Reserve boundaries of Holly Lane. The Park Place Concept Plan has been highly contested due to both the plethora of landslides in this area as well as the traffic concerns. As well as you know, these homeowners cannot obtain Landslide Insurance, and with the high densities you are proposing for the Park Place Plan, this places a huge personal and financial burden for all homeowners living within the Park Place and Holly Ln area.

The study of your GIS Staff, in your Staff Report, only looked at Tax Lots within the City, leaving out all of your future urban areas where density is planned to be greater. I feel it is incorrect for the City to go by this report when your future development areas also should be heavily considered, especially when Holly Ln, Maplelane, Redland Rd, have been referred to as “landslide city” by DOGAMI. If the Future Urban Reserves are not part of this report now, then the City must repeat these studies again when you approve their addition to the City, and I would ask you to do this.

I do not support the Type II Planning Process for development on any landslide property, rather I feel it would be better for Oregon City to adopt the landslide process that the City of Salem adopted with the guidance of FEMA after Salem suffered serious losses of landslides in the floods of 96-97. In Salem, every slope is evaluated and “points” are given to each slope. The amount of points then lead to the type of Engineering Reports needed for that particular slope. I exchanged e-mails with Nancy Kraushaar, at the time she was the City's Engineer, and Nancy also spoke very highly of the plan from the City of Salem and was considering it at the time, but then she left her position with Oregon City.

I am requesting the City to add the requirements of State Land Use Goal 7 as well as the Oregon City Addendum to the Clackamas County Natural Hazards Mitigation Plan because FEMA is requesting local governments to do this.

See Pg. 46 of the Oregon City Natural Hazards Mitigation Plan, under Proposed Action Items “Integrate the Goals and Action items from the OC NHMP into existing Regulatory documents and programs where appropriate”

On Pg. 46, the following ideas for Implementation are given

- Use the NHMP planning to learn how to better integrate the NHMP into existing documents/programs.
- Use citizen input for the creation of appropriate ordinances
- Use zoning codes to regulate development in hazard prone areas
- Use the Oregon City NHMP and Comp. Land use plan to meet State Land Use Planning Goal 7

I also feel the DLCD-DOGAMI Landslide Guidelines should be part of the Hazard Codes as it is here that the State defines requirements they want to see local governments, within the State, adopt.,

I would ask the City to consider what some other local governments have introduced and that is giving the Engineer's Report to every homeowner in a landslide area prior to the final sale. This would be true transparency, and after all, it is the homeowner who is 100% responsible for all damages.

Lastly, I am attaching my research from 2019 on landslides within Oregon City, giving you the percentage of slope, as well as the susceptibility for landslides in the future. Please note that many of these landslides have occurred on slopes lesser than 25%. Of high interest is that the disastrous landslides which have occurred at both the Berry Hill Apartments and the Newell Creek Apartments were on slopes of only 20%! These slides are re-occurring in a highly susceptible area for landslides, and of note, these landslides were included in a list of 6 landslides, within a mile of my home, giving Lloyd's of London all the reasons necessary to deny us Landslide Insurance. As I have previously testified to the City regarding Landslide Insurance, one of the questions on their application is "do you live within one mile of a previous landslide? It doesn't matter how an applicant answers since insurance companies use lidar landslide maps prior to any consideration for coverage. Since a huge portion of homes within Oregon City are within one mile of a previous landslide, this presents a grim picture for homeowners trying to obtain landslide coverage.

Because of the many, and devastating, landslides, located in the Newell Creek Canyon, the slides in the Park Place Concept Plan, the slides in the Redland Road area, as well as the slides continuing the distance of Maplelane, Thayer, Anchor Rd and many others in this area, none of these homeowners will be able to obtain any insurance coverage to help with losses due to landslides, which are usually catastrophic. The GRI Preliminary landslide study done many years ago, recommended the City to consider changing their slope percentage to "greater than 15%". For me, I believe this is reality for these areas, and I further believe the City should not consider anymore development other than the, I believe 1567 homes, that were approved by the City in 2007 for the Park Place Concept Plan. Density and heavy traffic here will exacerbate an already difficult landslide situation, and one that I do not believe can be well mitigated.

I will have additional testimony to present to you at the upcoming July 21st City Commission Meeting.

Thank you for allowing me to present this testimony and information at this City Commission Work Session.

Christine Kosinski

OREGON CITY LANDSLIDES – PERCENTAGE OF SLOPE**October 16, 2019**

<u>Street</u>	<u>% OF SLOPE</u>	<u>SUSCEPTIBILITY</u>
Trillium Park Drive – 17300 block	15% - Significant slide	High
Peter Skene Way	14% - Significant slide	High to Very High
Oak Tree Terrace**	10%	High to Very High
Dewey Street	20%	High
1707 - 11th Street	20%	High
Newell Creek Apartments	20%	High to Very High
Berry Hill Apartments	20%	High to Very High
South End Rd (Barker/5th)	20%	High
Holly Lane	10-11%	High
* Six Landslides 96-97		
Country Village (backs to Holly)		
*Moratorium on building here	15%	High
Some Homes Removed		
Morton Rd (Holly Ln)	15%	High
Two Homes destroyed 1997		
Matthew Court	9%	High
Newell Ridge Drive **	17%	High to Very High
Street of Dreams (Redland Road)	5%	High to Very High
**Home Value Losses – Newell Ridge – some homes have lost as much as 80%		
**Home Value Losses high in Oak Tree Terrace, Holly Ln, Street of Dreams, and in most of the homes as listed above.		
Thayer Rd Landslides	9% - 10% - 30%	High
propose heavy traffic		
*County - \$190,000 annual to maintain slide		
Maplelane Rd- propose heavy traffic	15-20-30-50%	High
BRCP Boundaries	20% by school	High to Very High
Propose 1100-1300 Homes		
Propose Commercial Center		
Park Place Plan Boundaries	Several 5-10-15-20%	High to Very High
Propose 1567 Homes		



CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: City Commission **Agenda Date:** 07/21/2021
From: Public Works Director John M. Lewis, PE

SUBJECT:

Resolution No. 21-42, Calling for an Election to Authorize Borrowings for Water System Improvements to the Electors of Oregon City

STAFF RECOMMENDATION:

Staff recommends approval of Resolution No. 21-42.

EXECUTIVE SUMMARY:

Water rates and water system development charges (SDCs) support the City's capital improvement plan (CIP) which is developed from the City's Water Master Plan. The City amended the 2012 Water Distribution System Master Plan to include the updated list of needed capital projects. The City must update water rates and water system development charges (SDCs) to support that plan. Water rates pay for system improvements needed for the existing system, while SDCs are one-time charges and pay for system improvements needed to support development/growth.

A Water Rate and SDC Study was completed by FCS Group in 2019 with results presented to the City Commission in October 2019 and again in July 2020. The subject report identifies the need to exceed the 3% limit set by the City Charter for a rate increase; therefore, voter approval is needed. Water SDC modifications are not limited by City Charter and are paid for by developers, as development occurs. At the September 2020 work session, the City Commission supported proceeding with a financing plan to support the capital improvements and directed staff to proceed with water SDC increases followed by a water ballot measure to seek support for the needed water rate increases.

A public hearing was held on March 3, 2021, on modifications to the water SDC methodology and adoption of new water SDC fees. The City Commission subsequently adopted updated water SDC rates, via Resolution No. 21-14, which went into effect July 1, 2021.

At the January 12, 2021, work session, the City Commission confirmed interest in pursuing voter support for needed water rate increases. At that time, the City

Commission decided to defer pursuit of voter approval to November 2021, recognizing the difficult year the community has had.

In preparation for the November 2021 ballot measure, the City entered into an agreement with Barney & Worth, Inc (BW) in May 2021 for professional services to assist with community engagement.

BW has completed their opinion research which informed the ballot measure language and community engagement strategy. The ballot measures are now being brought forward for approval through adoption of the resolution.

The purpose of this staff report and work session presentation is to summarize the findings of the opinion research, reaffirm City Commission support for the ballot measure, and discuss next steps.

BACKGROUND:

In May 1996, voters concerned with the adopted rates approved two City Charter amendments that restricted the City from bonding (Section 57) and limited water rate increases to 3% annually without voter approval. In addition, it included a provision that would force water rates to return to the 1994 rates. The vote was approved; however, a legal injunction resulted in a 20-year delay in the implementation of the rate rollback.

In 2012, the Water Distribution System Master Plan was completed, including a new capital improvement plan. FCS Group was hired to complete a study of water rates and SDCs to support the new Master Plan. The FCS report showed a need for rate increases larger than allowed by the City Charter. This presented a large barrier, not only due to the voter approval requirement, but also due to the water rate rollback. SDC updates were not pursued at that time due to the effort required to address rate challenges.

In November 2012, City staff presented their recommendation of no water rate rollback and an 8% annual water rate cap to the City Commission. This recommendation was to solve impacts of the 1996 City Charter Amendment outcome and to shore up the revenue stability needed to sustain the existing water system. Further discussion and rate scenarios ensued, but the ultimate City Commission decision was to separate the rate stability concerns (maintain the 3% limit) but focus on solving the looming water rate rollback. On May 21, 2013, Oregon City voters approved ballot measure 3-423, avoiding the water rate rollback. Again, SDC increases were not pursued at this time due to the focus on water rates.

Since 2013, the City Commission has remained focused on the need for revenue stability necessary to sustain the existing water system as reflected in the City Commission's past and present goals and priorities. The City Commission has also sustained water rate increases by 3% annually. SDC rate increases have been based on the Engineering News Record Construction Cost Index, which varies greatly from

year to year. Over the past 6 years, the annual increase for SDC rates averages about 3%.

Unfortunately, the delay in updating charges and fees combined with the charter provisions have resulted in the City underfunding its water infrastructure. While the City has operated and maintained the system sufficiently to provide quality, reliable water to our customers, it is becoming increasingly more difficult as the fatigued and aging infrastructure and growing community increase Oregon City's risk of not meeting the community needs.

The City Commission has recognized this challenge under Goal 5 Maintain Fiscal Health and Long-Term Stability, with a priority of Deferred Water Infrastructure in their 2019-2021 Goals and Priorities. This Goal included a priority given to deferred water infrastructure and a milestone of communicating the need for long-term water rates, needed infrastructure replacement, and possible ballot measures.

In response to the City Commission's Goal, staff worked to update the water system model to reflect updated demand projections, system operation, current growth rates, and updated system conditions and standards. This resulted in an updated Capital Improvement Plan (CIP), referred to as the "2019 CIP Update." The result is a more robust CIP that identifies projects to improve efficiency, system capacity, and condition of the water distribution system. The 2019 CIP Update was presented to the City Commission in February 2019, and again in May 2020, and was incorporated into the Water Master Plan, through adoption of the Amendment at the January 20, 2021, City Commission meeting. This update reflects planned City service with water from South Fork Water Board to cover the territory within Oregon City's Urban Growth Boundary. This includes the Beavercreek Road (Thimble Creek) area, South End and Park Place Concept Plan areas, and uses updated modeling and water demand projections.

With mounting certainty of the 2018/19 revisions to the water CIP, the City contracted with FCS Group in March 2019 to complete the Water Rate and SDC Study to evaluate the new financial needs. The Water Rate and SDC Study was completed by FCS in 2019 with results presented to City Commission in October 2019 and again in July 2020. The subject report identifies the need to exceed the 3% limit set by the City Charter for a rate increase, therefore, voter approval is needed. Water SDC modifications are not limited by City Charter and are paid for by developers, as development occurs.

At the July 15, 2020, City Commission Work Session, the City Commission confirmed its interest in fully funding the CIP, thereby requiring increases in the water SDC and voter approval for required water rate increase over the 3% charter limit. The City Commission also confirmed interest in proceeding with water SDC before water rates, resulting in separation of the water rate and water SDC reports. Water SDCs were modified through a process with the public notice issued November 30, 2020, the Methodology Report made available December 30, 2020, and the public hearing held on March 3, 2021. Water SDC increases were adopted by Resolution 21-14 at the March 3, 2021, City Commission meeting and went into effect, July 1, 2021.

Consistent with the July 15, 2020, direction, the Rate Study was separated and updated to reflect current rate comparisons with other jurisdictions and was included in the January 12, 2021 work session packet. At the subject work session, the City Commission reviewed the three scenarios presented and expressed interest in not pursuing the “Flat Revenue Requirement” that would call for a 22% rate increase in 2020/21. The two remaining scenarios considered for voter approval were:

Rate Increase	Rate Revenue Scenario	Charter Limit Requiring Voter Approval
5% Annual	Backloaded Revenue Requirement	Chapter XII Misc, Section 58
4% Annual*	Debt Supported Revenue Requirement	Chapter XII Misc, Section 57 & 58

**4% annual increase for 6 years and not exceeding 3% limit thereafter*

The City Commission recommended proceeding a water ballot measure that would seek approval of the Debt Supported option, recognizing it minimized the rate increase to its water customers.

Communication and outreach to the community have been done on the Water Master Plan Amendment, including system needs and improvements, financing, and the needed rate and fee updates. This has been accomplished through Trail News articles, E-Newsletters, public notices, public hearing, and Community Involvement Committee meetings. Outreach is intended to continue until which time Ballot language is approved to be submitted to the County Elections Office for publication. Recent public opinion research was completed and used to prepare the ballot measure included in the resolution.

BALLOT MEASURE

Since the ballot measures must move forward separately, there is a risk that only one may pass. The ballot measure has been drafted to provide the City the flexibility to update their financing plan including reflection of the results of the election, the preferred borrowing approach (if approved), as well as the availability and eligibility of funding through other programs, such as the American Rescue Plan and the Water Infrastructure Finance Innovation Act (WIFIA) loan interest loan program. Recommended rate increases from the update will be presented to the City Commission for review and approval.

The amount of debt reflected in the ballot measure is consistent with the FCS Group Water Rate Report. The ballot measure presented to the Commission authorizes the City to borrow to finance water system improvements. If approved, the borrowings could take the form of revenue bonds, full faith and credit bonds, bank loans, and state or federal loans (such as under the EPA's WIFIA loan program). An alternative ballot measure option for authorizing debt would be a General Obligation (GO) bond. A GO bond would authorize the City to levy an additional property tax, although the City expects to repay any debt using 100% water rates and system development charges revenues. A GO bond provides the maximum amount of security to investors, thus potentially producing a lower interest rate. However, the authorization for a GO bond would only allow this type of funding, and the City anticipates that the flexibility to pursue funding under a wider range of borrowing programs is the favorable option. Staff will return to the Commission with funding options and authorization to issue specific borrowings if the ballot measure has been approved by voters.

Ultimately, the City Commission will approve the final rates and financing plan for support of the needed water improvements within the authority given by the voters, after consideration of the ballot measures.

OPTIONS:

1. Approve Resolution No. 21-42
2. Approve as amended
3. Bring back to the August 4, 2021 City Commission meeting

RESOLUTION NO. 21-42

A RESOLUTION CALLING FOR AN ELECTION AND SUBMITTING A MEASURE TO THE ELECTORS OF OREGON CITY AUTHORIZING BORROWINGS FOR WATER SYSTEM IMPROVEMENTS

WHEREAS, the City's water system is in need of significant improvements, as demonstrated by the water master plan, which was amended in January 2021; and

WHEREAS, the City Commission has reviewed the needs of the City's water system and methods to bring the infrastructure up to a condition where it will adequately serve the citizens of Oregon City, now and in the future; and

WHEREAS, two methods available to the City to improve its water system are increasing water rates and borrowing funds. The City Commission has chosen to take a balanced approach by relying on both methods, rather than one; and

WHEREAS, Section 47 of the Oregon City Charter prohibits the City's voluntary floating indebtedness from exceeding \$25,000 without a vote of the people and Section 58 of the Oregon City Charter prohibits the City from issuing general obligation bonds or revenue bonds without a vote of the people.

NOW, THEREFORE, OREGON CITY RESOLVES AS FOLLOWS:

Section 1. An election is called in and for the City of Oregon City, to be held Tuesday, November 2, 2021. The Clackamas County Clerk shall conduct the election.

Section 2. At that election, the question of whether to authorize borrowing up to a principal amount of \$38 million for water system improvements shall be submitted to the voters of Oregon City.

Section 3. The City Commission adopts the ballot title attached to this Resolution in Exhibit A to describe the measure and directs the City Manager to file the ballot title with the City Recorder.

Section 4. The City Commission directs the City Recorder to take all actions necessary to hold the election, including publication of the notice of receipt of the ballot title.

Section 5. This resolution shall take effect immediately upon its adoption by the City Commission.

Approved and adopted at a regular meeting of the City Commission held on the 21st day of July 2021.

Rachel Lyles Smith, Mayor

Attested to this 21st day of July 2021:

Approved as to legal sufficiency:

Kattie Riggs, City Recorder

City Attorney

EXHIBIT A**BALLOT TITLE**

CAPTION:	AUTHORIZE BORROWINGS FOR WATER SYSTEM IMPROVEMENTS
QUESTION:	Shall Oregon City be authorized to borrow up to a principal amount of \$38 million for water system improvements?
SUMMARY:	Oregon City's water system needs significant improvements, as demonstrated by its Water Master Plan. The Plan identifies projects to strengthen the water system and improve its ability to recover from wildfire, major storms, and drought while providing safe, reliable water year-round. The City seeks a balanced approach to fully fund the needed water system improvements minimizing rate increases above the 3% Charter limit by borrowing money. This measure would authorize Oregon City to borrow funds to support water system improvements. The City expects to repay the borrowings from water system revenues. The City may also pledge its full faith and credit if that provides more favorable terms. The borrowings would be repaid over 20 to 30 years. This measure will not result in additional property taxes. Benefits of borrowing: • Eligible to apply for low interest federal and state loans to help save money for ratepayers. • Complete water system improvements faster. • Smaller increases in water rates. • Overall lower price because construction costs less now than in the future. • Future users will contribute to water system improvements.

Oregon City Ballot Measure Language – Borrowing

CAPTION (10 words): AUTHORIZE BORROWINGS FOR WATER SYSTEM IMPROVEMENTS

QUESTION (20 words): Shall Oregon City be authorized to borrow up to a principal amount of \$38 million for water system improvements?

SUMMARY (175 words): Oregon City's water system needs significant improvements, as demonstrated by its Water Master Plan. The Plan identifies projects to strengthen the water system and improve its ability to recover from wildfire, major storms, and drought while providing safe, reliable water year-round.

The City seeks a balanced approach to fully fund the water system improvements minimizing rate increases above the 3% Charter limit by borrowing money. This measure would authorize Oregon City to borrow funds to support water system improvements. The City expects to repay the borrowings from water system revenues. The City may also pledge its full faith and credit if that provides more favorable terms. The borrowings would be repaid over 20 to 30 years. This measure will not result in additional property taxes.

Benefits of borrowing:

- Eligible to apply for low interest federal and state loans to help save money for ratepayers.
- Complete water system improvements faster.
- Smaller increases in water rates.
- Overall lower price because construction costs less now than in the future.
- Future users will contribute to water system improvements.

Explanatory Statement-Borrowing (500 words) 483 words

Keeping Oregon City's Water System Improvements Affordable by Borrowing

Oregon City updated its Water Master Plan in January 2021. The Plan identifies \$81 million in improvements to strengthen the water system and improve its ability to recover from wildfire, major storms and drought while providing everyone safe, reliable water for years to come.

Fully funding the fixes for Oregon City's water system requires voter authorization. Section 47 of the Oregon City Charter prohibits the City's voluntary borrowing more than \$25,000 without a vote of the people and Section 58 of the Oregon City Charter prohibits the City from issuing general obligation or revenue bonds without a vote of the people.

This measure would authorize Oregon City to borrow funds to support water system improvements. The City expects to repay the borrowings from water system revenues. The City may also pledge its full faith and credit if that provides more favorable terms. The borrowed money would be repaid over 20 to 30 years. This measure will not result in additional property taxes.

Benefits of borrowing include:

- Eligible to apply for low interest federal and state loans to help save money for ratepayers.
- Complete water system improvements faster.
- Smaller increases in water rates.
- Overall lower price because construction costs less now than in the future.
- Future users will contribute to water system improvements.

Water System Issues

As the oldest city in the West, Oregon City still has some water pipes over 100 years old. Plus, another 12.6 miles of pipe is 50-100 years old – past its useful life, prone to failure. Old pipes can be replaced with modern, durable, earthquake-proof materials.

2020 provided evidence of vulnerabilities in Oregon City's water system:

- As wildfires swept toward Oregon City on Labor Day weekend, it wasn't clear there would be enough water to combat the fire threat.
- A few months later, in February 2021, combined ice and wind knocked out power to the South Fork water treatment plant – the City's water supply source on the Clackamas River. Without water supplies for 3 days, Oregon City relied on water stored in city reservoirs and tanks – which nearly ran dry.

Oregon City's limited water storage capacity can impact the City's ability to serve every customer equally during the dry season. Also, firefighting can consume large volumes of water, applied at high pressure. To meet these demands, Oregon City plans to build two more reservoirs or storage tanks, strategically located. This added storage will allow Oregon City to provide everyone safe, reliable drinking water – no matter where they are – even in summer months.

New Development Pays its Share

Higher development fees enacted by the City Commission took effect July 1, 2021. These increases ensure that new development will pay its share of water system costs related to growth. In essence, new development must "buy-in", paying a one-time fee (called a system development charge) to purchase a portion of the City's capacity.



CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: City Commission **Agenda Date:** 07/21/2021
From: Public Works Director John M. Lewis, PE

SUBJECT:

Resolution No. 21-43, Calling for an Election to Authorize Water Rate Increases of up to 3% Annually Above the Charter Limit for 6 Years to the Electors of Oregon City

STAFF RECOMMENDATION:

Staff recommends approval of Resolution No. 21-43.

EXECUTIVE SUMMARY:

Water rates and water system development charges (SDCs) support the City's capital improvement plan (CIP) which is developed from the City's Water Master Plan. The City amended the 2012 Water Distribution System Master Plan to include the updated list of needed capital projects. The City must update water rates and water system development charges (SDCs) to support that plan. Water rates pay for system improvements needed for the existing system, while SDCs are one-time charges and pay for system improvements needed to support development/growth.

A Water Rate and SDC Study was completed by FCS Group in 2019 with results presented to the City Commission in October 2019 and again in July 2020. The subject report identifies the need to exceed the 3% limit set by the City Charter for a rate increase; therefore, voter approval is needed. Water SDC modifications are not limited by City Charter and are paid for by developers, as development occurs. At the September 2020 work session, the City Commission supported proceeding with a financing plan to support the capital improvements and directed staff to proceed with water SDC increases followed by a water ballot measure to seek support for the needed water rate increases.

A public hearing was held on March 3, 2021, on modifications to the water SDC methodology and adoption of new water SDC fees. The City Commission subsequently adopted updated water SDC rates, via Resolution No. 21-14, which went into effect July 1, 2021.

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Commission decided to defer pursuit of voter approval to November 2021, recognizing the difficult year the community has had.

In preparation for the November 2021 ballot measure, the City entered into an agreement with Barney & Worth, Inc (BW) in May 2021 for professional services to assist with community engagement.

BW has completed their opinion research which informed the ballot measure language and community engagement strategy. The ballot measures are now being brought forward for approval through adoption of the resolution.

The purpose of this staff report and work session presentation is to summarize the findings of the opinion research, reaffirm City Commission support for the ballot measure, and discuss next steps.

BACKGROUND:

In May 1996, voters concerned with the adopted rates approved two City Charter amendments that restricted the City from bonding (Section 57) and limited water rate increases to 3% annually without voter approval. In addition, it included a provision that would force water rates to return to the 1994 rates. The vote was approved; however, a legal injunction resulted in a 20-year delay in the implementation of the rate rollback.

In 2012, the Water Distribution System Master Plan was completed, including a new capital improvement plan. FCS Group was hired to complete a study of water rates and SDCs to support the new Master Plan. The FCS report showed a need for rate increases larger than allowed by the City Charter. This presented a large barrier, not only due to the voter approval requirement, but also due to the water rate rollback. SDC updates were not pursued at that time due to the effort required to address rate challenges.

In November 2012, City staff presented their recommendation of no water rate rollback and an 8% annual water rate cap to the City Commission. This recommendation was to solve impacts of the 1996 City Charter Amendment outcome and to shore up the revenue stability needed to sustain the existing water system. Further discussion and rate scenarios ensued, but the ultimate City Commission decision was to separate the rate stability concerns (maintain the 3% limit) but focus on solving the looming water rate rollback. On May 21, 2013, Oregon City voters approved ballot measure 3-423, avoiding the water rate rollback. Again, SDC increases were not pursued at this time due to the focus on water rates.

Since 2013, the City Commission has remained focused on the need for revenue stability necessary to sustain the existing water system as reflected in the City Commission's past and present goals and priorities. The City Commission has also sustained water rate increases by 3% annually. SDC rate increases have been based on the Engineering News Record Construction Cost Index, which varies greatly from

year to year. Over the past 6 years, the annual increase for SDC rates averages about 3%.

Unfortunately, the delay in updating charges and fees combined with the charter provisions have resulted in the City underfunding its water infrastructure. While the City has operated and maintained the system sufficiently to provide quality, reliable water to our customers, it is becoming increasingly more difficult as the fatigued and aging infrastructure and growing community increase Oregon City's risk of not meeting the community needs.

The City Commission has recognized this challenge under Goal 5 Maintain Fiscal Health and Long-Term Stability, with a priority of Deferred Water Infrastructure in their 2019-2021 Goals and Priorities. This Goal included a priority given to deferred water infrastructure and a milestone of communicating the need for long-term water rates, needed infrastructure replacement, and possible ballot measures.

In response to the City Commission's Goal, staff worked to update the water system model to reflect updated demand projections, system operation, current growth rates, and updated system conditions and standards. This resulted in an updated Capital Improvement Plan (CIP), referred to as the "2019 CIP Update." The result is a more robust CIP that identifies projects to improve efficiency, system capacity, and condition of the water distribution system. The 2019 CIP Update was presented to the City Commission in February 2019, and again in May 2020, and was incorporated into the Water Master Plan, through adoption of the Amendment at the January 20, 2021, City Commission meeting. This update reflects planned City service with water from South Fork Water Board to cover the territory within Oregon City's Urban Growth Boundary. This includes the Beavercreek Road (Thimble Creek) area, South End and Park Place Concept Plan areas, and uses updated modeling and water demand projections.

With mounting certainty of the 2018/19 revisions to the water CIP, the City contracted with FCS Group in March 2019 to complete the Water Rate and SDC Study to evaluate the new financial needs. The Water Rate and SDC Study was completed by FCS in 2019 with results presented to City Commission in October 2019 and again in July 2020. The subject report identifies the need to exceed the 3% limit set by the City Charter for a rate increase, therefore, voter approval is needed. Water SDC modifications are not limited by City Charter and are paid for by developers, as development occurs.

At the July 15, 2020, City Commission Work Session, the City Commission confirmed its interest in fully funding the CIP, thereby requiring increases in the water SDC and voter approval for required water rate increase over the 3% charter limit. The City Commission also confirmed interest in proceeding with water SDC before water rates, resulting in separation of the water rate and water SDC reports. Water SDCs were modified through a process with the public notice issued November 30, 2020, the Methodology Report made available December 30, 2020, and the public hearing held on March 3, 2021. Water SDC increases were adopted by Resolution 21-14 at the

March 3, 2021, City Commission meeting and went into effect, July 1, 2021.

Consistent with the July 15, 2020, direction, the Rate Study was separated and updated to reflect current rate comparisons with other jurisdictions and was included in the January 12, 2021 work session packet. At the subject work session, the City Commission reviewed the three scenarios presented and expressed interest in not pursuing the “Flat Revenue Requirement” that would call for a 22% rate increase in 2020/21. The two remaining scenarios considered for voter approval were:

Rate Increase	Rate Revenue Scenario	Charter Limit Requiring Voter Approval
5% Annual	Backloaded Revenue Requirement	Chapter XII Misc, Section 58
4% Annual*	Debt Supported Revenue Requirement	Chapter XII Misc, Section 57 & 58

**4% annual increase for 6 years and not exceeding 3% limit thereafter*

The City Commission recommended proceeding a water ballot measure that would seek approval of the Debt Supported option, recognizing it minimized the rate increase to its water customers.

Communication and outreach to the community have been done on the Water Master Plan Amendment, including system needs and improvements, financing, and the needed rate and fee updates. This has been accomplished through Trail News articles, E-Newsletters, public notices, public hearing, and Community Involvement Committee meetings. Outreach is intended to continue until which time Ballot language is approved to be submitted to the County Elections Office for publication. Recent public opinion research was completed and used to prepare the ballot measure included in the resolution.

BALLOT MEASURE

Since the ballot measures must move forward separately, there is a risk that only one may pass. The ballot measure has been drafted to provide the City the flexibility to update their financing plan including reflection of the results of the election, the preferred borrowing approach (if approved), as well as the availability and eligibility of funding through other programs, such as the American Rescue Plan and the Water Infrastructure Finance Innovation Act (WIFIA) loan interest loan program. Recommended rate increases from the update will be presented to the City Commission for review and approval.

The rate increase reflected in the ballot, differs from those previously shown in the FCS Group Water Rate Report, to account for the possibility of not having borrowing

authority to minimize the rate increase. The City Commission preferred the debt support option, which called for a 4% rate increase and borrowing of money. The non-debt supported option considered, required a 5% annual increase required over 20 years.

Public opinion research has shown that increase beyond 10 years is not seen as “temporary”. Recognizing that this rate may not meet with voter approval, a decision was made to increase to 6% for six years, matching the duration of the debt funded option shown in the FCS Water Rate Report. While the duration matches, if the borrowing is not approved, the added cost of paying for the improvements without debt will fall on the rate increase. It is unlikely the 6% increase limited to 6 years, will fully fund the improvements without debt, but the opinion research indicated support up to 6% with public education with it dropping when it reached 7%. The ballot measure has been written to authorize “up to 6%”, providing the highest temporary rate increase we believe will be supported, leaving the ability for the City Commission to approve a lesser amount.

The following shows the increased monthly and annual cost for an average residential customer, using 6 CCF per month, above the current 2021 water rates, for the different rates discussed.

AVERAGE RESIDENTIAL CUSTOMER – WATER RATE REVIEW

Rates	Water Cost		Increase Over 3% Charter Limit	
	Monthly	Annual	Monthly	Annual
2021 Rate	\$ 29.20	\$ 350.40		
3% Increase (Authorized in Charter)	\$30.08	\$ 360.96		
4% Increase (Debt Supported Option – 6 yrs)	\$30.37	\$ 364.44	\$ 0.29	\$ 3.48
5% Increase (Non-Debt Supported – 20 yrs)	\$ 30.66	\$ 367.92	\$ 0.58	\$ 6.96
6% Increase (Proposed – 6 yrs)	\$30.95	\$ 371.40	\$ 0.87	\$10.44

Even with the 6% increase, the monthly difference in an average residential customer’s bill would be less than \$ 1.00. Given the cost and effort to pursue a ballot measure, the approach taken is to ask for authorization up to what we believe will be accepted by the voters as well as what we believe is needed, to meet the City’s intent to fully fund the

water capital improvements to the extent possible. Ultimately, the City Commission will approve the final rates and financing plan for support of the needed water improvements within the authority given by the voters, after consideration of the ballot measures.

OPTIONS:

1. Approve Resolution No. 21-43
2. Approve as amended
3. Bring back to the August 4, 2021 City Commission meeting

RESOLUTION NO. 21-43

A RESOLUTION SUBMITTING A MEASURE AUTHORIZING WATER RATE INCREASES OF UP TO 3% ANNUALLY ABOVE THE CHARTER LIMIT FOR 6 YEARS TO THE ELECTORS OF OREGON CITY

WHEREAS, the City's water system is in need of significant improvements, as demonstrated by the water master plan, which was amended in January 2021; and

WHEREAS, the City Commission has reviewed the needs of the City's water system and methods to bring the infrastructure up to a condition where it will adequately serve the citizens of Oregon City, now and in the future; and

WHEREAS, two methods available to the City to improve its water system are increasing water rates and borrowing funds. The City Commission has chosen to take a balanced approach by relying on both methods, rather than one; and

WHEREAS, Section 58 of the Oregon City Charter prohibits the City from increasing the water rates more than 3% annually without a vote of the people.

NOW, THEREFORE, OREGON CITY RESOLVES AS FOLLOWS:

Section 1. An election is called in and for the City of Oregon City, to be held Tuesday, November 2, 2021. The Clackamas County Clerk shall conduct the election.

Section 2. At that election, the question of whether to authorize water rate increases of up to 3% annually above the Charter limit for 6 years shall be submitted to the voters of Oregon City.

Section 3. The City Commission adopts the ballot title attached to this Resolution as Exhibit A to describe the measure and directs the City Manager to file the ballot title with the City Recorder.

Section 4. The City Commission directs the City Recorder to take all actions necessary to hold the election, including publication of the notice of receipt of the ballot title.

Section 5. This resolution shall take effect immediately upon its adoption by the City Commission

Approved and adopted at a regular meeting of the City Commission held on the 21st day of July 2021.

Rachel Lyles Smith, Mayor

Attested to this 21st day of July 2021:

Approved as to legal sufficiency:

Kattie Riggs, City Recorder

City Attorney

EXHIBIT A**BALLOT TITLE**

CAPTION:	AUTHORIZES TEMPORARY WATER RATE INCREASES ABOVE 3% ANNUAL CHARTER LIMIT
QUESTION:	Shall City be authorized to increase water rates up to 6% per year for six years for water system improvements?
SUMMARY:	Oregon City's water system needs significant improvements, as demonstrated by its Water Master Plan. The Plan identifies needed improvements to strengthen the water system and improve its ability to recover from wildfire, major storms, and drought while providing safe, reliable water year-round. The City's goals: • Repair and upgrade the oldest and most likely to fail parts of the system. • Provide all households reliable water service during the summer months. • Provide reliable water service to fight wildfires and after storms and earthquakes. Rate increases have been kept to the charter limit – but that amount isn't enough to cover water system fixes. The City seeks a balanced approach to fully fund the improvements by minimizing the required rate increase above the 3% Charter limit by borrowing money. This ballot measure would authorize a temporary water rate increase up to an additional 3% per year over six years. In the first year, this would cost a typical household 88 cents per month or \$10.51 for the year, over the existing authorized increase.

Oregon City Ballot Measure Language – Water Rates

CAPTION (10 words): AUTHORIZE TEMPORARY WATER RATE INCREASE ABOVE 3% ANNUAL CHARTER LIMIT

QUESTION (20 words): Shall City be authorized to increase water rates up to 6% per year for six years for water system improvements?

SUMMARY (175 words): Oregon City's water system needs significant improvements, as demonstrated by its Water Master Plan. The Plan identifies needed improvements to strengthen the water system and improve its ability to recover from wildfire, major storms, and drought while providing safe, reliable water year-round.

The City's goals:

- Repair and upgrade the oldest and most likely to fail parts of the system.
- Provide all households reliable water service during the summer months.
- Provide reliable water service to fight wildfires and after storms and earthquakes.

Rate increases have been kept to the charter limit – but that amount isn't enough to cover water system fixes. The City seeks a balanced approach to fully fund the improvements by minimizing the required rate increase above the 3% Charter limit by borrowing money. This ballot measure would authorize a temporary water rate increase up to an additional 3% per year over six years. In the first year, this would cost a typical household 88 cents per month or \$10.51 for the year, over the existing authorized increase.

Explanatory Statement-Rates (500 words) 454 words

Reinvesting in Oregon City's Water System

Oregon City updated its Water Master Plan in January 2021. The Plan identifies \$81 million in improvements to strengthen the water system and improve its ability to recover from wildfire, major storms, and drought while providing safe, reliable water year-round.

The City's goals include:

- Repair and upgrade parts of water system that are oldest and most likely to fail.
- Providing all households, no matter where they are, reliable water service during the summer months.
- Providing reliable water service during and after natural disasters, such as wildfires, major storms, or earthquakes.

Fully funding the fixes for Oregon City's water system requires voter authorization. Approval is needed for any annual water rate increases above 3%. In recent years, rate increases have been kept to 3% – but that amount isn't enough to cover water system fixes identified in the Master Plan. The investments funded by an additional 3% increase over six years will help Oregon City provide safe, reliable water service. In the first year, this would cost a typical household an estimated 88 cents per month or \$10.51 per year in addition to the already authorized rate increase.

Water System Issues

As the oldest city in the West, Oregon City still has some water pipes over 100 years old. Plus, another 12.6 miles of pipe is 50-100 years old – past its useful life, prone to failure. Old pipes can be replaced with modern, durable, earthquake-proof materials.

2020 provided evidence of vulnerabilities in Oregon City's water system:

- As wildfires swept toward Oregon City on Labor Day weekend, it wasn't clear there would be enough water to combat the fire threat.
- A few months later, in February 2021, combined ice and wind knocked out power to the South Fork water treatment plant – the City's water supply source on the Clackamas River. Without water supplies for 3 days, Oregon City relied on water stored in City reservoirs and tanks – which nearly ran dry.

Oregon City's limited water storage capacity can impact the City's ability to serve every customer equally during the dry season. Also, firefighting can consume large volumes of water, applied at high pressure. To meet these demands, Oregon City plans to build two more reservoirs or storage tanks, strategically located. This added storage will allow Oregon City to provide everyone safe, reliable drinking water – no matter where they are – even in summer months.

New Development Pays its Share

Higher development fees enacted by the City Commission took effect July 1, 2021. These increases ensure that new development will pay its share of water system costs related to growth. In essence, new development must "buy-in", paying a one-time fee (called a system development charge) to purchase a portion of the City's capacity.



CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: City Commission **Agenda Date:** 07/21/2021
From: Community Development Director Laura Terway

SUBJECT:

First Reading of Ordinance No. 21-1011, Amending the Oregon City Municipal Code Chapter 15.28 and Establishing a Public Art Mural Program (Legislative File LEG-21-00002)

STAFF RECOMMENDATION:

Staff recommends the City Commission approve the first reading of Ordinance No. 21-1011 and LEG-21-00002 Legislative amendment to Chapter 15.28 of the Oregon City Municipal Code, which contains the standards for signs. The amendment establishes a Public Art Mural Program and provides criteria upon which Staff, the Arts Commission and City Commission evaluate proposed art installations.

EXECUTIVE SUMMARY:

File No. LEG-21-00002 amends Chapter 15.28 of the Oregon City Municipal Code, which contains the procedures and conditions for signage. The amendment establishes a Public Art Mural Program and provides criteria upon which Staff, the Arts Commission and City Commission evaluate proposed art installations.

The proposed amendment includes the following elements:

- Addition of definitions to support the mural program, including defining how a public art mural is different from a sign.
- Criteria and standards for public art murals.
- Process for approval of public art murals, which is proposed to be handled through the Arts Commission. The Arts Commission is described in Section 2.26 of the Municipal Code.
- Identification of zoning districts where public art murals will be permitted.
- Language to ensure that first amendment rights are upheld (i.e. that the code remains content-neutral).

Legislative files follow a Type IV review process with the final decision made by the city Commission. The proposed code amendment is consistent with the Goals and Policies of the City's adopted Comprehensive Plan.

Changes have been made to the proposed code language to address concerns of the City Commission discussed during the July 7th, 2021 meeting; these changes are shown in the proposed code amendments in Exhibit 1.

A resolution to adopt mural application and appeal fees will be included upon second reading of the ordinance.

BACKGROUND:

The 2004 Comprehensive Plan calls for a review of the sign code (Policy 2.5.3). The City updated the sign code in 2015 through a robust process that resulted in numerous revisions and updates to the signage regulations. At that time, a Community Advisory Committee drafted mural program elements and associated code language, but the code was not part of the 2015 code update. The 2015 update did formally recognize all existing, legal murals in the City, but did not provide an avenue for additional murals.

The current City Code does not provide for murals as a separate type of sign; instead, murals are considered wall signs and must comply with the size limitations for wall signs, which is one square foot for every linear foot of building façade length. For example, a building façade of 50 feet in width that is say 20 feet in height would be allowed a wall sign of up to 50 square feet, on a façade that has a total area of 1000 square feet. This provision limits large murals.

The intent and purpose of the proposed code language is to encourage the production of public art murals for acquisition by the City. Public art murals are a medium of expression which serves the public interest in unique ways, including, but not limited to: enhancing the aesthetics of the City; providing avenues for original artistic expression in the City; providing public edification through access to original works of public art; encouraging community participation in the creation of original works of art; and reducing the incidence of graffiti and other crime.

The proposed amendment includes the following elements:

- Addition of definitions to support the mural program, including defining how a public art mural is different from a sign
- Criteria and standards for public art murals
- Process for approval of public art murals, which is proposed to be handled through the Arts Commission. The Arts Commission is described in Section 2.26 of the Municipal Code.
- Identification of zoning districts where public art murals will be permitted

- Language to ensure that first amendment rights are upheld (i.e. that the code remains content-neutral)

The Mural program provides for murals to be proposed by any individual or group. The proposed mural, if approved by the Arts Commission, would be in place for at least five years and be granted to the public through an easement.

The City Commission will also be presented with a new proposed Historic Review Board Policy to dictate when murals proposed in the historic overlay can be reviewed by staff, and when HRB review is required. See Exhibit 3 for more information about this proposed Policy.

Legislative files follow a Type IV review process with the final decision made by the city Commission. The proposed code amendment is consistent with the Goals and Policies of the City's adopted Comprehensive Plan.

The Planning Commission voted 5-1 to recommend approval of the amendment on June 28, 2021. The one "nay" vote was related to the alternative staff level approval in the event the Arts Commission is inactive.

A resolution to adopt mural application and appeal fees will be included upon second reading of the ordinance.

OPTIONS:

1. Send the file to City Commission with a recommendation for approval
2. Send the file to the City Commission with a recommendation for denial or modification
3. Continue the hearing to a date certain

ORDINANCE NO. 21-1011

AN ORDINANCE OF THE CITY OF OREGON CITY AMENDING TITLE 15: BUILDINGS AND CONSTRUCTION, CHAPTER 15.28 SIGNS OF THE OREGON CITY MUNICIPAL CODE

WHEREAS, the City of Oregon City has adopted a sign Ordinance to regulate signage allowed within the City; and

WHEREAS, the Oregon City Municipal Code may be amended and updated as necessary with the appropriate approval; and

WHEREAS, the proposed Chapter 15.28 will replace the existing Chapter 15.28 of the Oregon City Municipal Code; and

WHEREAS, as demonstrated in the staff report and findings for Legislative file LEG 21-00002, the proposed Code is consistent with State statutes and the goals and policies of the Oregon City Comprehensive Plan; and

WHEREAS, the Code amendment establishes a process to permit Public Art Murals in certain zones and on certain building types to enhance the cultural and other aesthetic qualities of the City; and

WHEREAS, the Code amendments will support economic development and tourism through a City-sponsored Public Art Mural Program; and

WHEREAS, the Oregon City Planning Commission and City Commission held a series of publicly noticed work sessions and hearings to review the proposed amendments to Chapter 15.28; and

WHEREAS, based on the oral and written testimony received at the public hearings, the Planning and City Commission voted to approve the proposed changes to the Oregon City Municipal Code.

NOW, THEREFORE, OREGON CITY ORDAINS AS FOLLOWS:

Section 1. Chapter 15.28 of the Oregon City Municipal Code as identified in Exhibit 1, is hereby adopted.

Read for the first time at a regular meeting of the City Commission held on the 21st day of July, and the City Commission finally enacted the foregoing Ordinance this 4th day of August 2021.

RACHEL LYLES SMITH, Mayor

Attested to this 4th day of August 2021:

Approved as to legal sufficiency:

Kattie Riggs, City Recorder

City Attorney

PROPOSED CODE AMENDMENT – DRAFT July 13, 2021 (Not Adopted)

Changes based on City Commission direction at the July 7, 2021 hearing.

Chapter 15.28 - SIGNS

Footnotes:

--- (1) ---

Editor's note— Ord. No. 14-1003, § 1, adopted May 20, 2015, effective Nov. 1, 2015, effectively repealed Chapter 15.28, §§ 15.28.010—15.28.110, and Exhibit 1 to said ordinance enacted a new Chapter 15.28 as set out herein. The former Chapter 15.28 pertained to similar subject matter. See Ordinance List and Disposition Table for derivation.

15.28.010 - Purpose of sign regulations.

This chapter regulates the construction, placement and maintenance of signs to protect and enhance public health, safety, welfare and property. The code:

- A. Allows signs compatible with the character and uses allowed in the zoning district in which they are located;
- B. Maintains the effectiveness of traffic control signs throughout the city;
- C. Prohibits signs, or portions thereof, that conflict with the safe movement of people and emergency services, constitute a public nuisance or hazard, are of unsafe construction, or that demand attention as a result of their dominating size or motion;
- D. Maintains and enhances the scenic and other aesthetic qualities of the city;
- E. Supports the economic development of Oregon City businesses;
- F. Allows citizens and businesses the freedom to express their needs or views without unnecessary interference; and
- G. Is not intended to regulate the content of signs in any way.

(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)

15.28.020 - Definitions.

"Abandoned sign" means a sign structure where no sign has been in place for a continuous period of at least six months.

"A-frame sign," also known as "sandwich board" or "tent sign," means a movable steeply angled sign with two sides that meets at the top in the shape of the letter "A" and is not attached to a structure or the ground.

"Air blown sign" means a sign that is intended to be inflated by air or other gas.

"Ancillary sign" means any sign allowed by this code, with or without permit, that is not a freestanding, incidental freestanding, wall, roof or projecting sign. If allowed within the zoning designation, ancillary signs include, but are not limited to: A-frame signs, flags (excluding attention flags), and banners.

"Attention flag" also known as "flutter," "feather," "teardrop," or "blade," means a pole-supported sign made of fabric, vinyl, or other similar non-rigid material, where one side of the sign is more than three times as long as any other side.

"Banner" means a sign made of fabric, vinyl, or other similar non-rigid material.

"Banner on street light pole" means a sign made of fabric, vinyl, or other similar non-rigid material intended to be displayed in the right-of-way for a limited period of time which complies with Chapter 15.28 of the Oregon City Municipal Code and the Signs in the Right-of-Way Policy.

"Billboard" means a sign with a display area of three hundred square feet or more, including, but not limited to, outdoor advertising signs as defined in ORS 377.710(21).

"Business" means any trade, profession, occupation or pursuit of every kind conducted in the city for gain.

"Compensation" means the exchange of something of value. It includes, without limitation, money, securities, real property interest, barter of goods or services, promise of future payment, or forbearance of debt. "Compensation" does not include goodwill, or an exchange of value, that a building owner (or leaseholder with a right to possession of the wall upon which the mural is to be placed) provides to an artist, muralist, or other entity, where the compensation is only for the creation and/or maintenance of the mural on behalf of the building owner or leaseholder, and where the building owner or leaseholder fully controls the content of the art mural.

"Construct" or "constructed" means to construct, erect, build, assemble, alter, place, affix, attach, create, recreate, paint, draw or in any way bring into being or establish.

"Cross street banner" means a sign made of fabric, vinyl, or other similar non-rigid material intended to be displayed over the right-of-way for a limited period of time which complies with Chapter 15.28 of the Oregon City Municipal Code and the Signs in the Right-of-Way Policy.

"Display" means an arrangement of objects intended to decorate, advertise, entertain, or inform people about something.

"Display area" means the total size of all sign faces on a sign.

"Fence" and "fencing" mean any barrier or section thereof, other than a wall, designed to delimit a boundary or provide a visual screen.

"Flag" means a piece of fabric of distinctive design that is displayed hanging free from a staff, halyard or building to which it is attached, excluding banners.

"Freestanding sign" means a sign wholly supported from the ground by its own integral structure.

"Frontage" means the full length of a parcel of property that abuts a dedicated street, highway, or a city-approved vehicular public access easement.

"Government owned sign" means a sign owned by a government agency, but does not include a sign constructed by a third-party with grant funds obtained from a government agency.

"Incidental freestanding sign" means a sign wholly supported from the ground by its own integral structure, excluding A-frame signs. The maximum size allowed is less than that of a freestanding sign and greater than an ancillary sign.

"Maintenance" means normal care or servicing needed to keep a sign functional or perpetuate its use, such as cleaning, replacing, or repairing unusable or broken portions of the sign, and repairing defective lighting.

"Premises" means a lot or number of contiguous lots under the same ownership.

"Projecting sign" means a sign projecting more than one foot from the wall of a building.

"Public Art Mural" means an original, two-dimensional work of visual art, comprised of paint, ceramic or glass tiles, or tesserae, metal, executed by hand directly upon, or affixed directly to an exterior wall or

rooftop of a building, where the work of visual art has been approved by the Arts Commission and accepted by the City into its public art collection pursuant to this Chapter.

"Roof sign" means a sign constructed or maintained wholly upon or over the roof of any building with the principal support on the roof structure.

"Sign" means any sign, display message, emblem, figure, painting, drawing, placard, poster, billboard, carving or other thing that is designed, used or intended to convey a message or image and is used to inform or attract the attention of the public, and the term includes the sign structure, display surface and all other component parts of a sign; when dimensions of a sign are specified, the term includes panels and frames; and the term includes both sides of a sign of specified dimensions or display area.

"Sign face" means the total area as measured pursuant to Section 15.28.050.

"Sign official" means any person designated by the city manager to enforce the provisions of this chapter, including the review of permit applications, the interpretation of the provisions of this chapter and the issuance of permits.

"Tenant space" means the portion of a structure occupied by a single commercial lease holder, or an owner-occupied space with its own public entrance from the exterior of the building or through a shared lobby, atrium, mall, or hallway and separated from other tenant spaces by walls.

"Traffic control sign or device" means a sign approved by the public works department through the right-of-way permit process, where the sign complies with the city's street standards and/or the Manual on Uniform Traffic Control Devices (MUTCD). In addition, traffic control sign or device includes signs on private property associated with an approved traffic control plan prepared by a transportation engineer and approved by the city through a site plan and design review process that does not involve the content of a sign.

"Undeveloped lot" means a property without a building, business or valid land use approval.

"Wall sign" means a sign that is attached to the wall of a building and extends no more than twelve inches from a wall.

(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)

15.28.030 - Scope of sign regulations.

All signs shall be constructed and maintained only as provided by this chapter, except for any of the following:

- A. Signs not visible from either a right-of-way or property under different ownership, provided such signs are constructed and maintained in accordance with applicable law;
- B. Signs inside a building, except for strobe lights visible from the right-of-way or other private property;
- C. Signs carved into or part of materials that are an integral part of a building;
- D. Signs attached to, or carried by a person;
- E. Signs required by law or legal action;
- F. Government owned signs within the right-of-way, government-designated parks, Metro-designated open space and at stormwater facilities;
- G. City owned signs;
- H. Public art murals identified on the Oregon City Existing Mural List; and
- I. Traffic control signs and devices.

(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)

15.28.040 - Permit required.

- A. Permit Required. No sign shall be constructed except as provided by this chapter and after a permit has been issued by the sign official. This permit requirement applies to all signs, except those specifically exempt by a provision of this chapter.
- B. Any of the following signs on private property are subject to compliance with this chapter but do not require a sign permit:
 - 1. Changes of copy whereby the sign size and material are not changing but the message is changed; or
 - 2. Ancillary signs (excluding banners) with no more than two faces and which do not exceed a display area of twelve square feet and a sign face of six square feet.
- C. Permit Application. Application for a sign permit shall be made in writing upon forms furnished by the sign official. A permit application fee shall accompany the application. The amount of the fee shall be adopted by resolution of the city commission. The application shall include all plans and information necessary to establish that the proposed sign complies with all applicable requirements of this chapter and applicable buildings, structural and life safety codes. The permit shall be valid if the sign is constructed in compliance with the city code and to the specifications described in the approved sign permit. Any permit issued under this chapter shall be void if the sign is not constructed in accordance with any conditions of the permit and the applicable requirements of this chapter within ninety days following the date of its issuance, excluding any appeals of the city's decision. Any permit issued under this chapter shall remain in effect as long as the sign is constructed as approved in the permit and maintained as required in 15.28.140. If an applicant seeks to have the city treat its property as a premises for purposes of the sign code, then the application shall explain how the property meets the definition of premises in Section 15.28.020.
- D. Appeals. Any party aggrieved by a decision of the sign official may appeal the decision to the planning commission. Any such appeal shall be in writing and be received by the city recorder no later than fourteen days after the date the challenged decision is final. The planning commission or city commission may initiate an appeal on its own motion within the fourteen-day period. The appropriate appeal fee established by resolution of the city commission shall accompany the appeal. Proceedings before the planning commission shall comply with the provisions of Chapter 17.50 of this code, including the provisions relating to city commission review of planning commission decisions involving conditional use permits.
- E. In addition to this chapter, signs shall be approved by the historic review board as required by Oregon City Municipal Code Section 17.40.060. The review shall not consider the content of the sign in any way.

(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)

15.28.050 - Measuring sign dimensions.

- A. The following criteria shall be used for the purpose of determining the boundaries of a sign:
 - 1. The sign face includes the area within a perimeter enclosing the limits of lettering, writing, representation, emblem, figure, character and lighted surface, but excluding essential sign structure, foundations or supports. Where a sign is of a three-dimensional, round, or irregular solid shape, the largest cross-section shall be used in a flat projection for the purpose of determining sign face.
 - 2. When signs are constructed in multiple separate pieces the sign face is calculated by measuring the area within a perimeter enclosing the limits of lettering, writing, representation, emblem, figure,

character and light surface, but excluding essential sign structure, foundations or support on all pieces collectively.

- B. Sign width is measured as the horizontal distance between the outermost area of sign face for wall signs and includes the supporting structure for all other sign types.
- C. The height of a sign above grade is measured from the average level of the grade below the sign to the topmost point of the sign, including any supporting structure.
- D. Clearance is measured from the average grade below the sign to the lowermost point of the sign.

Figure 15.28.050.A Two-Dimensional Signs

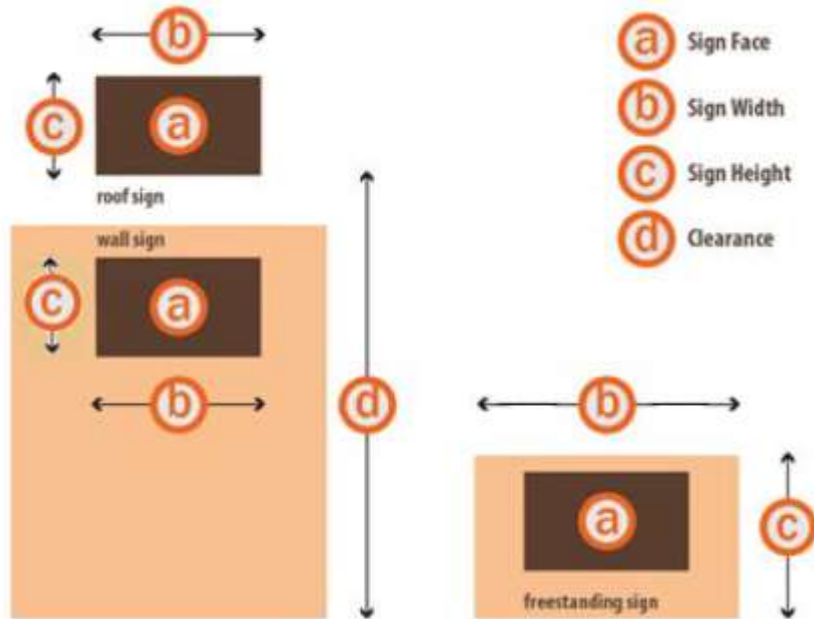
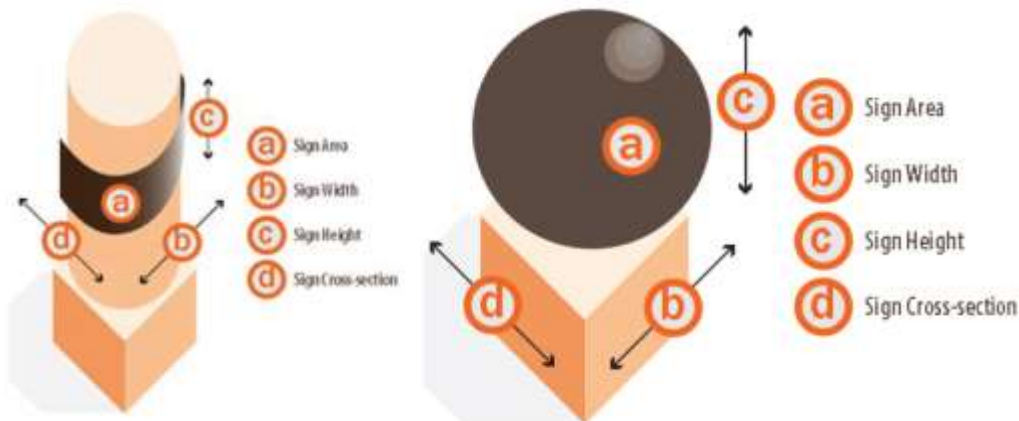


Figure 15.28.050.B Three-Dimensional, Round or Irregular Signs



(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)

15.28.060 - Signs in residential zones (excluding multi-family).

These standards apply to the following zoning designations: "R-10" Single-Family Dwelling District, "R-8" Single-Family Dwelling District, "R-6" Single-Family Dwelling District, "R-5" Single-Family Dwelling District, and "R-3.5" Dwelling District, except for those subject to Section 15.28.070 or 15.28.100.

- A. General. All of the following standards apply to all signs in residential zones (excluding multi-family):
 - 1. A minimum of fifty percent of the sign shall be constructed of metal, wood, stone, brick, rock or any combination thereof.
 - 2. If a sign is illuminated, the source of illumination shall be external to the sign and directed or shielded so as to not shine directly onto any neighboring structures.
 - 3. With the exception of projecting and wall signs, signs shall not project over the right-of-way. Signs projecting into the right-of-way shall receive approval by the city engineer.
 - 4. With the exception of wall signs, signs shall maintain a minimum clearance of ten feet above grade over pedestrian or vehicular areas, and fourteen feet above grade over areas of truck access.
- B. Wall Sign. All of the following standards apply to wall signs in residential zones (excluding multi-family):
 - 1. A maximum of one wall sign is allowed for each property frontage. A wall sign is prohibited if there is a projecting sign along the same property frontage.
 - 2. The sign face shall not exceed twelve square feet.
 - 3. The sign width shall not exceed five linear feet.
- C. Freestanding Sign. Freestanding signs are prohibited.
- D. Incidental Freestanding Signs. Incidental freestanding signs are prohibited.
- E. Projecting Signs. All of the following standards apply to projecting signs in residential zones (excluding multi-family):
 - 1. A maximum of one projecting sign is allowed for each property frontage. A projecting sign is prohibited if there is a wall sign along the same property frontage.
 - 2. The display area shall not exceed twenty-four square feet and the sign face shall not exceed twelve square feet.
 - 3. The sign shall not have more than two faces.
 - 4. The projection from a building wall shall not exceed six feet and shall not project within two feet of the curb line.
 - 5. The projection above the wall on which the sign is constructed shall not exceed one foot.
 - 6. The visible supporting structure shall be constructed of metal, wood, stone, brick, rock or any combination thereof.
- F. Roof Signs. Roof signs are prohibited.
- G. Ancillary Signs. All of the following standards apply to ancillary signs in residential zones (excluding multi-family):
 - 1. A maximum of two ancillary signs are allowed per property.
 - 2. The sign shall not have more than two faces.
 - 3. The display area shall not exceed twelve square feet and the sign face shall not exceed six square feet.
 - 4. Banners are prohibited in residential zones unless approved under Section 15.28.070.

(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)

15.28.065 - Signs in multi-family residential zones.

These standards apply to the "R-2" Multi-Family Dwelling District zoning designation, except for those subject to Section 15.28.070 or 15.28.100.

- A. General. All of the following standards apply to all signs in multi-family residential zones:
 - 1. A minimum of fifty percent of the sign shall be constructed of metal, wood, stone, brick, rock or any combination thereof.
 - 2. If a sign is illuminated, the source of illumination shall be external to the sign and directed or shielded so as to not shine directly onto any neighboring structures.
 - 3. With the exception of projecting and wall signs, signs shall not project over the right-of-way. Signs projecting into the right-of-way shall receive approval by the city engineer.
 - 4. With the exception of wall signs, signs shall maintain a minimum clearance of ten feet above grade over pedestrian or vehicular areas, and fourteen feet above grade over areas of truck access.
- B. Wall Sign. All of the following standards apply to wall signs in multi-family residential zones:
 - 1. A maximum of one wall sign is allowed for each property frontage. A wall sign is prohibited if there is a projecting sign along the same property frontage.
 - 2. The sign face shall not exceed twenty square feet.
 - 3. The sign width shall not exceed five linear feet.
- C. Freestanding Sign. All of the following standards apply to freestanding signs in multi-family residential zones:
 - 1. A maximum of one freestanding sign for each property frontage is allowed.
 - 2. The display area shall not exceed forty square feet and the sign face shall not exceed twenty square feet.
 - 3. The sign width shall not exceed ten linear feet.
 - 4. The sign height shall not exceed five feet.
- D. Incidental Freestanding Signs. Incidental freestanding signs are prohibited.
- E. Projecting Signs. All of the following standards apply to projecting signs in multi-family residential zones:
 - 1. A maximum of one projecting sign is allowed for each property frontage. A projecting sign is prohibited if there is a wall sign along the same property frontage.
 - 2. The display area shall not exceed forty square feet and the sign face shall not exceed twenty square feet.
 - 3. The sign shall not have more than two faces.
 - 4. The projection from a building wall shall not exceed six feet and shall not project within two feet of the curb line.
 - 5. The projection above the wall on which the sign is constructed shall not exceed one foot.
 - 6. The visible supporting structure shall be constructed of metal, wood, stone, brick, rock or any combination thereof.
- F. Roof Signs. Roof signs are prohibited.

- G. Ancillary Signs. All of the following standards apply to ancillary signs in multi-family residential zones:
1. A maximum of two ancillary signs are allowed per property.
 2. The sign shall not have more than two faces.
 3. The display area shall not exceed twelve square feet and the sign face shall not exceed six square feet.
 4. Banners are prohibited in multi-family residential zones unless approved under Section 15.28.070.

(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)

15.28.070 - Signs for conditional uses in residential zones.

These standards apply to all conditional uses within a residential zoning district ("R-10" Single-Family Dwelling District, "R-8" Single-Family Dwelling District, "R-6" Single-Family Dwelling District, "R-5" Single-Family Dwelling District, "R-3.5" Dwelling District, and "R-2" Multi-Family Dwelling District) unless otherwise limited in the conditional use approval. Conditional uses are identified within each applicable zoning designation. Signs within the right-of-way shall comply with Section 15.28.100.

- A. General. All of the following standards apply to all signs for conditional uses in residential zones:
1. With the exception of banners, at least fifty percent of the wall sign shall be constructed of metal, wood, stone, brick, rock or any combination thereof.
 2. If a sign is illuminated, the source of illumination shall be external to the sign and directed or shielded so as to not shine directly onto any neighboring structures.
 3. With the exception of projecting and wall signs, signs shall not project over the right-of-way. Signs projecting into the right-of-way shall receive approval by the city engineer.
 4. With the exception of wall signs, signs shall maintain a minimum clearance of ten feet above grade over pedestrian or vehicular areas, and fourteen feet above grade over areas of truck access.
- B. Wall Sign. All of the following standards apply to wall signs for conditional uses in residential zones:
1. A maximum of one wall sign per frontage is allowed.
 2. The sign face shall not exceed thirty-two square feet.
 3. The sign width shall not exceed ten linear feet.
- C. Freestanding Sign. All of the following standards apply to freestanding signs for conditional uses in residential zones:
1. A maximum of one freestanding sign per lot is allowed.
 2. The display area shall not exceed sixty-four square feet and the sign face shall not exceed thirty-two square feet.
 3. The sign width shall not exceed ten linear feet.
 4. The sign height shall not exceed fifteen feet.
- D. Incidental Freestanding Signs. Incidental freestanding signs are prohibited.
- E. Projecting Signs. All of the following standards apply to projecting signs for conditional uses in residential zones:

1. A maximum of one projecting sign is allowed if there is not a freestanding or wall sign on the same frontage.
 2. The display area shall not exceed sixty-four square feet and the sign face shall not exceed thirty-two square feet.
 3. The sign shall not have more than two faces.
 4. The projection from a building wall shall not exceed six lineal feet and shall not project within two feet of the curb line.
 5. The projection above the wall on which the sign is constructed shall not exceed one foot.
 6. The visible supporting structure shall be constructed of metal, wood, stone, brick, rock or any combination thereof.
- F. Roof Signs. Roof signs are prohibited.
- G. Ancillary Signs. All of the following standards apply to ancillary signs for conditional uses in residential zones.
1. A maximum of two ancillary signs (including banners) are allowed per property.
 2. The sign shall not have more than two faces.
 3. The display area shall not exceed twelve square feet and the sign face shall not exceed six square feet.
 4. Additional standards for banners:
 - a. For a single property, banners may be in place for up to thirty days, up to twice per year.
 - b. Banners shall be securely placed against a building wall and may not project from the wall.
 - c. The sign length shall not exceed six lineal feet.
 - d. The sign height shall not exceed four lineal feet.
 - e. Banners are prohibited within a historic district and on any property designated as a historic landmark.

(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)

15.28.080 - Signs in office, commercial, mixed use and industrial zones.

The following standards apply to signs in office, commercial, mixed use and industrial zones which are not identified in Section 15.28.060, 15.28.065, 15.28.070, or 15.28.100 unless otherwise provided by this code.

- A. General. All of the following standards apply to all signs in office, commercial, mixed use and industrial zones:
1. With the exception of projecting or wall signs, signs shall not project over the right-of-way. Signs projecting into the right-of-way shall receive approval by the city engineer.
 2. With the exception of wall signs, signs shall maintain a minimum clearance of ten feet above grade over pedestrian or vehicular areas, and fourteen feet above grade over areas of truck access.
- B. Wall Signs. All of the following standards apply to wall signs in office, commercial, mixed use and industrial zones:
1. The number of wall signs is unlimited provided the total combined display area of wall signs, projecting signs and banners does not exceed twenty square feet for each ground floor

tenant space on which the sign is constructed. For ground floor tenant spaces exceeding twenty feet of wall length on which the sign is constructed and tenant spaces not on the ground floor, signage shall not exceed one square foot per each lineal foot of the wall length of the tenant space on which the sign is constructed.

2. Signs on structures such as awnings, canopies, false fronts and wall extensions that do not extend more than one foot from the structure are considered wall signs.
- C. Freestanding Signs. All of the following standards apply to freestanding signs in office, commercial, mixed use and industrial zones:
1. A maximum of one freestanding sign is allowed for each street frontage. On arterial streets, if a frontage exceeds a length of six hundred linear feet a second freestanding sign is allowed. In all cases, no freestanding sign shall be permitted on the same frontage where there is a projecting or roof sign.
 2. Freestanding signs on the same frontage shall be separated by a minimum of fifty feet distance.
 3. Maximum display area:
 - a. Where the street frontage is less than fifty feet in length, the display area shall not exceed fifty square feet and the sign face shall not exceed twenty-five square feet.
 - b. Where the street frontage is fifty feet or greater but less than two hundred feet in length, display area shall not exceed one hundred square feet and the sign face shall not exceed fifty square feet.
 - c. Where the street frontage is two hundred feet or greater in length, the display area shall not exceed three hundred square feet and the sign face shall not exceed one hundred fifty square feet.
 - d. In no case shall any sign have a display area in excess of three hundred square feet.
 4. The sign width shall not exceed twenty linear feet.
 5. Where the street frontage is two hundred feet in length or less the sign height shall not exceed twenty-five feet. Where the street frontage is more than two hundred feet in length, the sign height shall not exceed thirty feet.
- D. Incidental Freestanding Signs. All of the following standards apply to incidental signs in office, commercial, mixed use and industrial zones:
1. A maximum of one incidental freestanding sign is allowed for each street frontage.
 2. The display area shall not exceed sixteen square feet and the sign face shall not exceed eight square feet.
 3. The sign height shall not exceed fifteen feet.
- E. Projecting Signs. All of the following standards apply to projecting signs in office, commercial, mixed use and industrial zones:
1. A maximum of one projecting sign is allowed for each tenant space if there is not a freestanding or roof sign on the same frontage.
 2. The total combined display area of projecting signs and wall signs shall not exceed one square foot per each lineal foot of the wall length of the tenant space on which the sign is constructed. Each ground floor tenant space may have a minimum sign face of twenty square feet, regardless of the limitation above.
 3. The sign shall not have more than two faces.
 4. The projection from a building wall shall not exceed six lineal feet and shall not project within two feet of the curb line.

5. The projection above the wall on which the sign is constructed shall not exceed one foot.
 6. The visible supporting structure shall be constructed of metal, wood, stone, brick, rock or any combination thereof.
- F. Roof Signs. All of the following standards apply to roof signs in office, commercial, mixed use and industrial zones:
1. A maximum of one roof sign is permitted for each frontage if there is no projecting sign or freestanding sign along the frontage.
 2. Maximum display area:
 - a. Where the street frontage is less than fifty feet, the display area shall not exceed fifty square feet and the sign face shall not exceed twenty-five square feet.
 - b. Where the street frontage is fifty feet or greater but less than two hundred feet, the display area shall not exceed one hundred square feet and the sign face shall not exceed fifty square feet.
 - c. Where the street frontage is two hundred feet or greater, the display area shall not exceed three hundred square feet and the sign face shall not exceed one hundred fifty square feet.
 - d. In no case shall any sign have a display area in excess of three hundred square feet.
 3. The sign width shall not exceed twenty feet and the sign height may not exceed ten feet.
 4. Skirting is required to obscure exposed hardware used to attach the sign to the roof, as viewed from the adjacent street level perspective.
- G. Ancillary Signs. All of the following standards apply to ancillary signs in office, commercial, mixed use and industrial zones:
1. A maximum of two ancillary signs (including banners) are allowed per property.
 2. The sign shall not have more than two faces.
 3. The maximum display area is twelve square feet and the maximum sign face is six square feet.
 4. Additional standards for banners:
 - a. For a single property, banners may be in place for up to thirty days, up to twice per year.
 - b. Banners shall be securely placed against a building wall and may not project from the wall.
 - c. Banners shall comply with the wall sign size requirements and the sign length shall not exceed six linear feet.
 - d. The sign height shall not exceed four lineal feet.
 - e. Banners are prohibited within a historic district and on any property designated as a historic landmark.

(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)

15.28.090 Public art murals.

- A. Public Art Mural Program Intent and Purpose. The intent and purpose of this section is to encourage the production of public art murals for acquisition by the City. Public art murals are a medium of expression which serves the public interest in unique ways, including, but not limited to: enhancing

the aesthetics of the City; providing avenues for original artistic expression in the City; providing public edification through access to original works of public art; encouraging community participation in the creation of original works of art; and reducing the incidence of graffiti and other crime.

- B. Criteria for Public Art Murals. All of the following criteria shall be met for public art murals:
1. Public art murals shall remain in place, without alteration, for a period of not less than five (5) years, except as may be specified by a designated governing body or by the Arts Commission in the conditions of approval. Within 30 days of the end of the approval period, the public art mural shall be removed unless a new approval is granted. Alterations to an approved and/or installed mural shall receive approval by a designated governing body or the Arts Commission.
 2. No public art murals shall be allowed on single-family dwellings, duplexes, 3-4 plexes, designated historic structures that were originally constructed as a residential use, or multi-family dwellings. As used in this subsection, single-family dwellings, duplexes, 3-4 plexes, or multi-family dwellings do not include mixed-use buildings which contain a single-family dwelling, duplex, or multi-family dwellings.
 3. Public art murals shall only be permitted within approved zoning districts.
 - a. Approved zoning districts include:
 - i. General Commercial
 - ii. Mixed Use Downtown
 - iii. Mixed Use Corridor 1
 - iv. Mixed Use Corridor 2
 - v. Willamette Falls Downtown District
 - vi. Institutional
 - b. Any use that is listed under permitted uses in the Institutional district in 17.39.020 but located in a non-Institutional Zone.
 4. The public art mural shall be painted, or if ceramic, glass tiles, tesserae, or metal, applied directly onto the surface of a building with a paint, ceramic, glass tiles, tesserae, or metal that ensures longevity, durability, and structural and surface stability. No part of the public art mural shall exceed the height of the structure to which it is tiled, painted, or affixed.
 5. No part of the public art mural shall be placed over the exterior surface of any opening of a building in a manner that prohibits use of the opening, including its windows, doors, and vents.
 6. No public art mural may contain electrical components, three dimensional structural elements; employ electrical lights as part of the image, moving structural elements, flashing or sequential lighting, interior lighting elements, any automated method that causes movement, or any method that causes periodic changes in the appearance, image or message of the public art mural.
 7. Public art murals shall be located in a manner that is accessible to the public.
 8. The mural proposal is not mechanically reproduced, or computer generated and printed on a base that will be attached to the wall, such as, by way of illustration but not limitation, images digitally printed on vinyl.
 9. The mural proposal shall include methods to mitigate the impacts of weather and vandalism and a commitment to repair the mural surface as necessary for a minimum of five years.
 10. No compensation will be given or received for the display of public art murals or for the right to place the mural on another's property.
 11. The approval and acceptance of each public art mural shall be contingent upon the conveyance of a public art mural easement to the City from the owner of the building upon which the mural will be located, in a form approved by the City Attorney. The terms of the easement shall grant the right to create the public art mural on the wall of the building and provide that the person

granting the easement will maintain and restore the public art mural in its original condition for the period of the easement, and state that upon termination of the easement, the mural shall be removed, and the building restored to its prior condition.

C. Approval Process.

1. Public art murals shall be approved by the Oregon City Arts Commission at a public hearing based on the criteria in the Oregon City Municipal Code. Notice of the application and the hearing date shall be published online and mailed to the applicant, recognized neighborhood association(s) and property owners within three hundred (300) feet of the proposed mural location. Notice shall be issued at least twenty (20) days pre-hearing, and the staff report shall be available at least seven (7) days pre-hearing. At the evidentiary hearing held before the Arts Commission, all issues shall be raised and addressed. Failure to raise an issue at the hearing will preclude review on that issue.
2. In lieu of an active Arts Commission, the City Commission will review the proposal through the public hearing process described in subsection 15.28.090.C.1.

D. The decision is appealable to the City Commission on the record. Notice of the appeal shall be received in writing by the Economic Development Department within fourteen (14) calendar days from the date the challenged decision is provided to those entitled to notice. Late filing of any appeal shall be deemed a jurisdictional defect and will result in the automatic rejection of any appeal so filed.

1. All of the following shall be included as part of the notice of appeal:

- a. The City file number and date the decision to be appealed was rendered;
- b. The name, mailing address and daytime telephone number for each appellant;
- c. A statement of how each appellant has an interest in the matter and standing to appeal;
- d. A statement of the specific grounds for the appeal;
- e. The Appropriate Appeal Fee. Failure to include the appeal fee within the appeal period is deemed to be a jurisdictional defect and will result in the automatic rejection of any appeal so filed. If a City-recognized neighborhood association with standing to appeal has voted to request a fee waiver pursuant to Oregon City Municipal Code Section 17.50.290.C, no appeal fee shall be required for an appeal filed by that association. In lieu of the appeal fee, the neighborhood association shall provide a duly adopted resolution of the general membership or board approving the request for fee waiver.

2. Standing to Appeal. Only those persons or recognized neighborhood associations who have participated either orally or in writing have standing to appeal the decision. Grounds for appeal are limited to those issues raised in writing before the close of the public record. No new evidence shall be allowed.

3. Notice of the Appeal Hearing. The Economic Development Department shall issue notice of the appeal hearing to all parties who participated in writing before the close of the public record at least twenty days pre-hearing, and the staff report shall be available at least seven days pre-hearing. Notice of the appeal hearing shall contain the following information:

- a. The file number and date of the decision being appealed;
- b. The time, date and location of the public hearing;
- c. The name of the applicant, owner and appellant (if different);

- d. The street address or other easily understood location of the subject property;
- e. A description of the permit requested and the applicant's mural proposal;
- f. A brief summary of the decision being appealed and the grounds for appeal listed in the notice of appeal;
- g. A statement that the appeal hearing is confined to the issues raised in the notice of appeal;
- h. A general explanation of the requirements for participation and the City's hearing procedures.

4. The City Commission decision on appeal is the City's final decision.

No person shall commence creation of any public art mural without first obtaining approval from the City, and executing an easement pursuant to section 15.28.090.(B).11. Murals that are created without approval through the aforementioned process that are not otherwise exempt pursuant to this chapter or are inconsistent with the conditions of approval from the City's decision shall not be deemed public art murals.

15.28.100 - Signs in the right-of-way.

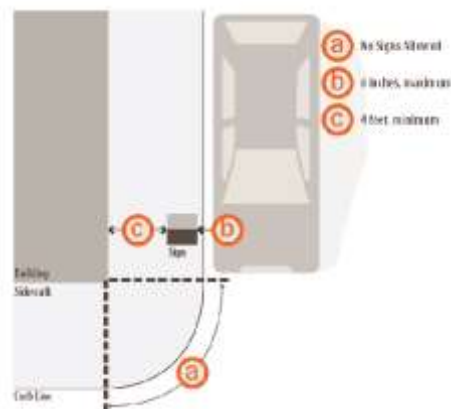
All of these standards apply to all signage within the city of Oregon City right-of-way and signs located in compliance with Section 15.28.100.B.1.a, except exempt signs described in Section 15.28.030.

A. Signs on the Ground Within the Right-of-Way. Signs on the ground within the right-of-way shall be permitted in the right-of-way in accordance with all of the following standards:

1. Number of Signs Permitted:
 - a. A maximum of one sign within the right-of-way per property frontage not within the Mixed Use Downtown District, Willamette Falls Downtown Design District or Mixed Use Corridor 1 District zoning designations.
 - b. Within the Mixed Use Downtown District, Willamette Falls Downtown Design District, or the Mixed Use Corridor 1 District, the number of signs on the ground within the right-of-way is limited to the number of operating and accessible public entrances per building or buildings on the site, up to a maximum of three signs per frontage. All properties are allowed one sign on the ground within the right-of-way per property frontage regardless of the number of building entrances. Multiple doors at one entrance are allowed one sign. Multiple individuals or entities which share the same public entrance are allowed one sign.
 - c. Approved traffic control signs or devices do not count towards the number of signs permitted within the right-of-way.
2. Material, Design and Size Standards:
 - a. The sign frame shall be wood, plastic or metal.
 - b. The sign shall be an A-frame sandwich design.
 - c. The sign may not be illuminated.
 - d. The sign width shall not exceed twenty-eight inches.
 - e. The sign depth shall not exceed two feet.
 - f. The sign height shall not exceed three feet.
 - g. The display area shall not exceed 12 square feet and the sign face shall not exceed six square feet.
3. Placement Standards:

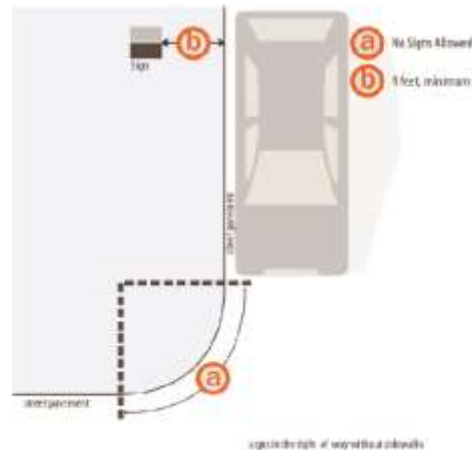
- a. Signs shall not be placed in parking spaces, pedestrian pathways, or bicycle paths, street corners, transit stop areas, ADA accessible curb ramps, ADA accessible parking spaces, at building exits or fire escapes, or any portion of the street (automobile and bicycle travel lanes, shoulder, medians, traffic islands, and parking areas). The sign may not obstruct pedestrian or ADA access from the sidewalk to transit stop areas, designated ADA accessible parking spaces, ADA accessible ramps or building exits, including fire escapes. Signs may not impede or hinder the vision of drivers or bicyclists. The sign shall be located entirely outside of the area of a right-of-way corner that is between the curb and the lines created by extending the property line to the curb face. Signs placed within the right-of-way shall not obstruct traffic control signs or devices.
- b. For signs placed within the right-of-way with an adjacent sidewalk: The sign shall be placed within six inches of the face of the curb. Four feet of clearance width shall be retained on the sidewalk.

Figure 15.28.100.A.3.b:
Signs in the Right-of-Way With an Adjacent Sidewalk



- c. For signs placed in the right-of-way without an adjacent sidewalk: The sign shall be located outside of any street pavement and may not be located closer than four feet from the travel lane, turning lane, shoulder, parking lane or bicycle lane.

Figure 15.28.100.A.3.c:
Signs in the Right-of-Way Without an Adjacent Sidewalk



- d. Signs placed in the right-of-way shall remain portable and shall not be attached or anchored in any manner to trees or public property, including, but not limited to, utility or light poles, parking meters, traffic control signs, the ground, or pavement.
4. Hours of Sign Placement:
 - a. For signs not within residential zoning designations: Signs may be within the right-of-way between the hours of nine a.m. and ten p.m.
 - b. Signs within residential zoning designations may be displayed on Thursday, Friday, Saturday, and Sunday between twelve p.m. and eight p.m. daily; and from six a.m. to one p.m. on Tuesday.
5. Approval of the adjacent property owner is required.
- B. Cross Street Banners. Temporary banners which extend over a roadway shall be permitted in the right-of-way upon issuance of a permit in accordance with the requirements contained in the most recently adopted Policy for Cross Street Banners and Banners on Street Light Poles. Banners shall be installed, re-secured, and removed by the city.
- C. Banners on Street Light Poles. Temporary banners on street light poles shall be permitted in the right-of-way upon issuance of a permit in accordance with the requirements contained in the most recently adopted Policy for Cross Street Banners and Banners on Street Light Poles. Banners shall be installed, re-secured, and removed by the city.
- D. Signs which Project over the Right-of-Way from Private Property. With the exception of projecting signs, no sign on private property may project into the right-of-way. Signs projecting into the right-of-way shall maintain a minimum clearance of ten feet above grade over pedestrian or vehicular areas, and fourteen feet above grade over areas of truck access.
- E. Who May Place the Sign. Permits for signs within the right-of-way are approved on a first-come, first-served basis.
- F. Right-of-Way Sign Permit Process.
 1. Signs on the Ground. For all properties not zoned residential, an annual A-frame sign within the right-of-way permit is required except on Thursday, Friday, Saturday, or Sunday between twelve p.m. and eight p.m. daily; or from six a.m. to one p.m. on Tuesday. Placement of signs

subject to this exception shall meet all other applicable requirements in this chapter. An approval sticker shall be placed on each sign within the right-of-way to easily distinguish the approved signs.

2. Cross Street Banner. A cross street banner within the right-of-way permit is required each time a cross street banner is installed.
 3. Banners on Light Posts. A street light banner permit is required each time a banner on a light post is installed.
 4. Signs which Project over the Right-of-Way from Private Property. Approval from the city engineer is required each time a sign is installed.
 5. The city commission shall establish permit fees for signs located within the right-of-way.
 6. The applicant shall comply with and obtain any permits issued by any other applicable agency.
- G. Liability. The sign owner shall assume all liability associated with a sign within the right-of-way regardless of whether a permit is required.
- H. Removal of Signs within the Right-of-Way.
1. Existing signs that do not comply with these standards or that have not obtained a valid permit may be removed.
 2. The city engineer may require signs to be modified, moved or removed if streets are widened or other improvements are made in the right-of-way that result in conditions where the sign placement will not comply with the above standards. The modification, moving or removing will be at the owner's expense.
 3. The city reserves the right to change or remove the approved cross street banners or banners on light posts at any time after the installation based on operational and/or safety conditions.

(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)

15.28.110 - Prohibited signs.

It is unlawful for any of the following signs to be constructed or maintained except as otherwise provided in this chapter:

- A. A sign that interferes in any way with a traffic control sign or device or prevents clear and unobstructed views of traffic control signs or devices or approaching or merging traffic or does not comply with Chapter 10.32 or 8.08 of the Oregon City Municipal Code.
- B. A sign that contains, includes or is illuminated by any flashing or revolving, rotating or moving light or moves or has any animated or moving parts which move or rotate or change more than three times per day, except as otherwise allowed within this code.
- C. A sign with lighting that is not effectively shielded to prevent beams or rays of light from being directed at any portion of the right-of-way or public vehicular accessway or sign that does not comply with the lighting requirements in OCMC 17.62.065.
- D. A sign located upon a tree, or painted or drawn upon a natural feature.
- E. A sign that obstructs free ingress to or egress from any door, window or fire escape, alley, drive or fire lane, or is attached to a fire escape.
- F. Any sign with a display area larger than twelve square feet or six square feet per sign face on an undeveloped lot or parcel of property.
- G. Attention flags.

- H. A-frame signs with a display area larger than twelve square feet or six square feet per sign face or taller than three feet.
- I. Air blown signs.
- J. Billboards.
- K. Signs on fences or fencing.
- L. Banners unless otherwise allowed by this chapter.
- M. Abandoned signs.
- N. Signs that emit any sound, vibration, or smell.
- O. Flags larger than one square foot for each lineal foot in height of the flag pole or structure to which the flag is affixed.
- P. Flags exceeding sixty square feet.
- Q. Signs that may be confused with public traffic signs or highway identification.
- R. A sign not otherwise in compliance with any provision of this code, Oregon law or the terms and conditions of any valid sign permit issued under this chapter.

(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)

15.28.120 - Nonconforming signs.

All of the following standards apply to all nonconforming signs:

- A. Signs that were lawfully constructed and otherwise lawfully existing but no longer comply with this code are allowed to remain until removed. Nothing in this section shall be deemed to prevent the maintenance of any sign, or changes of sign copy on a sign.
- B. No additions or enlargements may be made to a nonconforming sign except those additions or enlargements that are required by law.
- C. A sign that is moved, replaced, or structurally altered shall be brought into conformance with this chapter.
- D. A nonconforming sign (including the sign structure, foundation and supports) that is damaged shall not be repaired if the estimated expense to repair the sign exceeds fifty percent of the replacement cost of the sign as of the day before the sign was damaged. A damaged nonconforming sign that cannot be repaired shall be removed within ninety days of the date the sign was damaged. Whenever a nonconforming sign is damaged and the estimated cost to repair the sign is fifty percent or less of its replacement value as of the day before the sign was damaged, it may be repaired and restored to the condition it was in before it was damaged and may continue to be used as a nonconforming sign, provided that such repairs and restoration are started within ninety days of the date the sign was damaged and are diligently pursued thereafter. Whenever repairs and restoration of a damaged nonconforming sign are not started within ninety days of the date the sign was damaged or are diligently pursued once started, the sign shall be deemed abandoned.
- E. Abandoned signs shall not be deemed nonconforming signs. No nonconforming sign shall be permitted to remain unless properly repaired and maintained as provided in this chapter. A sign maintained in violation of this provision shall be considered abandoned and will be removed as provided in this chapter. Any nonconforming sign that is determined by the building official to be an unsafe sign shall be removed as provided in this chapter. Any nonconforming sign that is determined to be an abandoned sign shall be removed as provided in this chapter.

(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)

15.28.130 - Variances.

All of the following standards apply to variances to this chapter:

- A. Grounds for Variance. Upon application by an applicant, the planning commission may grant a specific variance from provisions of this chapter provided all of the following circumstances exist:
 - 1. That the variance from the requirements is not likely to cause substantial damage to adjacent properties by reducing light, air, safe access or other desirable or necessary qualities otherwise protected by this title;
 - 2. That the request is the minimum variance that would alleviate the hardship;
 - 3. Granting the variance will equal or exceed the purpose of the regulation to be modified;
 - 4. Any impacts resulting from the adjustment are mitigated;
 - 5. No practical alternatives have been identified which would accomplish the same purpose and not require a variance; and
 - 6. The variance conforms to the comprehensive plan and the intent of the ordinance being varied.
- B. Variance Fee. At the time of application for variance from the provisions of this chapter, the applicant shall pay a fee in accordance with the fee schedule established and amended from time to time by the city commission and on file with the city recorder.
- C. Procedure. A variance application shall be treated in the manner provided by Chapter 17.50 of this code with respect to zoning variances.

(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)

15.28.140 - Maintenance.

All signs, together with all supporting structures, shall be well maintained and kept in a good state of repair. Without limiting the foregoing, all sign owners shall comply with all of the following maintenance:

- A. Shall keep signs and supporting structures free from rust, dirt, debris, and chipped, cracked or peeling paint.
- B. Shall remove hanging, dangling, and cracked portions from all signs and supporting structures.
- C. Shall repair frayed parts on all signs and supporting structures.
- D. Shall replace defective lighting on all signs and supporting structures.
- E. Shall remove graffiti and unauthorized stickers from all signs and supporting structures.

(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)

15.28.150 - Violation—Penalty.

In addition to any other provisions hereof, it is unlawful for any person to maintain a sign or advertising structure in violation of the provisions of this chapter. Violation of any provision of this chapter is subject to the code enforcement procedures of Chapters 1.16, 1.20, and 1.24.

(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)

15.28.160 - Conflict and severability.

In the event any provision herein is found to be in conflict with any zoning, building, fire safety, health or other code provisions of the city, the provision which establishes the higher standard for the promotion and protection of the health, safety and welfare of the people shall prevail.

A finding by a court of competent jurisdiction that any part, section, subsection, paragraph, subparagraph, sentence, clause, phrase, term or word is declared invalid shall not invalidate the remaining portions. A permit issued pursuant to this chapter does not grant any authority to violate any other law or regulation that may apply. Any permit or approval issued in conflict with this chapter shall be void.

(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)



Planning Division

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LEGISLATIVE STAFF REPORT AND RECOMMENDATION

A preliminary analysis of the applicable approval criteria for a legislative proposal is enclosed within the following report.

June 21, 2021

HEARING DATE: June 28, 2021 - Planning Commission

FILE NUMBER: LEG-21-00002

APPLICATION TYPE: Legislative (OCMC 17.50.170)

APPLICANT: City of Oregon City, c/o Economic Development Department
Po Box 3040, Oregon City, OR 97045
James Graham, CED, Economic Development Manager
Matthew Weintraub, Tourism Program Specialist

REQUEST: Amendments to Chapter 15.28.020 of the Oregon City Municipal Code –
Definitions

Creation of Chapter 15.28.090 of the Oregon City Municipal Code – *Public art murals*

LOCATION(S): City Wide

I. BACKGROUND:

File No. LEG-21-00002 amends Chapter 15.28 of the Oregon City Municipal Code, which contains the procedures and conditions for signage. The amendment establishes a Public Art Mural Program and provides criteria upon which Staff, the Arts Commission and City Commission evaluate proposed art installations.

Public art murals are currently not allowed in Oregon City. Art and signage that is affixed to a building are currently regulated by Chapter 15.28 of the Oregon City Municipal Code. However, many municipalities in Oregon permit and regulate public art murals. A subsequent goal of the proposed code amendment is to provide clarity for City staff and officials on the interpretation and implementation of the City's role in the permitting process.

The City Commission directed staff to identify amendments to the Oregon City Municipal Code that would allow for the installation of and clarity around public art murals to support the existing City-adopted Tourism Strategic Plan and in support of adopted Commission Goals.

PROCESS

Adoption of the code amendments is a legislative action that requires review and recommendation from the Planning Commission prior to adoption by the City Commission following public hearings. The Economic Development Department held the following public meetings to date.

2014-2015 Sign Code Update Process – multiple public meetings

November 16, 2020 – Public Listening Session #1

November 19, 2020 – Public Listening Session #2

December 10, 2020 – Oregon City Historic Review Board Work Session

March 2, 2021 – Oregon City Historic Review Board hearing

March 9, 2021 – Oregon City Commission Work Session

April 12, 2021 – Oregon City Planning Commission Work Session

May 3, 2021 – Oregon City Citizen Involvement Committee

The mural code was initially drafted as part of the 2014-2015 sign code update. In 2020 and 2021, the following direction was provided to guide staff in further amending the code:

- The code amendments should impinge on Oregon’s First Amendment protections;
- Any code change should be accompanied by a user-friendly “how-to guide”;
- A desire that the code clearly differentiate between murals and signs;
- Any codes amendments or processes should ensure continued preservation of historic buildings within Oregon City;
- The permitting process should be clear and attainable;
- Inclusion of a required maintenance agreement between parties;
- That the Oregon City Historic Review Board recommends a review waiver to allow staff to re-view mural permits applications on historically designated structures;
- To exclude the Oregon City Planning Commission from any role within the process;

SUMMARY OF CODE AMENDMENTS

The intent and purpose of the proposed code language is to encourage the production of public art murals for acquisition by the City. Public art murals are a medium of expression which serves the public interest in unique ways, including, but not limited to: enhancing the aesthetics of the City; providing avenues for original artistic expression in the City; providing public edification through access to original

works of public art; encouraging community participation in the creation of original works of art; and reducing the incidence of graffiti and other crime.

The proposed amendment includes the following elements:

- Addition of definitions to support the mural program, including defining how a public art mural is different from a sign
- Criteria and standards for public art murals
- Process for approval of public art murals, which is proposed to be handled through the Arts Commission. The Arts Commission is described in Section 2.26 of the Municipal Code.
- Identification of zoning districts where public art murals will be permitted
- Language to ensure that first amendment rights are upheld (i.e. that the code remains content-neutral)

The Mural program provides for murals to be proposed by any individual or group. The proposed mural, if approved by the Arts Commission, would be in place for at least five years and be granted to the public through an easement.

The City Commission will also be presented with a new proposed Historic Review Board Policy to dictate when murals proposed in the historic overlay can be reviewed by staff, and when HRB review is required. See Exhibit 5 for more information about this proposed Policy.

The Legislative Process as it relates to the Oregon City Comprehensive Plan

The applicable approval criteria for a legislative action are set forth in the applicable goals and policies of the Oregon City Comprehensive Plan, and any applicable statewide planning goals.

Section 2 – *Land Use* of the 2004 Oregon City Comprehensive Plan indicates that the regular review and updated of the Comprehensive Plan should consider the following:

1. Plan implementation process.
2. Adequacy of the Plan to guide land use actions, including an examination of trends.
3. Whether the Plan still reflects community needs, desires, attitudes and conditions. This shall include changing demographic patterns and economics.
4. Addition of updated factual information including that made available to the City of regional, state and federal governmental agencies.

Oregon City Comprehensive Plan (P.16)

Regular Review and Update

Plan maintenance and updating is a continuous technical review of the Plan by the Planning staff. This review and any subsequent recommendations for Plan updating should be presented to the Neighborhood Associations, Planning Commission and City Commission for input and discussion in the same manner as requested Plan changes. The continuous review should consider:

1. Plan implementation process;

The 2004 Comprehensive Plan calls for a review of the sign code (Policy 2.5.3). The City updated the sign code in 2015 through a robust process that resulted in numerous revisions and updates to the signage regulations. At that time, a Community Advisory Committee drafted mural program elements and associated code language, but the code was not part of the 2015 code update. The 2015 update did formally recognize all existing, legal murals in the City, but did not provide an avenue for additional murals.

The current city code does not provide for murals as a separate type of sign; instead, murals are considered wall signs and must comply with the size limitations for wall signs, which is one square foot for every linear foot of building façade length. For example, a building façade of 50 feet in width that is say 20 feet in height would be allowed a wall sign of up to 50 square feet, on a façade that has a total area of 1000 square feet. This provision limits large murals.

The City Commission initiated the current code amendment process starting with a work session held on September 8, 2020. The City Commission received a progress report of the process on March 9, 2021. The feedback provided at this work session helped form the draft code amendments.

Staff presented the amendments to the Citizen Involvement Committee on May 3rd, 2021.

The first evidentiary public hearing for the proposed amendments will be held with the Planning Commission and will follow the notice procedures for a legislative action per OCMC 17.50. The City Commission public hearing will be scheduled once the Planning Commission has completed their review and provided a recommendation on the proposed amendments.

The Department of Land Conservation and Development was notified as required by ORS 197.610 – 197.625. The Staff Report will be made available at least seven days prior to the public hearing and the application will be processed according to the Legislative Hearing Process as required under Oregon City Municipal Code 17.50.170. Implementation of the Plan is discussed further in Criterion 2.

2. Adequacy of the Plan to guide land use actions, including an examination of trends.

The proposed code amendments are a response to trends and desires of the community for public art, placemaking, and tourism-supportive elements.

3. Whether the Plan still reflects community needs, desires, attitudes and conditions. This shall include changing demographic patterns and economics.

The Commission directed the filing of this legislative application to address community desires for public art, placemaking, and tourism-supportive elements.

4. Addition of updated factual information including that made available to the City by regional, state and federal governmental agencies.

There has been no update of factual information from other agencies that is related to this application.

OC2040 Comprehensive Plan Update

The city is in the process of updating the Comprehensive Plan while this legislative process is underway (www.OC2040.com). Staff anticipates that the Comprehensive Plan update will result in new goals and policies that address many of the same infrastructure and growth issues that are discussed in this Staff Report.

The OC 2040 project will update the Oregon City Comprehensive Plan to reflect the City's vision and create a guide for decision making about growth and development over the next 20 years. The plan will be implemented through goals, policies, and actions with which the development code, projects and plans must comply. However, an effective comprehensive plan needs to be much more than a policy document. It must also reflect an equitable, shared vision that supports all our community members.

Public Notice and Comments

This is a legislative action that requires public notice pursuant to OCMC 17.50.090.C. - *Notice of Public Hearing on a Legislative Proposal*. The Community Development Director provided the required Post Acknowledgement Plan Amendment (PAPA) notice to the Oregon Department of Land Conservation and Development on May 20, 2021. Notice of the June 28, 2021 Planning Commission public hearing was also provided to the Citizen Involvement Committee, Natural Resources Committee, Neighborhood Associations, and affected service districts, agencies and parties by email on June 8, 2021.

II. DECISION-MAKING CRITERIA

The remainder of this staff report provides additional findings to demonstrate that the proposed annexation code amendments are consistent with applicable approval criteria.

Chapter 17.68 - Zoning Changes and Comprehensive Plan Amendments

17.68.010 - Initiation of the amendment.

A text amendment to the comprehensive plan, or an amendment to the zoning code or map or the Comprehensive Plan map, may be initiated by:

- A. A resolution request by the City Commission;*
- B. An official proposal by the Planning Commission;*
- C. An application to the Planning Division; or.*
- D. A Legislative request by the Planning Division.*

All requests for amendment or change in this title shall be referred to the Planning Commission.

Finding: The proposal qualifies as initiated as a legislative request by the Economic Development Department at the direction of the City Commission.

17.68.015 –Procedures.

Applications shall be reviewed pursuant to the procedures set forth in Chapter 17.50.

17.50.170 - Legislative hearing process.

A. Purpose. Legislative actions involve the adoption or amendment of the city's land use regulations, comprehensive plan, maps, inventories and other policy documents that affect the entire city or large portions of it. Legislative actions which affect land use shall begin with a public hearing before the planning commission.

B. Planning Commission Review.

1. Hearing Required. The planning commission shall hold at least one public hearing before recommending action on a legislative proposal. Any interested person may appear and provide written or oral testimony on the proposal at or prior to the hearing. The community development director shall notify the Oregon Department of Land Conservation and Development (DLCD) as required by the post-acknowledgment procedures of ORS 197.610 to 197.625, as applicable.

C. City Commission Review.

1. City Commission Action. Upon a recommendation from the planning commission on a legislative action, the city commission shall hold at least one public hearing on the proposal. Any interested person may provide written or oral testimony on the proposal at or prior to the hearing. At the conclusion of the hearing, the city commission may

adopt, modify or reject the legislative proposal, or it may remand the matter to the planning commission for further consideration. If the decision is to adopt at least some form of the proposal, and thereby amend the city's land use regulations, comprehensive plan, official zoning maps or some component of any of these documents, the city commission decision shall be enacted as an ordinance.

2. *Notice of Final Decision.* Not later than five days following the city commission final decision, the community development director shall mail notice of the decision to DLCD in accordance with ORS 197.615(2).

Finding: This legislative action followed the procedures found in OCMC 17.50.170 including meetings with the Citizen Involvement Committee, Planning Commission, and City Commission.

17.68.020 - Criteria.

The criteria for comprehensive plan amendment or text or map amendment in the zoning code are set forth as follows:

A. The proposal shall be consistent with the applicable goals and policies of the comprehensive plan;

Finding: This legislative action is consistent with the applicable goals and policies of the comprehensive plan as detailed in the responses below. Therefore, the proposed amendments are consistent with Criterion (A).

Conformity of the proposal with the city's comprehensive plan;

Goal 1: Citizen Involvement

Goal 1.1 – Citizen Involvement Program

Policy 1.1.1 *Utilize neighborhood associations as the vehicle for neighborhood-based input to meet the requirements of the Land Conservation and Development Commission (LCDC) Statewide Planning Goal 1, Citizen Involvement. The Citizen Involvement Committee (CIC) shall serve as the officially recognized citizen committee needed to meet LCDC Statewide Planning Goal 1.*

Goal 1.4 – Community Involvement

Policy 1.4.1 *Notify citizens about community involvement opportunities when they occur.*

Finding: This proposal makes no changes to the City's citizen involvement program or public notification procedures. Residents and taxpayers within 300 feet of the proposed installation site will receive public notice of the public art mural. The public process that led to the legislative file included robust community engagement, as described in this staff report.

Comprehensive Plan Section 2 Land Use

Goal 2.2: Downtown Oregon City

Develop the Downtown area (which includes the historic downtown area, the "north end" of the downtown, Clackamette Cove, and the End of the Oregon Trail area) as a quality place for shopping, living, working, cultural and recreational activities, and social interaction. Provide walkways for foot and bicycle traffic, preserve views of Willamette Falls and the Willamette River, and preserve the natural amenities of the area.

Policies

- Policy 2.2.1** *Develop and promote a vision for the economic development and redevelopment of the downtown area that solidifies the Downtown Community Plan and Waterfront Master Plan.*
- Policy 2.2.2** *Target public infrastructure investments and create public/private partnerships to leverage maximum benefits from public investment and to help ensure that the regional center develops to its maximum capacity and realizes its full potential.*
- Policy 2.2.3** *Encourage the development of a strong and healthy historic downtown retail, office, and residential center.*
- Policy 2.2.4** *Work with major stakeholders, develop and implement a strategy to help the historic downtown area enhance its position as a retail district. Such a strategy might include funding for a "Main Street" or similar program.*

Finding: The mural program will add opportunities to create a stronger sense of place within downtown Oregon City and will support downtown revitalization and tourism development.

Goal 2.4 Neighborhood Livability

Provide a sense of place and identity for residents and visitors by protecting and maintaining neighborhoods as the basic unit of community life in Oregon City while implementing the goals and policies of the other sections of the Comprehensive Plan.

Finding: This proposal makes no changes to the Comprehensive Plan, zoning, or land use designations for lands within the Urban Growth Boundary. The mural program will add opportunities to create a stronger sense of place within Oregon City neighborhoods. One of the purposes of the proposed Sign Code is to “Maintain and enhance the scenic and other aesthetic qualities of the city,” and input from a variety of citizens and groups informed the implementation of the sign code criteria and the proposed mural program to achieve this goal.

Goal 2.5 Retail and Neighborhood Commercial

Policy 2.5.3 *Review design standards and the sign code to ensure compatibility with existing neighborhoods.*

Policy 2.5.4 *Encourage the development of successful commercial areas organized as centers surrounded by higher density housing and office uses, rather than as commercial strips adjacent to low-density housing.*

Policy 2.5.5 *Encourage commercial and industrial development that enhances livability of neighborhoods through the design of attractive LEEDTM-certified buildings and environmentally responsible landscaping that uses native vegetation wherever possible, and by ensuring that development is screened and buffered from adjoining residential neighborhoods and access is provided by a variety of transportation modes.*

Finding: The Comprehensive Plan calls for a review of the sign code (Policy 2.5.3). The City updated the sign code in 2015 through a robust process that resulted in numerous revisions and updates to the signage regulations. At that time, a Community Advisory Committee drafted mural program elements and associated code language, but the code was not part of the 2015 code update. The 2015 update did formally recognize all existing, legal murals in the City, but did not provide an avenue for additional murals.

Murals are proposed to be permitted in the following zones:

- Mixed Use Downtown
- Mixed Use Corridor 1
- Mixed Use Corridor 2
- Willamette Falls Downtown District
- Institutional
- General Commercial
- Any use that is listed under permitted uses in the Institutional district in 17.39.020 but located in a non-Institutional Zone.

See Exhibit 7 for zoning map.

Goal 2.7 Oregon City Comprehensive Plan Land-Use Map

Maintain the Oregon City Comprehensive Plan Land-Use Map as the official long-range planning guide for land-use development of the city by type, density and location.

Policy 2.7.2 *Use the following 11 land-use classifications on the Oregon City Comprehensive Plan Land-Use Map to determine the zoning classifications that may be applied to parcels:*

- Low Density Residential (LR)
- Mixed Use Downtown (MUD)

- *Medium Density Residential (MR)*
- *High Density Residential (HR)*
- *Commercial (C)*
- *Mixed Use Corridor (MUC)*
- *Mixed Use Employment (MUE)*
- *Industrial (I)*
- *Public and Quasi-Public (QP)*
- *Parks (P)*
- *Future Urban Holding (FUH)*

Finding: This proposal makes no changes to the Comprehensive Plan, zoning, or land use designations for lands within the Urban Growth Boundary. The proposal will maintain the existing Oregon City Land Use Map as the official long range planning guide for land use development of the city by types, density and location (Goal 2.7).

Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources

Goal 5.2 Scenic Views and Scenic Sites

Policy 5.2.1 *Identify and protect significant views of local and distant features such as Mt. Hood, the Cascade Mountains, the Clackamas River Valley, the Willamette River, Willamette Falls, the Tualatin Mountains, Newell Creek Canyon, and the skyline of the city of Portland, as viewed from within the city.*

Policy 5.2.2 *Maximize the visual compatibility and minimize the visual distraction of new structures or development within important viewsheds by establishing standards for landscaping, placement, height, mass, color, and window reflectivity.*

Finding: This proposal makes no changes to the existing inventories of open space, scenic and historic areas, and natural resources or the adopted maps, code and policies pertaining thereto.

Goal 5.3 Historic Resources

Policy 5.3.3 *Promote the designation of qualifying properties outside Historic and Conservation Districts as historic.*

Policy 5.3.8 *Preserve and accentuate historic resources as part of an urban environment that is being reshaped by new development projects.*

Finding: This proposal makes no changes to the existing inventories of open space, scenic and historic areas, and natural resources or the adopted maps, code and policies pertaining thereto. The proposal for a new HRB Policy will ensure that murals proposed on designated historic structures do not have an adverse effect on the structure.

Goal 9: Economic Development

Goal 9.6: Tourism Promote Oregon City as a destination for tourism.

Policy 9.6.1 *Protect historic, recreational, and natural resources as the basis for tourism, such as the historic downtown.*

Policy 9.6.2 *Ensure land uses and transportation connections that support tourism as an important aspect of the City's economic development strategy. This could include connections to the End of the Oregon Trail Interpretive Center and Train Depot.*

Policy 9.6.3 *Provide land uses in the Downtown Historic Area, 7th Street corridor, and the End of the Oregon Trail Interpretive Center that support tourism and visitor services.*

Finding: This proposal enhances goal 9, by catalyzing community, enhancing vibrancy and livability of neighborhoods, contributing to placemaking, and attracting visitation. One of the purposes of the Sign Code is to "Support the economic development of Oregon City businesses." The development of the 2015 sign code and the current proposed amendments included input from a variety of business owners that resulted in provisions to allow a variety of signage types for businesses.

Statewide Planning Goals

Finding: This proposal makes no changes to the Comprehensive Plan, zoning, or land use designations for lands within the Urban Growth Boundary. Since the City's Comprehensive Plan and its ancillary documents are already acknowledged by the Oregon Department of Land Use and Conservation (DLCD), no further analysis for consistency with Statewide Planning Goals is required.

Chapter 17.50 Administration and Procedures

17.50.050 – Pre-application conference.

- A. *Pre-application Conference. Prior to a Type II – IV or Legislative application, excluding Historic Review, being deemed complete, the applicant shall schedule and attend a pre-application conference with City staff to discuss the proposal, unless waived by the Community Development Director. The purpose of the pre-application conference is to provide an opportunity for staff to provide the applicant with information on the likely impacts, limitations, requirements, approval standards, fees and other information that may affect the proposal.*
 - 1. *To schedule a pre-application conference, the applicant shall contact the Planning Division, submit the required materials, and pay the appropriate conference fee.*
 - 2. *At a minimum, an applicant should submit a short narrative describing the proposal and a proposed site plan, drawn to a scale acceptable to the City, which identifies the proposed land uses, traffic circulation, and public rights-of-way and all other required plans.*
 - 3. *The Planning Division shall provide the applicant(s) with the identity and contact persons for all affected neighborhood associations as well as a written summary of the pre-application conference.*
- B. *A pre-application conference shall be valid for a period of six months from the date it is held. If no application is filed within six months of the conference or meeting, the applicant shall schedule and attend another conference before the City will accept a permit application. The Community Development Director may waive the pre-application requirement if, in the Director's opinion, the development has not changed significantly and the applicable municipal code or standards have not been significantly amended. In no case shall a pre-application conference be valid for more than one year.*
- C. *Notwithstanding any representations by City staff at a pre-application conference, staff is not authorized to waive any requirements of this code, and any omission or failure by staff to recite to an applicant all relevant applicable land use requirements shall not constitute a waiver by the City of any standard or requirement.*

Finding: Staff held the required pre-application conference meeting in September 2020, along with subsequent meetings with Economic Development staff.

17.50.055 - Neighborhood association meeting.

Neighborhood Association Meeting. The purpose of the meeting with the recognized neighborhood association is to inform the affected neighborhood association about the proposed development and to receive the preliminary responses and suggestions from the neighborhood association and the member residents.

- A. *Applicants applying for annexations, zone change, comprehensive plan amendments, conditional use, Planning Commission variances, subdivision, or site plan and design review (excluding minor site plan and design review), general development master plans or detailed development plans applications shall schedule and attend a meeting with the City-recognized neighborhood association in whose territory the application is proposed no earlier than one year prior to the date of application. Although not required for other projects than those identified above, a meeting with the neighborhood association is highly recommended.*
- B. *The applicant shall request via email or regular mail a request to meet with the neighborhood association chair where the proposed development is located. The notice shall describe the proposed project. A copy of this notice shall also be provided to the chair of the Citizen Involvement Committee.*
- C. *A meeting shall be scheduled within thirty days of the date that the notice is sent. A meeting may be scheduled later than thirty days if by mutual agreement of the applicant and the neighborhood association. If the neighborhood association does not want to, or cannot meet within thirty days, the applicant shall host a meeting inviting the neighborhood association, Citizen Involvement Committee, and all property owners within three hundred feet to attend. This meeting shall not begin before six p.m. on a*

weekday or may be held on a weekend and shall occur within the neighborhood association boundaries or at a City facility.

- D. If the neighborhood association is not currently recognized by the City, is inactive, or does not exist, the applicant shall request a meeting with the Citizen Involvement Committee.*
- E. To show compliance with this section, the applicant shall submit a copy of the email or mail notice to the neighborhood association and CIC chair, a sign-in sheet of meeting attendees, and a summary of issues discussed at the meeting. If the applicant held a separately noticed meeting, the applicant shall submit a copy of the meeting flyer, postcard or other correspondence used, and a summary of issues discussed at the meeting and submittal of these materials shall be required for a complete application.*

Finding: staff presented the amendments to the Citizen Involvement Committee on May 3rd, 2021.

17.50.070 - Completeness review and one hundred twenty-day rule.

- C. Once the Community Development Director determines the application is complete enough to process, or the applicant refuses to submit any more information, the City shall declare the application complete. Pursuant to ORS 227.178, the City will reach a final decision on an application within one hundred twenty calendar days from the date that the application is determined to be or deemed complete unless the applicant agrees to suspend the one hundred twenty calendar day time line or unless State law provides otherwise. The one hundred twenty-day period, however, does not apply in the following situations:

 - 1. Any hearing continuance or other process delay requested by the applicant shall be deemed an extension or waiver, as appropriate, of the one hundred twenty-day period.*
 - 2. Any delay in the decision-making process necessitated because the applicant provided an incomplete set of mailing labels for the record property owners within three hundred feet of the subject property shall extend the one hundred twenty-day period for the amount of time required to correct the notice defect.*
 - 3. The one hundred twenty-day period does not apply to any application for a permit that is not wholly within the City's authority and control.*
 - 4. The one hundred twenty-day period does not apply to any application for an amendment to the City's comprehensive plan or land use regulations nor to any application for a permit, the approval of which depends upon a plan amendment.**
- D. A one-hundred day period applies in place of the one-hundred-twenty day period for affordable housing projects where:

 - 1. The project includes five or more residential units, including assisted living facilities or group homes;*
 - 2. At least 50% of the residential units will be sold or rented to households with incomes equal to or less than 60% of the median family income for Clackamas County or for the state, whichever is greater; and*
 - 3. Development is subject to a covenant restricting the owner and successive owner from selling or renting any of the affordable units as housing that is not affordable for a period of 60 years from the date of the certificate of occupancy.**
- E. The one hundred twenty-day period specified in OCMC 17.50.070.C or D may be extended for a specified period of time at the written request of the applicant. The total of all extensions may not exceed two hundred forty-five calendar days.*
- F. The approval standards that control the City's review and decision on a complete application are those which were in effect on the date the application was first submitted.*

Finding: Legislative actions are not subject to the 120-day deadline.

III. RECOMMENDATION

Based on the findings in this report, staff recommends amendments to OCMC 15.28 for a Public Mural program. Staff will prepare an Ordinance when the matter is before the City Commission for its consideration and adoption.

EXHIBITS:

1. Proposed Amendments to Chapter 15.28
2. Applicant Narrative
3. Public input matrix
4. Proposed HRB Policy for Murals
5. Public Comment
6. Zoning Map – Proposed zones where murals are permitted
7. Proposed Mural Program Application form, fees, and guidelines
8. Map of Historic Structures in Areas where murals would be permitted

PROPOSED CODE AMENDMENT – DRAFT July 13, 2021 (Not Adopted)

Proposed amendments shown in red underline text.

Changes based on City Commission direction at the July 7, 2021 hearing are shown in green underline.

Chapter 15.28 - SIGNS

Footnotes:

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Editor's note— Ord. No. 14-1003, § 1, adopted May 20, 2015, effective Nov. 1, 2015, effectively repealed Chapter 15.28, §§ 15.28.010—15.28.110, and Exhibit 1 to said ordinance enacted a new Chapter 15.28 as set out herein. The former Chapter 15.28 pertained to similar subject matter. See Ordinance List and Disposition Table for derivation.

15.28.010 - Purpose of sign regulations.

This chapter regulates the construction, placement and maintenance of signs to protect and enhance public health, safety, welfare and property. The code:

- A. Allows signs compatible with the character and uses allowed in the zoning district in which they are located;
- B. Maintains the effectiveness of traffic control signs throughout the city;
- C. Prohibits signs, or portions thereof, that conflict with the safe movement of people and emergency services, constitute a public nuisance or hazard, are of unsafe construction, or that demand attention as a result of their dominating size or motion;
- D. Maintains and enhances the scenic and other aesthetic qualities of the city;
- E. Supports the economic development of Oregon City businesses;
- F. Allows citizens and businesses the freedom to express their needs or views without unnecessary interference; and
- G. Is not intended to regulate the content of signs in any way.

(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)

15.28.020 - Definitions.

"Abandoned sign" means a sign structure where no sign has been in place for a continuous period of at least six months.

"A-frame sign," also known as "sandwich board" or "tent sign," means a movable steeply angled sign with two sides that meets at the top in the shape of the letter "A" and is not attached to a structure or the ground.

"Air blown sign" means a sign that is intended to be inflated by air or other gas.

"Ancillary sign" means any sign allowed by this code, with or without permit, that is not a freestanding, incidental freestanding, wall, roof or projecting sign. If allowed within the zoning designation, ancillary signs include, but are not limited to: A-frame signs, flags (excluding attention flags), and banners.

"Attention flag" also known as "flutter," "feather," "teardrop," or "blade," means a pole-supported sign made of fabric, vinyl, or other similar non-rigid material, where one side of the sign is more than three times as long as any other side.

"Banner" means a sign made of fabric, vinyl, or other similar non-rigid material.

"Banner on street light pole" means a sign made of fabric, vinyl, or other similar non-rigid material intended to be displayed in the right-of-way for a limited period of time which complies with Chapter 15.28 of the Oregon City Municipal Code and the Signs in the Right-of-Way Policy.

"Billboard" means a sign with a display area of three hundred square feet or more, including, but not limited to, outdoor advertising signs as defined in ORS 377.710(21).

"Business" means any trade, profession, occupation or pursuit of every kind conducted in the city for gain.

"Compensation" means the exchange of something of value. It includes, without limitation, money, securities, real property interest, barter of goods or services, promise of future payment, or forbearance of debt. "Compensation" does not include goodwill, or an exchange of value, that a building owner (or leaseholder with a right to possession of the wall upon which the mural is to be placed) provides to an artist, muralist, or other entity, where the compensation is only for the creation and/or maintenance of the mural on behalf of the building owner or leaseholder, and where the building owner or leaseholder fully controls the content of the art mural.

"Construct" or "constructed" means to construct, erect, build, assemble, alter, place, affix, attach, create, recreate, paint, draw or in any way bring into being or establish.

"Cross street banner" means a sign made of fabric, vinyl, or other similar non-rigid material intended to be displayed over the right-of-way for a limited period of time which complies with Chapter 15.28 of the Oregon City Municipal Code and the Signs in the Right-of-Way Policy.

"Display" means an arrangement of objects intended to decorate, advertise, entertain, or inform people about something.

"Display area" means the total size of all sign faces on a sign.

"Fence" and "fencing" mean any barrier or section thereof, other than a wall, designed to delimit a boundary or provide a visual screen.

"Flag" means a piece of fabric of distinctive design that is displayed hanging free from a staff, halyard or building to which it is attached, excluding banners.

"Freestanding sign" means a sign wholly supported from the ground by its own integral structure.

"Frontage" means the full length of a parcel of property that abuts a dedicated street, highway, or a city-approved vehicular public access easement.

"Government owned sign" means a sign owned by a government agency, but does not include a sign constructed by a third-party with grant funds obtained from a government agency.

"Incidental freestanding sign" means a sign wholly supported from the ground by its own integral structure, excluding A-frame signs. The maximum size allowed is less than that of a freestanding sign and greater than an ancillary sign.

"Maintenance" means normal care or servicing needed to keep a sign functional or perpetuate its use, such as cleaning, replacing, or repairing unusable or broken portions of the sign, and repairing defective lighting.

"Premises" means a lot or number of contiguous lots under the same ownership.

"Projecting sign" means a sign projecting more than one foot from the wall of a building.

"Public Art Mural" means an original, two-dimensional work of visual art, comprised of paint, ceramic or glass tiles, or tesserae, metal, executed by hand directly upon, or affixed directly to an exterior wall or

rooftop of a building, where the work of visual art has been approved by the Arts Commission and accepted by the City into its public art collection pursuant to this Chapter.

"Roof sign" means a sign constructed or maintained wholly upon or over the roof of any building with the principal support on the roof structure.

"Sign" means any sign, display message, emblem, figure, painting, drawing, placard, poster, billboard, carving or other thing that is designed, used or intended to convey a message or image and is used to inform or attract the attention of the public, and the term includes the sign structure, display surface and all other component parts of a sign; when dimensions of a sign are specified, the term includes panels and frames; and the term includes both sides of a sign of specified dimensions or display area.

"Sign face" means the total area as measured pursuant to Section 15.28.050.

"Sign official" means any person designated by the city manager to enforce the provisions of this chapter, including the review of permit applications, the interpretation of the provisions of this chapter and the issuance of permits.

"Tenant space" means the portion of a structure occupied by a single commercial lease holder, or an owner-occupied space with its own public entrance from the exterior of the building or through a shared lobby, atrium, mall, or hallway and separated from other tenant spaces by walls.

"Traffic control sign or device" means a sign approved by the public works department through the right-of-way permit process, where the sign complies with the city's street standards and/or the Manual on Uniform Traffic Control Devices (MUTCD). In addition, traffic control sign or device includes signs on private property associated with an approved traffic control plan prepared by a transportation engineer and approved by the city through a site plan and design review process that does not involve the content of a sign.

"Undeveloped lot" means a property without a building, business or valid land use approval.

"Wall sign" means a sign that is attached to the wall of a building and extends no more than twelve inches from a wall.

(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)

15.28.030 - Scope of sign regulations.

All signs shall be constructed and maintained only as provided by this chapter, except for any of the following:

- A. Signs not visible from either a right-of-way or property under different ownership, provided such signs are constructed and maintained in accordance with applicable law;
- B. Signs inside a building, except for strobe lights visible from the right-of-way or other private property;
- C. Signs carved into or part of materials that are an integral part of a building;
- D. Signs attached to, or carried by a person;
- E. Signs required by law or legal action;
- F. Government owned signs within the right-of-way, government-designated parks, Metro-designated open space and at stormwater facilities;
- G. City owned signs;
- H. Public art murals identified on the Oregon City Existing Mural List; and
- I. Traffic control signs and devices.

(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)

15.28.040 - Permit required.

- A. Permit Required. No sign shall be constructed except as provided by this chapter and after a permit has been issued by the sign official. This permit requirement applies to all signs, except those specifically exempt by a provision of this chapter.
- B. Any of the following signs on private property are subject to compliance with this chapter but do not require a sign permit:
 - 1. Changes of copy whereby the sign size and material are not changing but the message is changed; or
 - 2. Ancillary signs (excluding banners) with no more than two faces and which do not exceed a display area of twelve square feet and a sign face of six square feet.
- C. Permit Application. Application for a sign permit shall be made in writing upon forms furnished by the sign official. A permit application fee shall accompany the application. The amount of the fee shall be adopted by resolution of the city commission. The application shall include all plans and information necessary to establish that the proposed sign complies with all applicable requirements of this chapter and applicable buildings, structural and life safety codes. The permit shall be valid if the sign is constructed in compliance with the city code and to the specifications described in the approved sign permit. Any permit issued under this chapter shall be void if the sign is not constructed in accordance with any conditions of the permit and the applicable requirements of this chapter within ninety days following the date of its issuance, excluding any appeals of the city's decision. Any permit issued under this chapter shall remain in effect as long as the sign is constructed as approved in the permit and maintained as required in 15.28.140. If an applicant seeks to have the city treat its property as a premises for purposes of the sign code, then the application shall explain how the property meets the definition of premises in Section 15.28.020.
- D. Appeals. Any party aggrieved by a decision of the sign official may appeal the decision to the planning commission. Any such appeal shall be in writing and be received by the city recorder no later than fourteen days after the date the challenged decision is final. The planning commission or city commission may initiate an appeal on its own motion within the fourteen-day period. The appropriate appeal fee established by resolution of the city commission shall accompany the appeal. Proceedings before the planning commission shall comply with the provisions of Chapter 17.50 of this code, including the provisions relating to city commission review of planning commission decisions involving conditional use permits.
- E. In addition to this chapter, signs shall be approved by the historic review board as required by Oregon City Municipal Code Section 17.40.060. The review shall not consider the content of the sign in any way.

(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)

15.28.050 - Measuring sign dimensions.

- A. The following criteria shall be used for the purpose of determining the boundaries of a sign:
 - 1. The sign face includes the area within a perimeter enclosing the limits of lettering, writing, representation, emblem, figure, character and lighted surface, but excluding essential sign structure, foundations or supports. Where a sign is of a three-dimensional, round, or irregular solid shape, the largest cross-section shall be used in a flat projection for the purpose of determining sign face.
 - 2. When signs are constructed in multiple separate pieces the sign face is calculated by measuring the area within a perimeter enclosing the limits of lettering, writing, representation, emblem, figure,

character and light surface, but excluding essential sign structure, foundations or support on all pieces collectively.

- B. Sign width is measured as the horizontal distance between the outermost area of sign face for wall signs and includes the supporting structure for all other sign types.
- C. The height of a sign above grade is measured from the average level of the grade below the sign to the topmost point of the sign, including any supporting structure.
- D. Clearance is measured from the average grade below the sign to the lowermost point of the sign.

Figure 15.28.050.A Two-Dimensional Signs

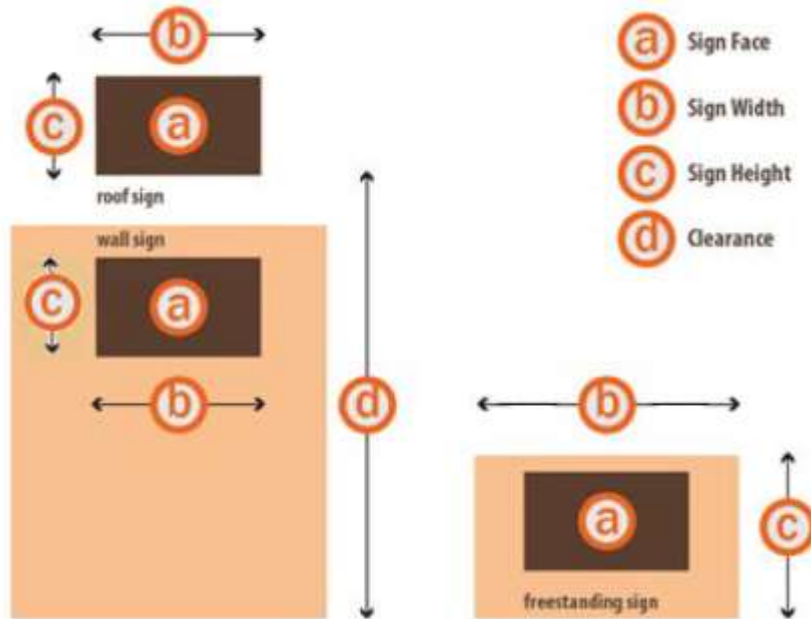
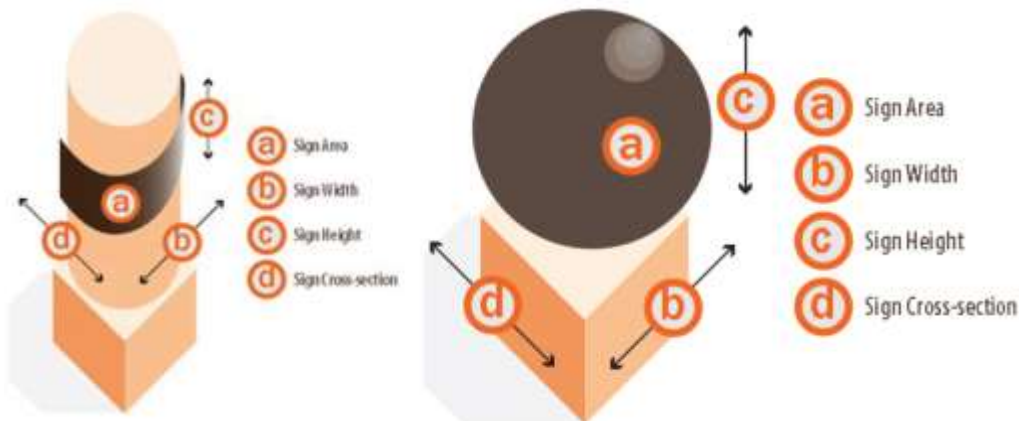


Figure 15.28.050.B Three-Dimensional, Round or Irregular Signs



(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)

15.28.060 - Signs in residential zones (excluding multi-family).

These standards apply to the following zoning designations: "R-10" Single-Family Dwelling District, "R-8" Single-Family Dwelling District, "R-6" Single-Family Dwelling District, "R-5" Single-Family Dwelling District, and "R-3.5" Dwelling District, except for those subject to Section 15.28.070 or 15.28.100.

- A. General. All of the following standards apply to all signs in residential zones (excluding multi-family):
 - 1. A minimum of fifty percent of the sign shall be constructed of metal, wood, stone, brick, rock or any combination thereof.
 - 2. If a sign is illuminated, the source of illumination shall be external to the sign and directed or shielded so as to not shine directly onto any neighboring structures.
 - 3. With the exception of projecting and wall signs, signs shall not project over the right-of-way. Signs projecting into the right-of-way shall receive approval by the city engineer.
 - 4. With the exception of wall signs, signs shall maintain a minimum clearance of ten feet above grade over pedestrian or vehicular areas, and fourteen feet above grade over areas of truck access.
- B. Wall Sign. All of the following standards apply to wall signs in residential zones (excluding multi-family):
 - 1. A maximum of one wall sign is allowed for each property frontage. A wall sign is prohibited if there is a projecting sign along the same property frontage.
 - 2. The sign face shall not exceed twelve square feet.
 - 3. The sign width shall not exceed five linear feet.
- C. Freestanding Sign. Freestanding signs are prohibited.
- D. Incidental Freestanding Signs. Incidental freestanding signs are prohibited.
- E. Projecting Signs. All of the following standards apply to projecting signs in residential zones (excluding multi-family):
 - 1. A maximum of one projecting sign is allowed for each property frontage. A projecting sign is prohibited if there is a wall sign along the same property frontage.
 - 2. The display area shall not exceed twenty-four square feet and the sign face shall not exceed twelve square feet.
 - 3. The sign shall not have more than two faces.
 - 4. The projection from a building wall shall not exceed six feet and shall not project within two feet of the curb line.
 - 5. The projection above the wall on which the sign is constructed shall not exceed one foot.
 - 6. The visible supporting structure shall be constructed of metal, wood, stone, brick, rock or any combination thereof.
- F. Roof Signs. Roof signs are prohibited.
- G. Ancillary Signs. All of the following standards apply to ancillary signs in residential zones (excluding multi-family):
 - 1. A maximum of two ancillary signs are allowed per property.
 - 2. The sign shall not have more than two faces.
 - 3. The display area shall not exceed twelve square feet and the sign face shall not exceed six square feet.
 - 4. Banners are prohibited in residential zones unless approved under Section 15.28.070.

(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)

15.28.065 - Signs in multi-family residential zones.

These standards apply to the "R-2" Multi-Family Dwelling District zoning designation, except for those subject to Section 15.28.070 or 15.28.100.

- A. General. All of the following standards apply to all signs in multi-family residential zones:
 - 1. A minimum of fifty percent of the sign shall be constructed of metal, wood, stone, brick, rock or any combination thereof.
 - 2. If a sign is illuminated, the source of illumination shall be external to the sign and directed or shielded so as to not shine directly onto any neighboring structures.
 - 3. With the exception of projecting and wall signs, signs shall not project over the right-of-way. Signs projecting into the right-of-way shall receive approval by the city engineer.
 - 4. With the exception of wall signs, signs shall maintain a minimum clearance of ten feet above grade over pedestrian or vehicular areas, and fourteen feet above grade over areas of truck access.
- B. Wall Sign. All of the following standards apply to wall signs in multi-family residential zones:
 - 1. A maximum of one wall sign is allowed for each property frontage. A wall sign is prohibited if there is a projecting sign along the same property frontage.
 - 2. The sign face shall not exceed twenty square feet.
 - 3. The sign width shall not exceed five linear feet.
- C. Freestanding Sign. All of the following standards apply to freestanding signs in multi-family residential zones:
 - 1. A maximum of one freestanding sign for each property frontage is allowed.
 - 2. The display area shall not exceed forty square feet and the sign face shall not exceed twenty square feet.
 - 3. The sign width shall not exceed ten linear feet.
 - 4. The sign height shall not exceed five feet.
- D. Incidental Freestanding Signs. Incidental freestanding signs are prohibited.
- E. Projecting Signs. All of the following standards apply to projecting signs in multi-family residential zones:
 - 1. A maximum of one projecting sign is allowed for each property frontage. A projecting sign is prohibited if there is a wall sign along the same property frontage.
 - 2. The display area shall not exceed forty square feet and the sign face shall not exceed twenty square feet.
 - 3. The sign shall not have more than two faces.
 - 4. The projection from a building wall shall not exceed six feet and shall not project within two feet of the curb line.
 - 5. The projection above the wall on which the sign is constructed shall not exceed one foot.
 - 6. The visible supporting structure shall be constructed of metal, wood, stone, brick, rock or any combination thereof.
- F. Roof Signs. Roof signs are prohibited.

- G. Ancillary Signs. All of the following standards apply to ancillary signs in multi-family residential zones:
1. A maximum of two ancillary signs are allowed per property.
 2. The sign shall not have more than two faces.
 3. The display area shall not exceed twelve square feet and the sign face shall not exceed six square feet.
 4. Banners are prohibited in multi-family residential zones unless approved under Section 15.28.070.

(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)

15.28.070 - Signs for conditional uses in residential zones.

These standards apply to all conditional uses within a residential zoning district ("R-10" Single-Family Dwelling District, "R-8" Single-Family Dwelling District, "R-6" Single-Family Dwelling District, "R-5" Single-Family Dwelling District, "R-3.5" Dwelling District, and "R-2" Multi-Family Dwelling District) unless otherwise limited in the conditional use approval. Conditional uses are identified within each applicable zoning designation. Signs within the right-of-way shall comply with Section 15.28.100.

- A. General. All of the following standards apply to all signs for conditional uses in residential zones:
1. With the exception of banners, at least fifty percent of the wall sign shall be constructed of metal, wood, stone, brick, rock or any combination thereof.
 2. If a sign is illuminated, the source of illumination shall be external to the sign and directed or shielded so as to not shine directly onto any neighboring structures.
 3. With the exception of projecting and wall signs, signs shall not project over the right-of-way. Signs projecting into the right-of-way shall receive approval by the city engineer.
 4. With the exception of wall signs, signs shall maintain a minimum clearance of ten feet above grade over pedestrian or vehicular areas, and fourteen feet above grade over areas of truck access.
- B. Wall Sign. All of the following standards apply to wall signs for conditional uses in residential zones:
1. A maximum of one wall sign per frontage is allowed.
 2. The sign face shall not exceed thirty-two square feet.
 3. The sign width shall not exceed ten linear feet.
- C. Freestanding Sign. All of the following standards apply to freestanding signs for conditional uses in residential zones:
1. A maximum of one freestanding sign per lot is allowed.
 2. The display area shall not exceed sixty-four square feet and the sign face shall not exceed thirty-two square feet.
 3. The sign width shall not exceed ten linear feet.
 4. The sign height shall not exceed fifteen feet.
- D. Incidental Freestanding Signs. Incidental freestanding signs are prohibited.
- E. Projecting Signs. All of the following standards apply to projecting signs for conditional uses in residential zones:

1. A maximum of one projecting sign is allowed if there is not a freestanding or wall sign on the same frontage.
 2. The display area shall not exceed sixty-four square feet and the sign face shall not exceed thirty-two square feet.
 3. The sign shall not have more than two faces.
 4. The projection from a building wall shall not exceed six lineal feet and shall not project within two feet of the curb line.
 5. The projection above the wall on which the sign is constructed shall not exceed one foot.
 6. The visible supporting structure shall be constructed of metal, wood, stone, brick, rock or any combination thereof.
- F. Roof Signs. Roof signs are prohibited.
- G. Ancillary Signs. All of the following standards apply to ancillary signs for conditional uses in residential zones.
1. A maximum of two ancillary signs (including banners) are allowed per property.
 2. The sign shall not have more than two faces.
 3. The display area shall not exceed twelve square feet and the sign face shall not exceed six square feet.
 4. Additional standards for banners:
 - a. For a single property, banners may be in place for up to thirty days, up to twice per year.
 - b. Banners shall be securely placed against a building wall and may not project from the wall.
 - c. The sign length shall not exceed six lineal feet.
 - d. The sign height shall not exceed four lineal feet.
 - e. Banners are prohibited within a historic district and on any property designated as a historic landmark.

(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)

15.28.080 - Signs in office, commercial, mixed use and industrial zones.

The following standards apply to signs in office, commercial, mixed use and industrial zones which are not identified in Section 15.28.060, 15.28.065, 15.28.070, or 15.28.100 unless otherwise provided by this code.

- A. General. All of the following standards apply to all signs in office, commercial, mixed use and industrial zones:
1. With the exception of projecting or wall signs, signs shall not project over the right-of-way. Signs projecting into the right-of-way shall receive approval by the city engineer.
 2. With the exception of wall signs, signs shall maintain a minimum clearance of ten feet above grade over pedestrian or vehicular areas, and fourteen feet above grade over areas of truck access.
- B. Wall Signs. All of the following standards apply to wall signs in office, commercial, mixed use and industrial zones:
1. The number of wall signs is unlimited provided the total combined display area of wall signs, projecting signs and banners does not exceed twenty square feet for each ground floor

tenant space on which the sign is constructed. For ground floor tenant spaces exceeding twenty feet of wall length on which the sign is constructed and tenant spaces not on the ground floor, signage shall not exceed one square foot per each lineal foot of the wall length of the tenant space on which the sign is constructed.

2. Signs on structures such as awnings, canopies, false fronts and wall extensions that do not extend more than one foot from the structure are considered wall signs.
- C. Freestanding Signs. All of the following standards apply to freestanding signs in office, commercial, mixed use and industrial zones:
1. A maximum of one freestanding sign is allowed for each street frontage. On arterial streets, if a frontage exceeds a length of six hundred linear feet a second freestanding sign is allowed. In all cases, no freestanding sign shall be permitted on the same frontage where there is a projecting or roof sign.
 2. Freestanding signs on the same frontage shall be separated by a minimum of fifty feet distance.
 3. Maximum display area:
 - a. Where the street frontage is less than fifty feet in length, the display area shall not exceed fifty square feet and the sign face shall not exceed twenty-five square feet.
 - b. Where the street frontage is fifty feet or greater but less than two hundred feet in length, display area shall not exceed one hundred square feet and the sign face shall not exceed fifty square feet.
 - c. Where the street frontage is two hundred feet or greater in length, the display area shall not exceed three hundred square feet and the sign face shall not exceed one hundred fifty square feet.
 - d. In no case shall any sign have a display area in excess of three hundred square feet.
 4. The sign width shall not exceed twenty linear feet.
 5. Where the street frontage is two hundred feet in length or less the sign height shall not exceed twenty-five feet. Where the street frontage is more than two hundred feet in length, the sign height shall not exceed thirty feet.
- D. Incidental Freestanding Signs. All of the following standards apply to incidental signs in office, commercial, mixed use and industrial zones:
1. A maximum of one incidental freestanding sign is allowed for each street frontage.
 2. The display area shall not exceed sixteen square feet and the sign face shall not exceed eight square feet.
 3. The sign height shall not exceed fifteen feet.
- E. Projecting Signs. All of the following standards apply to projecting signs in office, commercial, mixed use and industrial zones:
1. A maximum of one projecting sign is allowed for each tenant space if there is not a freestanding or roof sign on the same frontage.
 2. The total combined display area of projecting signs and wall signs shall not exceed one square foot per each lineal foot of the wall length of the tenant space on which the sign is constructed. Each ground floor tenant space may have a minimum sign face of twenty square feet, regardless of the limitation above.
 3. The sign shall not have more than two faces.
 4. The projection from a building wall shall not exceed six lineal feet and shall not project within two feet of the curb line.

5. The projection above the wall on which the sign is constructed shall not exceed one foot.
 6. The visible supporting structure shall be constructed of metal, wood, stone, brick, rock or any combination thereof.
- F. Roof Signs. All of the following standards apply to roof signs in office, commercial, mixed use and industrial zones:
1. A maximum of one roof sign is permitted for each frontage if there is no projecting sign or freestanding sign along the frontage.
 2. Maximum display area:
 - a. Where the street frontage is less than fifty feet, the display area shall not exceed fifty square feet and the sign face shall not exceed twenty-five square feet.
 - b. Where the street frontage is fifty feet or greater but less than two hundred feet, the display area shall not exceed one hundred square feet and the sign face shall not exceed fifty square feet.
 - c. Where the street frontage is two hundred feet or greater, the display area shall not exceed three hundred square feet and the sign face shall not exceed one hundred fifty square feet.
 - d. In no case shall any sign have a display area in excess of three hundred square feet.
 3. The sign width shall not exceed twenty feet and the sign height may not exceed ten feet.
 4. Skirting is required to obscure exposed hardware used to attach the sign to the roof, as viewed from the adjacent street level perspective.
- G. Ancillary Signs. All of the following standards apply to ancillary signs in office, commercial, mixed use and industrial zones:
1. A maximum of two ancillary signs (including banners) are allowed per property.
 2. The sign shall not have more than two faces.
 3. The maximum display area is twelve square feet and the maximum sign face is six square feet.
 4. Additional standards for banners:
 - a. For a single property, banners may be in place for up to thirty days, up to twice per year.
 - b. Banners shall be securely placed against a building wall and may not project from the wall.
 - c. Banners shall comply with the wall sign size requirements and the sign length shall not exceed six linear feet.
 - d. The sign height shall not exceed four lineal feet.
 - e. Banners are prohibited within a historic district and on any property designated as a historic landmark.

(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)

15.28.090 Public art murals.

- A. Public Art Mural Program Intent and Purpose. The intent and purpose of this section is to encourage the production of public art murals for acquisition by the City. Public art murals are a medium of expression which serves the public interest in unique ways, including, but not limited to: enhancing

the aesthetics of the City; providing avenues for original artistic expression in the City; providing public edification through access to original works of public art; encouraging community participation in the creation of original works of art; and reducing the incidence of graffiti and other crime.

B. Criteria for Public Art Murals. All of the following criteria shall be met for public art murals:

1. Public art murals shall remain in place, without alteration, for a period of not less than five (5) years, except as may be specified by a designated governing body or by the Arts Commission in the conditions of approval. Within 30 days of the end of the approval period, the public art mural shall be removed unless a new approval is granted. Alterations to an approved and/or installed mural shall receive approval by a designated governing body or the Arts Commission.
2. No public art murals shall be allowed on single-family dwellings, duplexes, 3-4 plexes, designated historic structures that were originally constructed as a residential use, or multi-family dwellings. As used in this subsection, single-family dwellings, duplexes, 3-4 plexes, or multi-family dwellings do not include mixed-use buildings which contain a single-family dwelling, duplex, or multi-family dwellings.
3. Public art murals shall only be permitted within approved zoning districts.
 - a. Approved zoning districts include:
 - i. General Commercial
 - ii. Mixed Use Downtown
 - iii. Mixed Use Corridor 1
 - iv. Mixed Use Corridor 2
 - v. Willamette Falls Downtown District
 - vi. Institutional
 - b. Any use that is listed under permitted uses in the Institutional district in 17.39.020 but located in a non-Institutional Zone.
4. The public art mural shall be painted, or if ceramic, glass tiles, tesserae, or metal, applied directly onto the surface of a building with a paint, ceramic, glass tiles, tesserae, or metal that ensures longevity, durability, and structural and surface stability. No part of the public art mural shall exceed the height of the structure to which it is tiled, painted, or affixed.
5. No part of the public art mural shall be placed over the exterior surface of any opening of a building in a manner that prohibits use of the opening, including its windows, doors, and vents.
6. No public art mural may contain electrical components, three dimensional structural elements; employ electrical lights as part of the image, moving structural elements, flashing or sequential lighting, interior lighting elements, any automated method that causes movement, or any method that causes periodic changes in the appearance, image or message of the public art mural.
7. Public art murals shall be located in a manner that is accessible to the public.
8. The mural proposal is not mechanically reproduced, or computer generated and printed on a base that will be attached to the wall, such as, by way of illustration but not limitation, images digitally printed on vinyl.
9. The mural proposal shall include methods to mitigate the impacts of weather and vandalism and a commitment to repair the mural surface as necessary for a minimum of five years.
10. No compensation will be given or received for the display of public art murals or for the right to place the mural on another's property.
11. The approval and acceptance of each public art mural shall be contingent upon the conveyance of a public art mural easement to the City from the owner of the building upon which the mural will be located, in a form approved by the City Attorney. The terms of the easement shall grant the right to create the public art mural on the wall of the building and provide that the person

granting the easement will maintain and restore the public art mural in its original condition for the period of the easement, and state that upon termination of the easement, the mural shall be removed, and the building restored to its prior condition.

C. Approval Process.

1. Public art murals shall be approved by the Oregon City Arts Commission at a public hearing based on the criteria in the Oregon City Municipal Code. Notice of the application and the hearing date shall be published online and mailed to the applicant, recognized neighborhood association(s) and property owners within three hundred (300) feet of the proposed mural location. Notice shall be issued at least twenty (20) days pre-hearing, and the staff report shall be available at least seven (7) days pre-hearing. At the evidentiary hearing held before the Arts Commission, all issues shall be raised and addressed. Failure to raise an issue at the hearing will preclude review on that issue.
2. In lieu of an active Arts Commission, the City Commission will review the proposal through the public hearing process described in subsection 15.28.090.C.1.

D. The decision is appealable to the City Commission on the record. Notice of the appeal shall be received in writing by the Economic Development Department within fourteen (14) calendar days from the date the challenged decision is provided to those entitled to notice. Late filing of any appeal shall be deemed a jurisdictional defect and will result in the automatic rejection of any appeal so filed.

1. All of the following shall be included as part of the notice of appeal:

- a. The City file number and date the decision to be appealed was rendered;
- b. The name, mailing address and daytime telephone number for each appellant;
- c. A statement of how each appellant has an interest in the matter and standing to appeal;
- d. A statement of the specific grounds for the appeal;
- e. The Appropriate Appeal Fee. Failure to include the appeal fee within the appeal period is deemed to be a jurisdictional defect and will result in the automatic rejection of any appeal so filed. If a City-recognized neighborhood association with standing to appeal has voted to request a fee waiver pursuant to Oregon City Municipal Code Section 17.50.290.C, no appeal fee shall be required for an appeal filed by that association. In lieu of the appeal fee, the neighborhood association shall provide a duly adopted resolution of the general membership or board approving the request for fee waiver.

2. Standing to Appeal. Only those persons or recognized neighborhood associations who have participated either orally or in writing have standing to appeal the decision. Grounds for appeal are limited to those issues raised in writing before the close of the public record. No new evidence shall be allowed.

3. Notice of the Appeal Hearing. The Economic Development Department shall issue notice of the appeal hearing to all parties who participated in writing before the close of the public record at least twenty days pre-hearing, and the staff report shall be available at least seven days pre-hearing. Notice of the appeal hearing shall contain the following information:

- a. The file number and date of the decision being appealed;
- b. The time, date and location of the public hearing;
- c. The name of the applicant, owner and appellant (if different);

- d. The street address or other easily understood location of the subject property;
- e. A description of the permit requested and the applicant's mural proposal;
- f. A brief summary of the decision being appealed and the grounds for appeal listed in the notice of appeal;
- g. A statement that the appeal hearing is confined to the issues raised in the notice of appeal;
- h. A general explanation of the requirements for participation and the City's hearing procedures.

4. The City Commission decision on appeal is the City's final decision.

No person shall commence creation of any public art mural without first obtaining approval from the City, and executing an easement pursuant to section 15.28.090.(B).11. Murals that are created without approval through the aforementioned process that are not otherwise exempt pursuant to this chapter or are inconsistent with the conditions of approval from the City's decision shall not be deemed public art murals.

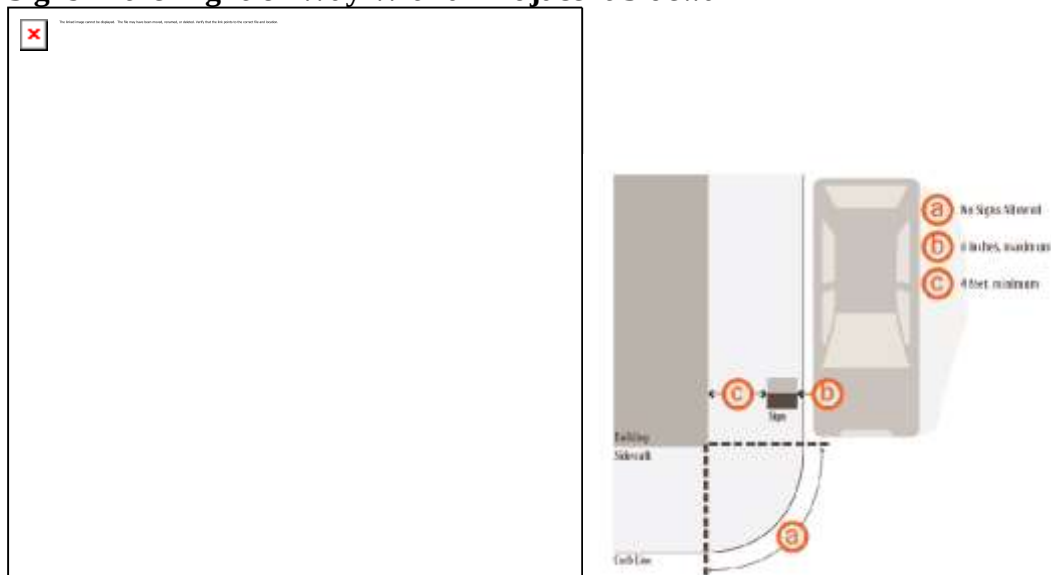
15.28.100 - Signs in the right-of-way.

All of these standards apply to all signage within the city of Oregon City right-of-way and signs located in compliance with Section 15.28.100.B.1.a, except exempt signs described in Section 15.28.030.

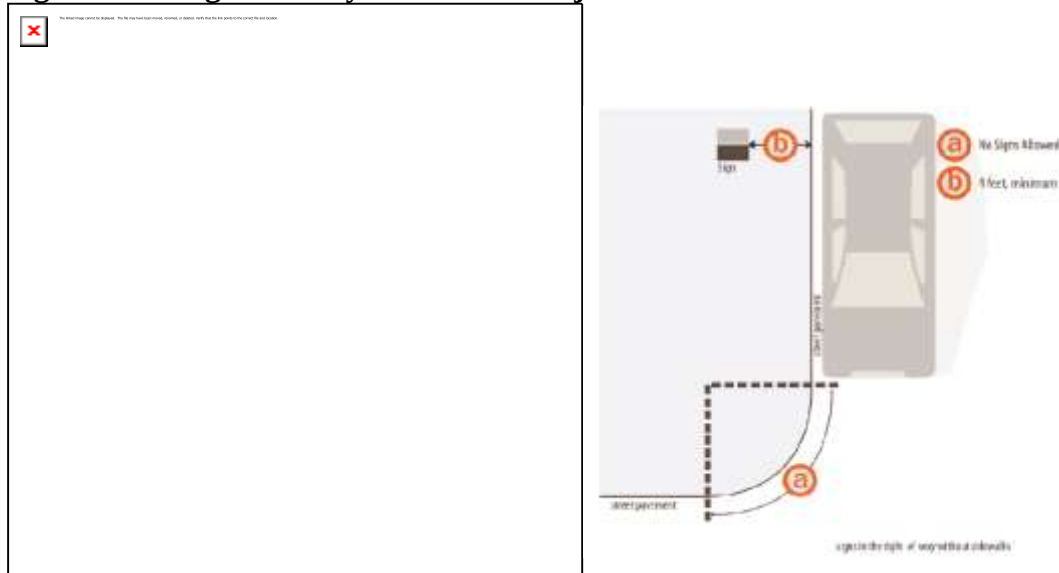
- A. Signs on the Ground Within the Right-of-Way. Signs on the ground within the right-of-way shall be permitted in the right-of-way in accordance with all of the following standards:
 - 1. Number of Signs Permitted:
 - a. A maximum of one sign within the right-of-way per property frontage not within the Mixed Use Downtown District, Willamette Falls Downtown Design District or Mixed Use Corridor 1 District zoning designations.
 - b. Within the Mixed Use Downtown District, Willamette Falls Downtown Design District, or the Mixed Use Corridor 1 District, the number of signs on the ground within the right-of-way is limited to the number of operating and accessible public entrances per building or buildings on the site, up to a maximum of three signs per frontage. All properties are allowed one sign on the ground within the right-of-way per property frontage regardless of the number of building entrances. Multiple doors at one entrance are allowed one sign. Multiple individuals or entities which share the same public entrance are allowed one sign.
 - c. Approved traffic control signs or devices do not count towards the number of signs permitted within the right-of-way.
 - 2. Material, Design and Size Standards:
 - a. The sign frame shall be wood, plastic or metal.
 - b. The sign shall be an A-frame sandwich design.
 - c. The sign may not be illuminated.
 - d. The sign width shall not exceed twenty-eight inches.
 - e. The sign depth shall not exceed two feet.
 - f. The sign height shall not exceed three feet.
 - g. The display area shall not exceed 12 square feet and the sign face shall not exceed six square feet.
 - 3. Placement Standards:

- a. Signs shall not be placed in parking spaces, pedestrian pathways, or bicycle paths, street corners, transit stop areas, ADA accessible curb ramps, ADA accessible parking spaces, at building exits or fire escapes, or any portion of the street (automobile and bicycle travel lanes, shoulder, medians, traffic islands, and parking areas). The sign may not obstruct pedestrian or ADA access from the sidewalk to transit stop areas, designated ADA accessible parking spaces, ADA accessible ramps or building exits, including fire escapes. Signs may not impede or hinder the vision of drivers or bicyclists. The sign shall be located entirely outside of the area of a right-of-way corner that is between the curb and the lines created by extending the property line to the curb face. Signs placed within the right-of-way shall not obstruct traffic control signs or devices.
- b. For signs placed within the right-of-way with an adjacent sidewalk: The sign shall be placed within six inches of the face of the curb. Four feet of clearance width shall be retained on the sidewalk.

Figure 15.28.100.A.3.b:
Signs in the Right-of-Way With an Adjacent Sidewalk



- c. For signs placed in the right-of-way without an adjacent sidewalk: The sign shall be located outside of any street pavement and may not be located closer than four feet from the travel lane, turning lane, shoulder, parking lane or bicycle lane.

Figure 15.28.100.A.3.c:**Signs in the Right-of-Way Without an Adjacent Sidewalk**

- d. Signs placed in the right-of-way shall remain portable and shall not be attached or anchored in any manner to trees or public property, including, but not limited to, utility or light poles, parking meters, traffic control signs, the ground, or pavement.
4. Hours of Sign Placement:
 - a. For signs not within residential zoning designations: Signs may be within the right-of-way between the hours of nine a.m. and ten p.m.
 - b. Signs within residential zoning designations may be displayed on Thursday, Friday, Saturday, and Sunday between twelve p.m. and eight p.m. daily; and from six a.m. to one p.m. on Tuesday.
5. Approval of the adjacent property owner is required.
- B. Cross Street Banners. Temporary banners which extend over a roadway shall be permitted in the right-of-way upon issuance of a permit in accordance with the requirements contained in the most recently adopted Policy for Cross Street Banners and Banners on Street Light Poles. Banners shall be installed, re-secured, and removed by the city.
- C. Banners on Street Light Poles. Temporary banners on street light poles shall be permitted in the right-of-way upon issuance of a permit in accordance with the requirements contained in the most recently adopted Policy for Cross Street Banners and Banners on Street Light Poles. Banners shall be installed, re-secured, and removed by the city.
- D. Signs which Project over the Right-of-Way from Private Property. With the exception of projecting signs, no sign on private property may project into the right-of-way. Signs projecting into the right-of-way shall maintain a minimum clearance of ten feet above grade over pedestrian or vehicular areas, and fourteen feet above grade over areas of truck access.
- E. Who May Place the Sign. Permits for signs within the right-of-way are approved on a first-come, first-served basis.
- F. Right-of-Way Sign Permit Process.
 1. Signs on the Ground. For all properties not zoned residential, an annual A-frame sign within the right-of-way permit is required except on Thursday, Friday, Saturday, or Sunday between twelve p.m. and eight p.m. daily; or from six a.m. to one p.m. on Tuesday. Placement of signs

subject to this exception shall meet all other applicable requirements in this chapter. An approval sticker shall be placed on each sign within the right-of-way to easily distinguish the approved signs.

2. Cross Street Banner. A cross street banner within the right-of-way permit is required each time a cross street banner is installed.
 3. Banners on Light Posts. A street light banner permit is required each time a banner on a light post is installed.
 4. Signs which Project over the Right-of-Way from Private Property. Approval from the city engineer is required each time a sign is installed.
 5. The city commission shall establish permit fees for signs located within the right-of-way.
 6. The applicant shall comply with and obtain any permits issued by any other applicable agency.
- G. Liability. The sign owner shall assume all liability associated with a sign within the right-of-way regardless of whether a permit is required.
- H. Removal of Signs within the Right-of-Way.
1. Existing signs that do not comply with these standards or that have not obtained a valid permit may be removed.
 2. The city engineer may require signs to be modified, moved or removed if streets are widened or other improvements are made in the right-of-way that result in conditions where the sign placement will not comply with the above standards. The modification, moving or removing will be at the owner's expense.
 3. The city reserves the right to change or remove the approved cross street banners or banners on light posts at any time after the installation based on operational and/or safety conditions.

(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)

15.28.110 - Prohibited signs.

It is unlawful for any of the following signs to be constructed or maintained except as otherwise provided in this chapter:

- A. A sign that interferes in any way with a traffic control sign or device or prevents clear and unobstructed views of traffic control signs or devices or approaching or merging traffic or does not comply with Chapter 10.32 or 8.08 of the Oregon City Municipal Code.
- B. A sign that contains, includes or is illuminated by any flashing or revolving, rotating or moving light or moves or has any animated or moving parts which move or rotate or change more than three times per day, except as otherwise allowed within this code.
- C. A sign with lighting that is not effectively shielded to prevent beams or rays of light from being directed at any portion of the right-of-way or public vehicular accessway or sign that does not comply with the lighting requirements in OCMC 17.62.065.
- D. A sign located upon a tree, or painted or drawn upon a natural feature.
- E. A sign that obstructs free ingress to or egress from any door, window or fire escape, alley, drive or fire lane, or is attached to a fire escape.
- F. Any sign with a display area larger than twelve square feet or six square feet per sign face on an undeveloped lot or parcel of property.
- G. Attention flags.

- H. A-frame signs with a display area larger than twelve square feet or six square feet per sign face or taller than three feet.
- I. Air blown signs.
- J. Billboards.
- K. Signs on fences or fencing.
- L. Banners unless otherwise allowed by this chapter.
- M. Abandoned signs.
- N. Signs that emit any sound, vibration, or smell.
- O. Flags larger than one square foot for each lineal foot in height of the flag pole or structure to which the flag is affixed.
- P. Flags exceeding sixty square feet.
- Q. Signs that may be confused with public traffic signs or highway identification.
- R. A sign not otherwise in compliance with any provision of this code, Oregon law or the terms and conditions of any valid sign permit issued under this chapter.

(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)

15.28.120 - Nonconforming signs.

All of the following standards apply to all nonconforming signs:

- A. Signs that were lawfully constructed and otherwise lawfully existing but no longer comply with this code are allowed to remain until removed. Nothing in this section shall be deemed to prevent the maintenance of any sign, or changes of sign copy on a sign.
- B. No additions or enlargements may be made to a nonconforming sign except those additions or enlargements that are required by law.
- C. A sign that is moved, replaced, or structurally altered shall be brought into conformance with this chapter.
- D. A nonconforming sign (including the sign structure, foundation and supports) that is damaged shall not be repaired if the estimated expense to repair the sign exceeds fifty percent of the replacement cost of the sign as of the day before the sign was damaged. A damaged nonconforming sign that cannot be repaired shall be removed within ninety days of the date the sign was damaged. Whenever a nonconforming sign is damaged and the estimated cost to repair the sign is fifty percent or less of its replacement value as of the day before the sign was damaged, it may be repaired and restored to the condition it was in before it was damaged and may continue to be used as a nonconforming sign, provided that such repairs and restoration are started within ninety days of the date the sign was damaged and are diligently pursued thereafter. Whenever repairs and restoration of a damaged nonconforming sign are not started within ninety days of the date the sign was damaged or are diligently pursued once started, the sign shall be deemed abandoned.
- E. Abandoned signs shall not be deemed nonconforming signs. No nonconforming sign shall be permitted to remain unless properly repaired and maintained as provided in this chapter. A sign maintained in violation of this provision shall be considered abandoned and will be removed as provided in this chapter. Any nonconforming sign that is determined by the building official to be an unsafe sign shall be removed as provided in this chapter. Any nonconforming sign that is determined to be an abandoned sign shall be removed as provided in this chapter.

(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)

15.28.130 - Variances.

All of the following standards apply to variances to this chapter:

- A. Grounds for Variance. Upon application by an applicant, the planning commission may grant a specific variance from provisions of this chapter provided all of the following circumstances exist:
 - 1. That the variance from the requirements is not likely to cause substantial damage to adjacent properties by reducing light, air, safe access or other desirable or necessary qualities otherwise protected by this title;
 - 2. That the request is the minimum variance that would alleviate the hardship;
 - 3. Granting the variance will equal or exceed the purpose of the regulation to be modified;
 - 4. Any impacts resulting from the adjustment are mitigated;
 - 5. No practical alternatives have been identified which would accomplish the same purpose and not require a variance; and
 - 6. The variance conforms to the comprehensive plan and the intent of the ordinance being varied.
- B. Variance Fee. At the time of application for variance from the provisions of this chapter, the applicant shall pay a fee in accordance with the fee schedule established and amended from time to time by the city commission and on file with the city recorder.
- C. Procedure. A variance application shall be treated in the manner provided by Chapter 17.50 of this code with respect to zoning variances.

(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)

15.28.140 - Maintenance.

All signs, together with all supporting structures, shall be well maintained and kept in a good state of repair. Without limiting the foregoing, all sign owners shall comply with all of the following maintenance:

- A. Shall keep signs and supporting structures free from rust, dirt, debris, and chipped, cracked or peeling paint.
- B. Shall remove hanging, dangling, and cracked portions from all signs and supporting structures.
- C. Shall repair frayed parts on all signs and supporting structures.
- D. Shall replace defective lighting on all signs and supporting structures.
- E. Shall remove graffiti and unauthorized stickers from all signs and supporting structures.

(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)

15.28.150 - Violation—Penalty.

In addition to any other provisions hereof, it is unlawful for any person to maintain a sign or advertising structure in violation of the provisions of this chapter. Violation of any provision of this chapter is subject to the code enforcement procedures of Chapters 1.16, 1.20, and 1.24.

(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)

15.28.160 - Conflict and severability.

In the event any provision herein is found to be in conflict with any zoning, building, fire safety, health or other code provisions of the city, the provision which establishes the higher standard for the promotion and protection of the health, safety and welfare of the people shall prevail.

A finding by a court of competent jurisdiction that any part, section, subsection, paragraph, subparagraph, sentence, clause, phrase, term or word is declared invalid shall not invalidate the remaining portions. A permit issued pursuant to this chapter does not grant any authority to violate any other law or regulation that may apply. Any permit or approval issued in conflict with this chapter shall be void.

(Ord. No. 14-1003, § 1(Exh. 1), 5-20-2015)



OREGON CITY

Economic Development

625 Center Street | Oregon City OR 97045
Ph (503) 657-0891 | Fax (503) 722-3880

LEG-21-00002

APPLICATION FOR LEGISLATIVE CODE AMENDMENTS

May 12, 2021

APPLICANT: City of Oregon City, c/o Economic Development Department
625 Center St., PO Box 3040, Oregon City, OR 97045
James Graham, CED, Economic Development Manager
Matthew Weintraub, Tourism Program Specialist

REQUEST: Amendments to Chapter 15.28.020 of the Oregon City Municipal Code –
Definitions
Creation of Chapter 15.28.090 of the Oregon City Municipal Code – *Public art murals*

APPLICATION DATE: May 12, 2021

BACKGROUND

File No. LEG-21-00002 amends Chapter 15.28 of the Oregon City Municipal Code, which contains the procedures and conditions for signage. The amendment establishes a Public Art Mural Program and provides criteria upon which Staff, the Arts Commission and City Commission evaluate proposed art installations.

Public art murals are currently not allowed in Oregon City. Art and signage that is affixed to a building are currently regulated by Chapter 15.28 of the Oregon City Municipal Code. However, many municipalities in Oregon permit and regulate public art murals. A subsequent goal of the proposed code amendment is to provide clarity for City staff and officials on the interpretation and implementation of the City's role in the permitting process

The City Commission directed staff to identify amendments to the Oregon City Municipal Code that would allow for the installation of and clarity around public art murals to support the existing City-adopted Tourism Strategic Plan and in support of adopted Commission Goals.

PROCESS

Adoption of the code amendments is a legislative action that requires review and recommendation from the Oregon City Historic Review Board, the Oregon City Planning Commission and the Oregon City Citizen Involvement Committee prior to adoption by the City Commission following public hearings.

The following direction was provided to guide staff in further amending the code:

- The code amendments should impinge on Oregon's First Amendment protections;
- Any code change should be accompanied by a user-friendly "how-to guide";
- A desire that the code clearly differentiate between murals and signs;

- Any codes amendments or processes should ensure continued preservation of historic buildings within Oregon City;
- The permitting process should be clear and attainable;
- Inclusion of a required maintenance agreement between parties;
- That the Oregon City Historic Review Board recommends a review waiver to allow staff to review mural permits applications on historically designated structures;
- To exclude the Oregon City Planning Commission from any role within the process;

SUMMARY OF CODE AMENDMENTS

For a Detailed Summary of the Amendments please refer to the attachment “Code Amendments Public Comments Matrix 5.12.21.”

II. APPLICABLE REGULATIONS AND APPROVAL CRITERIA

The applicable approval criteria for a legislative action are the guidance provided in the Oregon City Comprehensive Plan, the applicable goals and policies of the Oregon City Comprehensive Plan, and any applicable statewide planning goals.

The remainder of this staff report provides findings to demonstrate that the proposed annexation code amendments are consistent with applicable approval criteria.

Section 2 – *Land Use* of the 2004 Oregon City Comprehensive Plan indicates that the regular review and updated of the Comprehensive Plan should consider the following:

1. Plan implementation process.
2. Adequacy of the Plan to guide land use actions, including an examination of trends.
3. Whether the Plan still reflects community needs, desires, attitudes and conditions. This shall include changing demographic patterns and economics.
4. Addition of updated factual information including that made available to the City of regional, state and federal governmental agencies.

Regular Review and Update

Plan maintenance and updating is a continuous technical review of the Plan by the Planning staff. This review and any subsequent recommendations for Plan updating should be presented to the Neighborhood Associations, Planning Commission and City Commission for input and discussion in the same manner as requested Plan changes. The continuous review should consider:

1. Plan implementation process;

The City Commission initiated the code amendment process starting with a work session held on September 8, 2020. The City Commission received a progress report of the process on March 9, 2021. The feedback provided at this work session helped form the draft code amendments.

Staff presented the amendments to the Citizen Involvement Committee on May 3rd, 2021.

The first evidentiary public hearing for the proposed amendments will be held with the Planning Commission and will follow the notice procedures for a legislative action per OCMC 17.50. The City Commission public hearing will be scheduled once the Planning Commission has completed their review and provided a recommendation on the proposed amendments.

The Department of Land Conservation and Development was notified as required by ORS 197.610 – 197.625. The Staff Report will be made available at least seven days prior to the public hearing and the application will be processed according to the Legislative Hearing Process as required under Oregon City Municipal Code 17.50.170. Implementation of the Plan is discussed further in Criterion 2.

2. *Adequacy of the Plan to guide land use actions, including an examination of trends.*
3. *Whether the Plan still reflects community needs, desires, attitudes and conditions. This shall include changing demographic patterns and economics.*
4. *Addition of updated factual information including that made available to the City by regional, state and federal governmental agencies.*

Chapter 17.68 - Zoning Changes and Comprehensive Plan Amendments

17.68.010 - Initiation of the amendment.

A text amendment to the comprehensive plan, or an amendment to the zoning code or map or the Comprehensive Plan map, may be initiated by:

- A. A resolution request by the City Commission;*
- B. An official proposal by the Planning Commission;*
- C. An application to the Planning Division; or.*
- D. A Legislative request by the Planning Division.*

All requests for amendment or change in this title shall be referred to the Planning Commission.

Response: The proposal qualifies as initiated as a legislative request by the Economic Development Department at the direction of the City Commission.

17.68.015 –Procedures.

Applications shall be reviewed pursuant to the procedures set forth in Chapter 17.50.

17.50.170 - Legislative hearing process.

A. Purpose. Legislative actions involve the adoption or amendment of the city's land use regulations, comprehensive plan, maps, inventories and other policy documents that affect the entire city or large

portions of it. Legislative actions which affect land use shall begin with a public hearing before the planning commission.

B. Planning Commission Review.

1. **Hearing Required.** The planning commission shall hold at least one public hearing before recommending action on a legislative proposal. Any interested person may appear and provide written or oral testimony on the proposal at or prior to the hearing. The community development director shall notify the Oregon Department of Land Conservation and Development (DLCD) as required by the post-acknowledgment procedures of ORS 197.610 to 197.625, as applicable.

C. City Commission Review.

1. **City Commission Action.** Upon a recommendation from the planning commission on a legislative action, the city commission shall hold at least one public hearing on the proposal. Any interested person may provide written or oral testimony on the proposal at or prior to the hearing. At the conclusion of the hearing, the city commission may adopt, modify or reject the legislative proposal, or it may remand the matter to the planning commission for further consideration. If the decision is to adopt at least some form of the proposal, and thereby amend the city's land use regulations, comprehensive plan, official zoning maps or some component of any of these documents, the city commission decision shall be enacted as an ordinance.

2. **Notice of Final Decision.** Not later than five days following the city commission final decision, the community development director shall mail notice of the decision to DLCD in accordance with ORS 197.615(2).

Response: This legislative action will follow the procedures found in OCMC 17.50.170 including meetings with the Citizen Involvement Committee, Historic Review Board Natural Resource Committee, Planning Commission, and City Commission where applicable.

17.68.020 - Criteria.

The criteria for comprehensive plan amendment or text or map amendment in the zoning code are set forth as follows:

A. The proposal shall be consistent with the applicable goals and policies of the comprehensive plan;

Applicant Response: This legislative action will be consistent with the applicable goals and policies of the comprehensive plan as detailed in the responses below. Therefore, the proposed amendments are consistent with Criterion (A).

Conformity of the proposal with the city's comprehensive plan;

Goal 1: Citizen Involvement

Goal 1.1 – Citizen Involvement Program

Policy 1.1.1 Utilize neighborhood associations as the vehicle for neighborhood-based input to meet the requirements of the Land Conservation and Development Commission (LCDC) Statewide Planning Goal 1, Citizen Involvement. The Citizen Involvement Committee (CIC) shall serve as the officially recognized citizen committee needed to meet LCDC Statewide Planning Goal 1.

Goal 1.4 – Community Involvement

Policy 1.4.1 Notify citizens about community involvement opportunities when they occur.

Response: This proposal makes no changes to the City’s citizen involvement program or public notification procedures. Citizens will continue to receive notification about public art mural applications through the procedures in OCMC 17.50.170 for a legislative action. Residents and taxpayers within 300 feet of the proposed installation site will continue to receive public notice of the public art mural.

Comprehensive Plan Section 2 Land Use

Goal 2.4 Neighborhood Livability

Provide a sense of place and identity for residents and visitors by protecting and maintaining neighborhoods as the basic unit of community life in Oregon City while implementing the goals and policies of the other sections of the Comprehensive Plan.

Policy 2.4.1 *Develop local neighborhood plans to strengthen and protect residential neighborhoods and historic areas from infill development; such as development along linear commercial corridors.*

Policy 2.4.2 *Strive to establish facilities and land uses in every neighborhood that help give vibrancy, a sense of place, and a feeling of uniqueness; such as activity centers and points of interest.*

Policy 2.4.3 *Promote connectivity between neighborhoods and neighborhood commercial centers through a variety of transportation modes.*

Policy 2.4.4 *Where environmental constraints reduce the amount of buildable land, and/or where adjacent land differs in uses or density, implement Comprehensive Plan and zoning designations that encourage compatible transitional uses.*

Policy 2.4.5

Ensure a process is developed to prevent barriers in the development of neighborhood schools, senior and childcare facilities, parks, and other uses that serve the needs of the immediate area and the residents of Oregon City.

Response: This proposal makes no changes to the Comprehensive Plan, zoning, or land use designations for lands within the Urban Growth Boundary. The proposed public art mural code amendments may assist in achieving more livable neighborhoods (Goal 2.4).

Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources

Goal 5.3 Historic Resources

Policy 5.3.8 *Preserve and accentuate historic resources as part of an urban environment that is being reshaped by new development projects.*

Response: This proposal makes no changes to the existing inventories of open space, scenic and historic areas, and natural resources or the adopted maps, code and policies pertaining thereto.

Goal 9: Economic Development

Goal 9.6: Tourism - Promote Oregon City as a destination for tourism.

Policy 9.6.1 *Protect historic, recreational, and natural resources as the basis for tourism, such as the historic downtown.*

Policy 9.6.4 *Encourage and support citywide events that would attract visitors and tie to the historic attractions of the city. Preserve tourism-related transportation services like the Oregon City Elevator and Trolley.*

Response: This proposal enhances goal 9, by catalyzing community, enhancing vibrancy and livability of neighborhoods, contributing to placemaking, and attracting visitation

Statewide Planning Goals

Response: This proposal makes no changes to the Comprehensive Plan, zoning, or land use designations for lands within the Urban Growth Boundary. Since the City's Comprehensive Plan and its ancillary documents are already acknowledged by the Oregon Department of Land Use and Conservation (DLCD), no further analysis for consistency with Statewide Planning Goals is required.

Date/Name	Topic	Issue / Comment / Concern	Staff Comment	Has this been Addressed? How?
Laura Terway, James Graham, Matthew Weintraub September 2020 Staff Meeting	Free speech protections	<i>"Oregon's First Amendment protections are stronger than the US Constitution's and other jurisdictions have ran into trouble when attempting to regulate this. We should review our code to ensure we are not going to run afoul of the Oregon Constitution"</i> [conversation summary]	Article 1, Section 8 of the Oregon Constitution states, "No law shall be passed restraining the free expression of opinion, or restricting the right to speak, write, or print freely on any subject whatever; but every person shall be responsible for the abuse of this right. —" So that the proposed code amendments do not conflict with the State constitution, staff recommend that any provisions in the code which may impinge on an individual or property owner's free speech rights, be removed or alerted.	Staff have removed the following sections for the 2015 DRAFT code, B7, B9, B11.
Laura Terway, James Graham, Matthew Weintraub, Kelly Reid September 2020 Staff Meeting Public Comment from stakeholders meeting December 2020	MZD Locations	<i>Questions were raised by multiple staff members and by members of the public as to which zoning districts would murals be allowed to be painted within.</i>	In order to alleviate concerns or confusion arising from murals in largely residential districts staff recommend that murals be restricted to several commercial-centric zoning districts. This would further have the effect of accentuating the impact on the local visitor economy that murals may have. This was later expanded to include institutionally zones properties as well.	Staff have added Section B3 to the 2021 DRAFT code to expressly stipulate which zoning districts murals would be allowed within.
Laura Terway, James Graham, Matthew Weintraub September 2020	Murals affixed over openings of buildings	<i>Do we need to clarify the intent of the regulation "No part of the public art mural shall be placed over the exterior surface of</i>	Staff acknowledge that there may be some ambiguity as to why this section exists. Depending on the property, applying art over an opening may be	Staff have added intent to the code (Section B5). It now reads "No part of the public art mural shall be placed over

Staff Meeting		<i>any opening of a building, including its windows, doors, and vents.”?</i>	proposed by an applicant. Staff believe that this should be clarified.	the exterior surface of any opening of a building in a manner that prohibits use of the opening, including its windows, doors, and vents.”
Public Comment from stakeholders meeting December 2020	Vandalism resistance	<i>Multiple members of the public were concerned that the code requiring “methods to resist vandalism”</i>	Staff agreed that this was a subjective requirement and hard to regulate. Acts of vandalism may occur regardless of efforts to prevent them and it should not be a requirement of mural permit applicants to address this. Staff do believe that mural permit applicants <i>try</i> to ensure that art resists acts of vandalism, but that the City cannot compel this.	Staff have updated Section B9 to remove subject language. In permit application questions/programmatic guidelines staff have included language suggesting that permittees apply a coating to the finished artwork which makes removal of graffiti easier.
Public Comment from stakeholders meeting December 2020	Issuance of permits	<i>Members of the public expressed interest in what mechanism the City would use to issue permits for public art murals.</i>	Staff developed a system where the Oregon City Arts Commission and Staff would review permit applications and approve or deny the applications. In lieu of the Arts Commission, Staff would review applications. Applications for public art murals in historic districts, or on historically designated buildings would need to be reviewed and approved by the Historic Review Board.	Staff have updated Section C1 to reflect this.

DRAFT HRB Policy #13 – Public Murals

Public Murals within the historic overlay on a non-designated structure or landmark do not require historic review.

Public Murals on designated historic structures and landmarks can be approved by staff if they meet the following:

- The mural does not cover or obscure architectural features of the building, such as cornices, trim, windows, or other decorative features.
- The mural is located on a secondary building façade.
- Installation and removal of the public art mural will not adversely affect the historic structure.

Murals on the primary façade of a designated structure or landmark, along with murals that are not eligible for staff review, require review by the HRB.

From: [Kelly Reid](#)
To: [Kelly Reid](#)
Subject: FW: Mural Email
Date: Monday, June 21, 2021 11:43:46 AM

From: Liz Hannum <liz@downtownoregoncity.org>
Sent: Tuesday, June 8, 2021 3:04 PM
To: Kattie Riggs <kriggs@orcitey.org>
Subject: Fwd: Mural Email

Hey Kattie,

This is from a property owner in downtown in support of murals. Could you please add it to the packet for the commission when discussing murals? I didn't see it on any agendas coming up, but have been told by EcDev to expect it soon. Do you have a date scheduled yet?

Thanks,
Liz

----- Forwarded message -----

From: **Danielle Walsh** <danielledeewalsh@gmail.com>
Date: Tue, Jun 8, 2021 at 12:14 PM
Subject: Mural Email
To: Downtown Oregon City Association <liz@downtownoregoncity.org>

To Whom it May Concern:

White Rabbit Books and Black Ink Coffee are invested in allowing murals in Oregon City. Not only do murals showcase local talent and increase economic vitality, they also create more inviting and walkable areas for residents and tourists alike.

After purchasing 503 Main Street, we found that the exterior wall was actually an interior wall that would be unsafe for customers and staff in the case of an earthquake; additionally, the mural on the building was in part painted on plywood, which was cracked and peeling off. We were very surprised that after reinforcing the wall for safety (creating a second, exterior wall) that we would not be allowed to replace the mural.

Artwork connects people and drives conversations. It invites people to get out of their cars and out from behind electronics. To not have a codified process to legally have murals in our city is to stifle public art and freedom of expression, to hurt our identity as a community and as a tourism destination.

Thank you,
Danielle and Rolland Walsh

--

Danielle and Rolland Walsh, Owners
White Rabbit Books & Gifts, Black Ink Coffee
503 Main Street
Oregon City, OR 97045

--

Liz Hannum
Executive Director

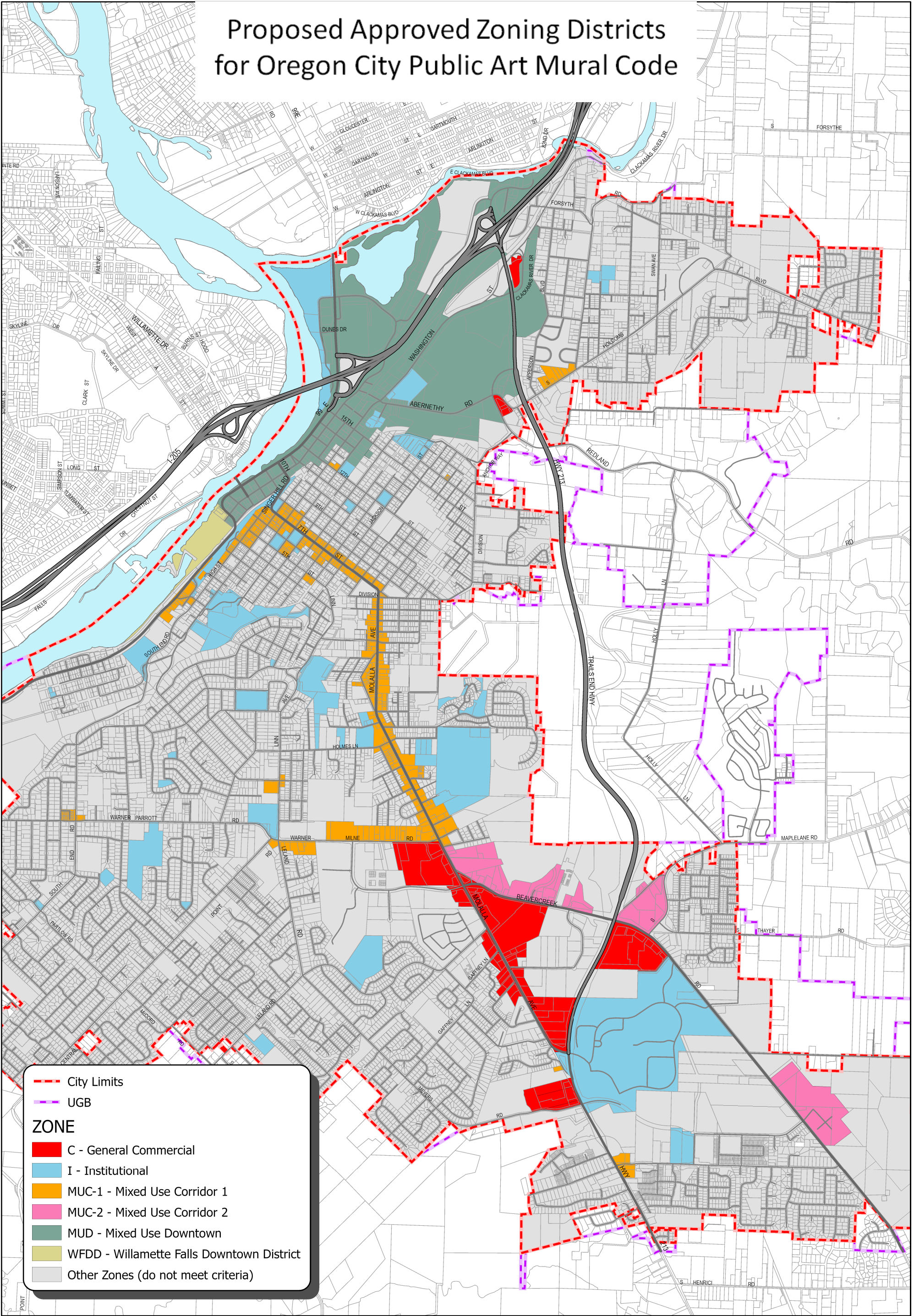
Downtown Oregon City Association
[814 Main Street](#)
[Oregon City, OR 97045](#)

liz@downtownoregoncity.org
Office (503) 802-1640
Direct (503) 802-1638

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downtownoregoncity.org

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Proposed Approved Zoning Districts for Oregon City Public Art Mural Code



City Limits

UGB

ZONE

C - General Commercial

I - Institutional

MUC-1 - Mixed Use Corridor 1

MUC-2 - Mixed Use Corridor 2

MUD - Mixed Use Downtown

WFDD - Willamette Falls Downtown District

Other Zones (do not meet criteria)

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City of Oregon City
P.O. Box 3040
625 Center St
Oregon City, OR 97045
503-657-0891 phone
503-657-6629 fax
www.oregcity.org

Plot date: May 19, 2021
Plot name: Murals - Zoning - 11x17P - 20210519.pdf
Map name: Mural Maps.aprx

Please recycle with colored office grade paper.

Oregon City Public Art Mural Program
Application

Name of Applicant or Sponsoring Organization
Name of Contact Person
Email
Website
Applicant's Mailing Address
City/State/Zip
Phone

Artist Information

Lead Artist's Name
Email
Website
Artists Mailing Address
City/State/Zip
Phone
Names of other participating artists

Property Information
Proposed Mural Location (building or business name)
Street Address/Intersection
Property Owner's Name
Property Owner's E-mail
Property Owner's Phone
Business Owner's Name

Project Start Date

Project Completion Date

Please Complete the Following:

1. Briefly describe the proposed mural and its relation to the building, the surrounding neighborhoods and the community served by the business or agency where the mural will be painted.
2. Describe the wall and site where the mural will be located, including the size of the mural in relation to the actual wall size, street intersection, direction the mural will face, physical condition of the wall (cracks, leaks, concrete, wood, etc.) and visibility to the public.
3. Provide a color image of the proposed mural, with dimensions and placement on the building.

4. Describe the sponsoring organization (if applicable) including a brief narrative, date established, community served and contact information.
5. Specify type of paint or other materials to be used and include technical information about the material's durability, longevity and toxicity.
6. If the mural will be attached to the wall, describe the materials and include a drawing of the attachment plan.
7. Briefly describe the lead artist's experience working as a muralist and describe collaboration with community groups (if applicable).
8. List additional artists working on the project. For each artist, provide a resume or bio, and up to 6 images of the artist's work with an image list that includes the location, budget, year completed and a description of the artist's role (e.g. lead, collaborator, assistant.) For each artist, include a waiver of the Visual Artist Rights Act (attached.)
9. Outline your safety plan for painting or installing the mural. Will you be blocking a public right of way such as a sidewalk or street? If you will use scaffolding, lifts or ladders, include a plan for maintaining access to sidewalks, streets and businesses and insuring the safety of the public and the artists.
10. Attach letters of support from community, property owner and/or surrounding businesses (optional, but highly recommended.)
11. Mural Project Budget-Please attach a budget showing:
 - Income—including grants, donations and in-kind contributions. Which are confirmed?
 - Expenses-materials, fees to artists, equipment rental, etc.

Signatures

Applicant Certification

I, as the public art mural applicant, certify that the information and materials provided herein are correct and true to the best of my knowledge, and I have read, understand and will abide by the City of Oregon City Public Art Murals guidelines.

Signature

Name (print)

Date

Email

Phone

Property Owner Certification:

I certify that I am the owner of the project property. I further certify that I have read, understand, and will abide by the City of Oregon City Public Art Mural Guidelines, and I give permission for the placement of the mural as presented in the application.

Signature

Name (print)

Date

Email

Phone

Confirmation of Maintenance Responsibility:

I agree to maintain the mural as required by the City of Oregon City Public Art Mural Program. I understand that the City requires an anti-graffiti coating be applied to the completed mural to help abate graffiti and vandalism. In doing the maintenance, I will comply with any relevant provisions of City of Oregon City Municipal Code Sections XX (Business Licenses), XX (Public Safety), XX (Vehicles and Parking), and XX (Murals). [INSERT CODE LINK]

Signature

Name (print)

Date

Email

Phone

Relationship to the project (artist, property owner, business owner, property manager.)

Submit materials to:

Public Art Mural Program

City of Oregon City, City Hall 625 Center St. Oregon City, OR 97045

Contact: Matthew Weintraub, Tourism Program Specialist

mweintraub@orccity.org

Overview

Public art is a powerful tool for creating a sense of place and meeting the City of Oregon City's goals. Memorable public places strengthen our community. Such places attract us to various areas of the community, enliven our neighborhoods, enhance our experiences in parks, inform us about the history and peoples of our place, and celebrate our ethnic and cultural diversity.

As recognized by Oregon City's Tourism Strategic Plan, murals can be an integral part of any public art program. Murals increase community identity, beautify the city, serve as a tourist attraction and can provide an avenue for involving youth and others in artistic expression. Murals can also provide a reduction in the incidence of graffiti and other crime. To better serve these purposes, the City of Oregon City has created the Oregon City Public Art Mural Program.

The City of Oregon City's Mural Program is administered by the Economic Development Department. Applications for new outdoor public art murals are reviewed by staff, with final approval issued by a designated governing body or the Oregon City Arts Commission, an advisory council that promotes arts and culture throughout the city.

Murals approved through this program are exempt from the City sign code.

Eligibility

Any individual or organization wishing to create an outdoor mural in the City of Oregon City must submit their application for review by the Economic Development Department, regardless of the funding source. Applicants may be:

- An individual artist or group of artists
- A business or building owner
- A not-for-profit organization, such as a neighborhood association, educational or community organization. Federal tax-exempt status 501(c)(3) is not required.

Mural Requirements

Every applicant must demonstrate that they will:

- Create a mural that is visually accessible to the public.
- Use materials that ensure mural longevity and durability.
- If they are not the owner of the building, have the legal permission of the property owner in writing to create the proposed mural.
- Paint on a surface and structure that is stable and specifically prepared for the application of paint.
- Meet standards of Oregon City Historic Overlay, if applicable.

- Have a written plan for painting the mural that ensures the safety of painters and the public, and that does not impede public access. In the event that the safety plan submitted is not being adhered to, and the City has identified a safety risk to either the artist and/or the public, the City has the right to stop work until such time that safety issues or concerns are addressed by the artist.
- Use an approved graffiti/UV coating on the finished mural that provides resistance to vandalism and weather.
- Comply with any relevant provisions of City of Oregon City Municipal Code Sections XX (Business Licenses), XX (Public Safety), XX (Vehicles and Parking) and XX (Murals)
[INSERT CODE LINK]

Approval Criteria

Murals in the City of Oregon City will be approved based on the following criteria:

- a fully completed application has been submitted to the Economic Development Department;
- mural is located within an approved Municipal Zoning District;
- mural is located in a place that is viewable by the public, and applicant must certify in writing that the property owner received no compensation for the display;
- medium is approved within the existing Oregon City Code [EMBED CODE LINK];
- original work of the artist, with no violation of copyrights;
- use of high-quality materials that will last a minimum of five years, and are resistant to weather and ultraviolet deterioration; and
- shows community support, with letters from the building owner, and building tenants and/or neighbors.

Mural Process

- Applicant meets with Economic Development Department staff for an initial review of the proposed location, imagery, artist's qualifications, funding sources and building owner's approval.
- Applicant submits a fully completed Mural Program Application.
- Economic Development Department staff will communicate with the applicant on code noncompliance issues or other issues that may impact either approval or denial of the proposal.
- Economic Development Department staff will confirm in writing that there are no outstanding issues with regard to the City's Mural Art Code.

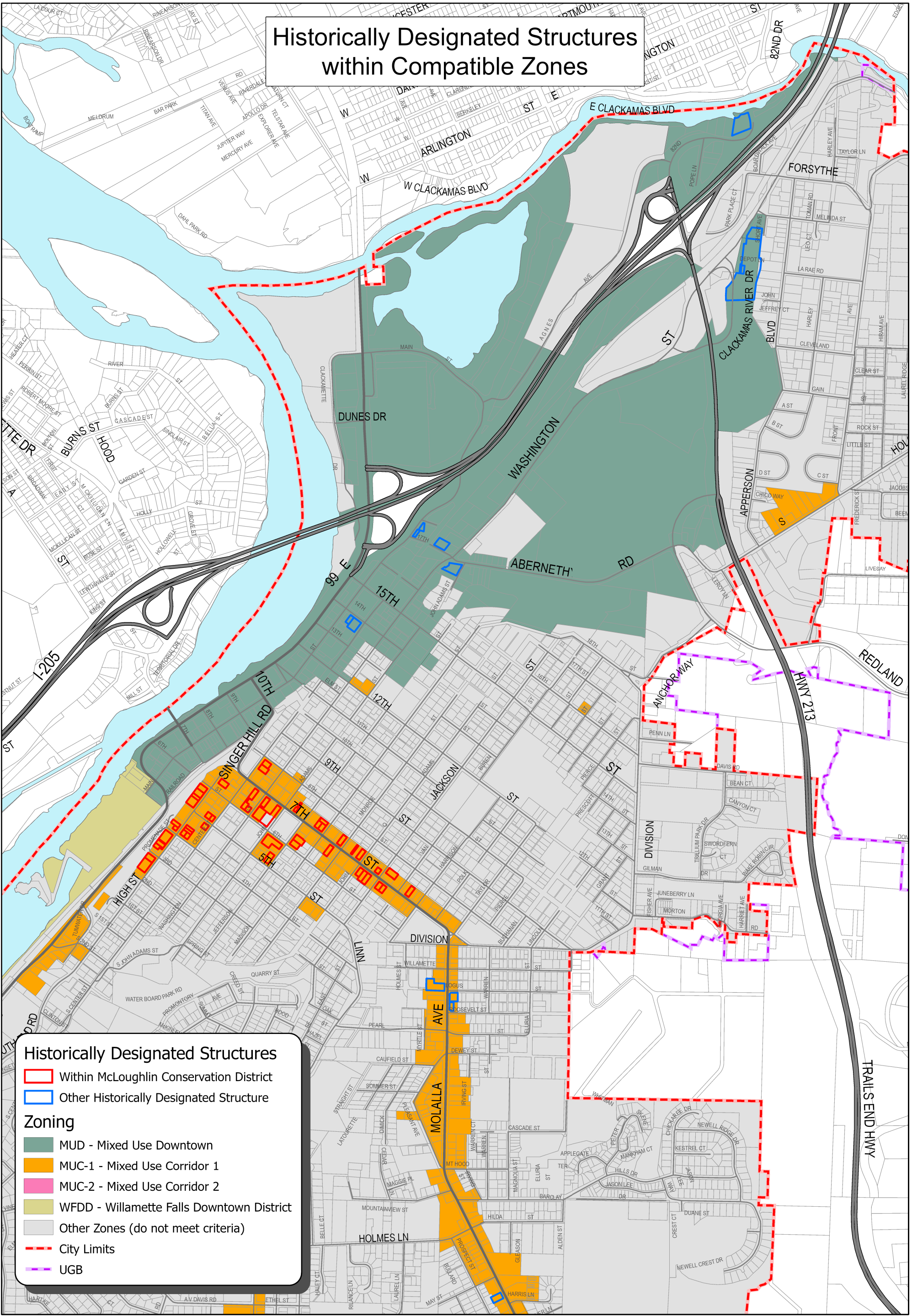
- Applications altered after initial review without staff approval and prior to public hearing will not be advance to public hearing.
- Staff and the applicant will present the proposal to the governing designated body or the Oregon City Arts Commission at a regularly scheduled meeting. If the proposal is approved, staff sends the applicant an official “Letter of Approval” and a Notice to Proceed.
- Revisions or Appeal. In the case that a mural is not approved, Economic Development Department staff will communicate to the applicant in writing the reasons for the decision of the designated governing body or Arts Commission. The applicant may address the concerns of the designated governing body or Arts Commission by submitting a revised proposal or appeal the decision to the City Commission.
- Applicant provides a copy of a signed Art Easement agreement in which the building owner commits to keep the mural unchanged and in good condition for a minimum of 5 years.
- Artist begins painting mural.
- Artist applies anti-graffiti coating to mural.
- Applicant installs the mural (if it is not painted directly on the wall.)
- Applicant contacts the Economic Development Department staff when mural is completed in accordance with the approved project timeline or on a mutually agreed upon modification of the timeline.
- Applicant provides digital images of completed mural for the City’s public records.
- The City of Oregon City does not take responsibility for maintenance and preservation of murals in the city, unless placed on City-owned property.
- A mural placed on a private structure becomes the responsibility of the building/property owner.
- The property owner or the party so designated, is responsible for periodically monitoring the condition of the mural and facilitating its care and maintenance, assuming any costs associated with its maintenance, repair and/or removal. Murals not maintained properly may be subject to Code Compliance penalties and removal.
- If a mural needs to be repaired, the staff of the Oregon City Economic Development Department will contact the artist to make the repairs.
- Alterations or removal of the mural must be approved by the staff of the Economic Development Department.
- Alterations to or removal of, the mural within the first five years of the date of completion are permitted under the following circumstances:
 - The building on which mural is located is sold; or
 - The building or property is substantially remodeled or altered in way that precludes continuance of mural.

- Prior to the conclusion of the 5-year Easement Agreement, Applicant and the Economic Development Department staff will review the condition of the mural and file an extended Easement Agreement or make plans to remove the mural.

For Questions, contact:

Matthew Weintraub, *Tourism Development*, Economic Development Department
mweintraub@orcitey.org

Historically Designated Structures within Compatible Zones



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0 0.25 0.5 Miles

0 1,000 2,000 3,000 Feet

City of Oregon City
P.O. Box 3040
625 Center St
Oregon City, OR 97045
503-657-0891 phone
503-657-6629 fax
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Plot date: Dec 29, 2020
Plot name: Murals - Historically Designated Structures - 11x17P - 20201229.pdf
Map name: Mural Maps.aprx