



**City Council**

Mayor  
Brian Dalton

Council President  
LaVonne Wilson

Councilor  
Jim Brown

Councilor  
Jim Fairchild

Councilor  
Kelly Gabliks

Councilor  
Beth Jones

Councilor  
Jackie Lawson

Councilor  
Kevin Marshall

Councilor  
Murray Stewart

Councilor  
Ken Woods, Jr.

**Staff**

City Manager  
Ron Foggin

City Attorney  
Lane Shetterly

Community Development/  
Operations Director  
Jason Locke

Finance Director  
Cecilia Ward

Fire Chief  
Bill Hahn

Chief of Police  
John Teague

Engineering Director  
Fred Braun

City Recorder  
Emily Gagner

Recording Secretary  
Jeremy Teal

# Dallas City Council Agenda

Monday, February 4, 2013, 7:00 p.m.  
Mayor Brian Dalton, Presiding  
Dallas City Hall  
187 SE Court Street  
Dallas, Oregon 97338

## AMENDED

*All persons addressing the Council will please use the table at the front of the Council. All testimony is electronically recorded. If you wish to speak on any agenda item, please sign in on the provided card.*

<u>ITEM</u>	<u>RECOMMENDED ACTION</u>
1. ROLL CALL	
2. PLEDGE OF ALLEGIANCE	
3. COMMENTS FROM THE AUDIENCE <i>This time is provided for citizens to comment on municipal issues and any agenda items other than public hearings. The Mayor may place time restrictions on comments. Please supply 14 copies of the material brought to the meeting for distribution.</i>	
4. PUBLIC HEARINGS <i>Public comment will be allowed on items appearing on this portion of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.</i>	
5. CONSENT AGENDA <i>The following items are considered routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council member so requests, in which case the item will be removed from the Consent Agenda and considered separately.</i>	
a. Approve minutes of January 22, 2013, City Council meeting	p. 3
b. Approve appointments/reappointment to the Park Board	p. 6
6. ITEMS REMOVED FROM CONSENT AGENDA	
7. REPORTS OR COMMENTS FROM MAYOR and COUNCIL MEMBERS	
a. Mayor's State of the City address	
b. Report of the January 28, 2013, Administrative Committee Meeting (Councilor Fairchild)	p. 15
c. Report of the January 28, 2013, Building and Grounds Committee Meeting (Councilor Stewart)	p. 93
d. Other	

# Dallas City Council Agenda

## Page 2

### Our Vision

*Our vision is to foster an environment in which Dallas residents can take advantage of a vital, growing, and diversified community that provides a high quality of life.*

### Our Mission

*The mission of the City of Dallas is to maintain a safe, livable environment by providing open government with effective, efficient, and accountable service delivery.*

### Our Motto

*Commitment to the Community.  
People Serving People.*

Dallas City Hall is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to the City Manager's Office, 503-831-3502 or TDD 503-623-7355.

8. REPORTS FROM CITY MANAGER AND STAFF	
a. Discussion about joining the Oregon Main Street Program <span style="color: red;">p. 96</span>	Motion
b. Council Rules of Procedure revisions <span style="color: red;">p. 101</span>	Motion
c. Online Bill Payment <span style="color: red;">p. 136</span>	Motion
d. Transient Occupancy Tax 30% discretionary allocation for 2013 <span style="color: red;">p. 137</span>	Motion
e. Other	
9. RESOLUTIONS	
a. <u>Resolution No. 3261</u> - A Resolution authorizing the transfer of budgetary funds. <span style="color: red;">p. 139</span>	Roll Call Vote
10. FIRST READING OF ORDINANCE	
a. <u>Ordinance No. 1752</u> – An Ordinance defining chronic nuisance property, establishing the procedure and penalties therefore; and declaring an emergency. <span style="color: red;">p. 141</span>	First Reading
11. SECOND READING OF ORDINANCE	
12. OTHER BUSINESS	
13. ADJOURNMENT	

1 The Dallas City Council met in regular session on Tuesday, January 22, 2013, at 7:00 p.m. in the  
2 Council Chambers of City Hall with Mayor Brian Dalton presiding.

3 **ROLL CALL AND PLEDGE OF ALLEGIANCE**

4 Council members present: Council President LaVonne Wilson, Councilor Jim Brown, Councilor  
5 Jim Fairchild, Councilor Kelly Gabliks, Councilor Beth Jones, Councilor Jackie Lawson,  
6 Councilor Kevin Marshall, Councilor Murray Stewart, and Councilor Ken Woods, Jr.

7 Also present were: City Manager Ron Foggin, City Attorney Teresa Ozias, Chief of Police John  
8 Teague, Fire Chief Bill Hahn, Engineering and Environmental Services Director Fred Braun,  
9 Finance Director Cecilia Ward, City Recorder Emily Gagner, and Recording Secretary Jeremy  
10 Teal.

11 Mayor Dalton led the Pledge of Allegiance.

12 **COMMENTS FROM THE AUDIENCE**

13 Chelsea Pope, Executive Director of the Dallas Area Chamber of Commerce and Visitor's Center,  
14 119 SW Court St, Dallas, Oregon, stated that Sue Rohde had a book signing in the Civic Center  
15 for her new book about Dallas. Ms. Pope noted she hoped to have Ms. Rohde back at the Bounty  
16 Market this season.

17 Ms. Pope thanked the Fire Department for their service to the community.

18 **PUBLIC HEARINGS**

19 **CONSENT AGENDA**

20 It was moved by Councilor Marshall *to approve the Consent Agenda as presented.* The motion  
21 was duly seconded and carried unanimously.

22 **ITEMS REMOVED FROM THE CONSENT AGENDA**

23 **REPORTS OR COMMENTS FROM MAYOR AND COUNCIL MEMBERS**

24 **FIRE SERVICE APPRECIATION DAY PROCLAMATION**

25 Mayor Dalton explained the City annually observed Fire Service Appreciation Day and presented  
26 a proclamation declaring January 27, 2013, to be Fire Service Appreciation Day. He expressed  
27 his appreciation of the City's firefighters.

28 Councilor Fairchild asked about the clothing boxes around town. Mr. Foggin indicated staff  
29 would look into it.

30 Councilor Gabliks stated Saturday, January 26, 2013, was the Fire and EMS Awards Ceremony at  
31 the Readiness Center.

32 Councilor Lawson praised Sue Rohde for her efforts with her new book.

33 **REPORTS FROM CITY MANAGER AND STAFF**

34 Mr. Foggin reminded the Council about the goal-setting session on Saturday, February 23, 2013.

35 Mr. Foggin stated that State Transportation Improvement Program (STIP) would be deciding on  
36 transportation funds and it looked like the Godsey Road project would be getting funding.  
37 Councilor Woods reported that this was the first time Oregon Transportation Commission (OTC)  
38 had asked individual cities to submit projects for funding. He noted that the projects would be  
39 prioritized and submitted to Mid-Willamette Valley Area Commission on Transportation  
40 (MWACT) for final funding consideration.

41 **AUDITOR'S REPORT FOR FY ENDING 6/30/2012**

42 Kamala Austin, a partner with Merina & Company (M&C), stated that M&C had completed the  
43 audit of the financial statement and related disclosures of the City of Dallas. They issued the  
44 City's report on December 28, 2012, with a "clean opinion." She indicated the financial  
45 statements were submitted to the Government Finance Officers Association for the Certificate of

1 Achievement for Excellence in Financial Reporting.

2 Ms. Austin stated that there were no restrictions on the audit scope or disagreements with  
3 management. She noted there were no significant difficulties incurred during the course of the  
4 audit. She stated there were no new significant policies adopted or changes from policies  
5 previously adopted. She indicated that management judgments and accounting estimates were  
6 found to be appropriate in the circumstances and all estimates included depreciation, compensated  
7 absences payable, and allowance for doubtful accounts. M&C did not find any transactions  
8 entered into by the City during the year that lacked authoritative guidance. She noted there were  
9 uncorrected misstatements with a total financial effect of \$65,794 that management had  
10 determined the effect of the uncorrected misstatements was immaterial. She stated that total  
11 represented unbilled utility revenues and accrued wages on June 30, 2012 and there was a prior  
12 period adjustment related to interfund loans that was corrected for proper presentation of the  
13 financial statements.

14 Ms. Austin reported M&C tested the following in connection with the Oregon Minimum  
15 Standards: collateral, indebtedness, budgets, insurance and fidelity bonds, programs funded from  
16 outside sources, highway funds, investments, and public contracts and purchasing. She stated that  
17 there was no "noncompliance" that needed to be reported.

18 Ms. Austin indicated that during the course of the audit, M&C noted areas for improvement. She  
19 reported the City didn't have a formal training plan for teaching employees about ethical behavior  
20 and appropriate business practices. She indicated the City didn't have a fraud policy in place. She  
21 stated the City didn't have a written policy on authorized approvals for credit card and other  
22 expense reimbursement requests, except travel. She reported that the Administrative Rules for  
23 travel reimbursements required all employees using their personal cars for travel to provide proof  
24 of insurance and explained that was not being done. Ms. Austin advised credit card payment  
25 forms did not provide enough detail for the employee to explain the reason for the expense. She  
26 stated having this detail on the form would help the reviewer understand the appropriateness of  
27 the expense.

28 Councilor Woods asked how fiscal year-end money was dealt with. Ms. Austin stated that  
29 revenues for June wouldn't be billed and recorded until July. She noted the money was not  
30 material and would be recorded when the City received it, but for accounting purposes the City  
31 had earned that revenue and she needed to note it in the audit.

32 Councilor Brown asked if recommendations were tightened on regulations for auditors.  
33 Ms. Austin stated that recommendations were based on each year's numbers and these were the  
34 recommendations set for those transaction areas.

#### 35 APPROVAL OF ANNUAL OLCC LICENSE RENEWALS

36 Ms. Gagner noted that the Police Department had reviewed the list and had no concerns.

37 It was moved by Councilor Marshall *to recommend the OLCC to approve the annual license*  
38 *renewals*. The motion was duly seconded and carried unanimously with Councilor Woods and  
39 Councilor Lawson abstaining due to their conflict of interest.

#### 40 DECEMBER 2012 FINACIAL REPORT

41 Ms. Ward stated that the December financial report provided a look at the first six months of the  
42 fiscal year. She reported that the General Fund revenue had decreased and the water and sewer  
43 funds had increased. Ms. Ward indicated that Phase 1 of the recommended budget reductions had  
44 been implemented and were being monitored.

45 Councilor Gabliks asked if the ambulance fees were under budget by \$55,000. Ms. Ward stated  
46 that there was a \$50,000 budget increase in that line item for the current year. Councilor Gabliks  
47 clarified that even considering the budget increase the line item was still under budget by \$5,000.

#### 48 RESOLUTIONS

49 **Resolution No. 3260** – A resolution requesting a Change in the Boundary of the Dallas-  
50 Independence-Monmouth Enterprise Zone.

51 In response to a question Mr. Locke stated there would be no tangible effect to Dallas's taxes.

52 A roll call vote was taken and Mayor Dalton declared Resolution No. 3260 to have PASSED BY

1 A UNANIMOUS VOTE with Council President LaVonne Wilson, Councilor Jim Brown,  
2 Councilor Jim Fairchild, Councilor Kelly Gabliks, Councilor Beth Jones, Councilor Jackie  
3 Lawson, Councilor Kevin Marshall, Councilor Murray Stewart, and Councilor Ken Woods, Jr.  
4 voting YES.

5 **FIRST READING OF ORDINANCE**

6 **SECOND READING OF ORDINANCE**

7 **OTHER BUSINESS**

8 There being no further business, the meeting adjourned at 7:40 p.m.

Read and approved this \_\_\_\_\_ day of \_\_\_\_\_ 2013.

ATTEST:

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Mayor

Draft

# DALLAS CITY COUNCIL REPORT

**TO: MAYOR BRIAN DALTON AND CITY COUNCIL**

<i>City of Dallas</i>	<b>Agenda Item No. 5 b</b>	<b>Topic: Park Board Appointments</b>
<b>Prepared By:</b> Emily Gagner	<b>Meeting Date:</b> February 4, 2013	<b>Attachments:</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
<b>Approved By:</b> <i>RF</i>		

**RECOMMENDED ACTION:**

Approval of the Consent Agenda would approve the appointment/reappointment of Judy Boustead, Debbe von Blumenstein, and Andy Groh to the Park Board.

**BACKGROUND:**

Four Park Board members' terms expired on December 31, 2012. Of those four, only Judy Boustead was interested in remaining on the Board. After advertising the vacancies, we received applications from two people interested in serving. Because our Code states we are allowed to have a minimum of 11 and a maximum of 13 members on this Board, we will have enough members with the appointment of these three residents. Staff has reviewed the applications and feel all three applicants would be an asset to the Board.

**FISCAL IMPACT:**

None

**ATTACHMENTS:**

Committee Interest Forms for interested citizens



CITIZEN COMMITTEE INTEREST FORM

Name: Judy Boustead

Address: [Redacted]

Mailing Address: [Redacted]

Phone: Work: [Redacted] Home: [Redacted]

E-mail Address: [Redacted] Yrs as Dallas Resident: 20+

Occupation and Employer: Teacher, Dallas School Dist.

Employer's Address and Telephone: 11 SW Ash Dallas, TX

May we contact you at work?  Yes  No

- I am interested in serving on the following Committee(s):
- Budget Committee
  - Citizens Advisory Committee for the Comprehensive Plan
  - Economic Development Commission
  - Library Board
  - Parks and Recreation Board
  - Planning Commission
  - Urban Renewal District Advisory Committee
  - Utility Rate Advisory Group

I am interested in being on a waiting list if there are no current vacancies.

Please write a brief narrative describing your interest, qualifications, and what you hope to accomplish in this position. Include the skills, experience, and knowledge you possess that would help you contribute in this position. Feel free to attach a resume or other information you feel would be helpful.

I have been a member of the Dallas community for almost 30 yrs. I have taught and coached in Dallas Schools for 20 yrs. and have raised three children here. I am vested in the community, both its facilities and its people. I hope to be a part of solutions found to improve and increase recreational facilities and opportunities in our community.

**Educational Background**

High School: St. Michael  Graduated  GED

College: Augsburg, Mpls, Mn. Degree: BA

**Previous Volunteer/Committee Experience:**

*Previous/current member of Park and Rec Board*

Volunteer Agency: Christmas Cheer

Address: Dallas, OR. P.O. Box 661 Telephone: 623-38585

Duties: Board member.

Have you ever been convicted of a felony?  Yes  No

**AUTHORIZATION WAIVER**

I have completed the above questions and to the best of my knowledge, what has been stated is true. If appointed, I agree to serve without reimbursement of any kind. I understand that I may be subject to a criminal records check. I further understand that irrespective of any criminal records check, the City of Dallas may decline my volunteer application or volunteer services at any time.

Judy Boustead  
Applicant's Signature

1/2/13  
Date

*Please be advised members of the City Council and the Planning Commission are required to file an annual Statement Of Economic Interest with the State of Oregon. A sample reporting form is available from the City Records Office at 187 SE Court Street indicating the type of information you will be required to disclose if you are appointed.*

Please return completed application to:  
City Manager's Office  
City of Dallas  
187 SE Court St  
Dallas, OR 97338  
503-831-3502

.....  
Date received at City Hall: \_\_\_\_\_

Date appointed: \_\_\_\_\_

Board, Commission or Committee: \_\_\_\_\_



CITIZEN COMMITTEE INTEREST FORM

Name: Debbie J. von Blumenstein

Address: [Redacted]

Mailing Address: [Redacted]

Phone: Work: [Redacted] Home: [Redacted]

E-mail Address: [Redacted] Yrs as Dallas Resident: 5 yrs

Occupation and Employer: attorney - self employed

Employer's Address and Telephone: see above \*

May we contact you at work?  Yes  No

I am interested in serving on the following Committee(s):

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- Citizens Advisory Committee for the Comprehensive Plan
- Economic Development Commission
- Library Board
- Parks and Recreation Board
- Planning Commission
- Urban Renewal District Advisory Committee
- Utility Rate Advisory Group

I am interested in being on a waiting list if there are no current vacancies.

Please write a brief narrative describing your interest, qualifications, and what you hope to accomplish in this position. Include the skills, experience, and knowledge you possess that would help you contribute in this position. Feel free to attach a resume or other information you feel would be helpful.

SEE ATTACHED

**Educational Background**

High School: NORTH SALEM H.S.  Graduated  GED

College: Alaska Pacific Univ. Degree: B.A.  
Willamette Univ. College of Law J.D.

**Previous Volunteer/Committee Experience:**

Volunteer Agency: VORP, Chamber of Commerce

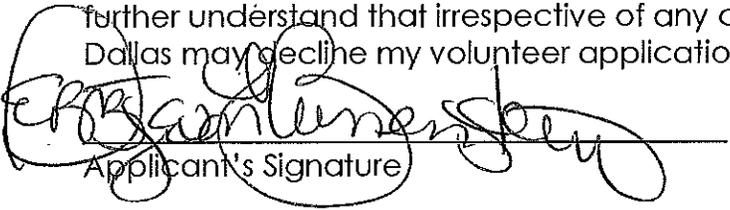
Address: 15 Salem Dallas Telephone: \_\_\_\_\_

Duties: Board of Directors (VORP) ; Events participant (C.O.C.)

Have you ever been convicted of a felony?  Yes  No

**AUTHORIZATION WAIVER**

I have completed the above questions and to the best of my knowledge, what has been stated is true. If appointed, I agree to serve without reimbursement of any kind. I understand that I may be subject to a criminal records check. I further understand that irrespective of any criminal records check, the City of Dallas may decline my volunteer application or volunteer services at any time.

  
Applicant's Signature

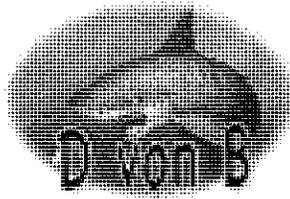
11-7-2012  
Date

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City of Dallas  
187 SE Court St  
Dallas, OR 97338  
503-831-3502

Date received at City Hall: \_\_\_\_\_ Date appointed: \_\_\_\_\_

Board, Commission or Committee: \_\_\_\_\_



**Debbe J. von Blumenstein**  
**Attorney at Law**

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██████████  
DALLAS OREGON 97338

E-MAIL: ██████████

[www.debbevonblumenstein.com](http://www.debbevonblumenstein.com)

TELEPHONE ██████████  
FACSIMILE (503) 831-2004

November 20, 2012

CITY MANAGER'S OFFICE  
CITY OF DALLAS  
187 SE Court Street  
Dallas OR 97338

**RE: CITIZEN COMMITTEE INTEREST  
for PARKS AND RECREATION BOARD**

**Statement of Interest:**

As an avid runner and cyclist (road racer from distances of 5K through half-marathon and a triathlete), I spend time in our parks, as well as living practically next door to Dallas City Park and spending much time in Rickreall Creek and in the "swimmin' hole". My interest also grows out of my love for Dallas and commitment that this is my home. I had my law practice in Dallas from 1998 to 2002 (in Salem after that) and then reopened it in Dallas in 2007 and have had it here ever since. I began my residency here in 2008 and bought my home here in 2010. Of interest, I bought my home from Eldon and Lois Bevans and Eldon before he passed was a great inspiration and role model for a citizen's commitment to the community. I feel he mentored me towards what a person's dedication to making a community even greater looks like, and as I like to tell folks: "We're not citizens here in Dallas, we are family."

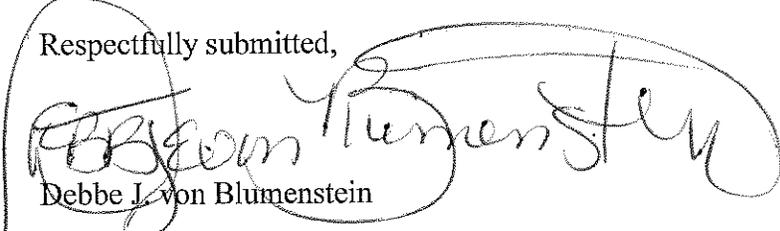
I am involved in many community events: the Chamber of Commerce, the annual parade, the annual community Halloween event, sponsorship of events including Sounds of Summer and a big supporter of the Bounty Market and the local small businesses. Most recently, upon hearing that the Chamber's holiday goal was to achieve 250 jars of peanut butter to give to the needy, I took it upon self to reach out to my contacts and I have been able to donate 125 jars of peanut butters and I am not done yet! I am also revitalizing a Neighborhood Watch for my neighborhood. With my love of Dallas and my energy and interests, this particular Board seems like a good match between my commitment to Dallas and my skills.

Those skills include organization, getting necessary feedback, working together for common goals, speaking, writing, research and advocating for good causes. My Juris Doctorate degree has given me a wide range of experiences in my practice where I work with people from vast backgrounds and needs. My Bachelors of Arts degree in Psychology/Human Resource Development also adds to the ability to communicate well toward achieving objectives, i.e, to go beyond goal setting to goal getting.

Besides my law practice, I also present seminars on an immense range of topics, as well doing stand up comedy, and I am a local, national, international published writer along with helping others to get published.

In sum, my vast experiences and well rounded-to-wide range of skills and activities, coupled with my commitment to achievement of goals, I believe makes me qualified to be a great contributor to this Board. Finally, any community Board must measure its success to what it brings to the people who utilize the services, in this instance, the parks and recreation of Dallas. To me, that is a top priority.

Respectfully submitted,



Debbe J. von Blumenstein



CITIZEN COMMITTEE INTEREST FORM

Name: ANDY GROH

Address: [REDACTED]

Mailing Address: \_\_\_\_\_

Phone: Work: [REDACTED] Home: [REDACTED]

E-mail Address: [REDACTED] Yrs as Dallas Resident: 13

Occupation and Employer: Civil Engineer City of Salem

Employer's Address and Telephone: 555 Liberty St SE Salem 97301  
503 588-6211

May we contact you at work?  Yes  No

I am interested in serving on the following Committee(s):

- Budget Committee
- Citizens Advisory Committee for the Comprehensive Plan
- Economic Development Commission
- Library Board
- Parks and Recreation Board
- Planning Commission
- Urban Renewal District Advisory Committee
- Gasification Facility Advisory Committee

I am interested in being on a waiting list if there are no current vacancies.

Please write a brief narrative describing your interest, qualifications, and what you hope to accomplish in this position. Include the skills, experience, and knowledge you possess that would help you contribute in this position. Feel free to attach a resume or other information you feel would be helpful.

I have been involved in design + construction of Parks in Salem, for 4 years as Project Manager and would like to bring my expertise to Dallas

**Educational Background**

High School: Crescent Valley Hs  Graduated  GED

College: OSU Degree: BSC-E

**Previous Volunteer/Committee Experience:**

Volunteer Agency: Lee Mission Cemetery

Address: \_\_\_\_\_ Telephone: \_\_\_\_\_

Duties: Secy/Treasurer

Have you ever been convicted of a felony?  Yes  No

**AUTHORIZATION WAIVER**

I have completed the above questions and to the best of my knowledge, what has been stated is true. If appointed, I agree to serve without reimbursement of any kind. I understand that I may be subject to a criminal records check. I further understand that irrespective of any criminal records check, the City of Dallas may decline my volunteer application or volunteer services at any time.

[Signature]  
Applicant's Signature

12/14/12  
Date

Please return completed application to:  
City Manager's Office  
City of Dallas  
187 SE Court St  
Dallas, OR 97338  
503-831-3502

Date received at City Hall: \_\_\_\_\_ Date appointed: \_\_\_\_\_

Board, Commission or Committee: \_\_\_\_\_

1  
2  
3 Members Present: Jim Fairchild, Chair; Kelly Gabliks, Kevin Marshall, Murray Stewart. Absent: Jim Brown  
4 Also Present: City Manager Ron Foggin, Mayor Brian Dalton, City Attorney Lane Shetterly, Finance  
5 Director Cecilia Ward, Community Development/Operations Director Jason Locke, City Recorder Emily  
6 Gagner, and Recording Secretary Jeremy Teal.

7 Chair Fairchild called the meeting to order at 6:05 p.m.

## 8 **COMMENTS FROM THE PUBLIC**

### 9 **COUNCIL POLICIES**

10 Ms. Gagner reviewed her staff report.

11 In response to a question, Mayor Dalton indicated rotating roll call would help with equity, so the same  
12 Councilor didn't always have to vote first or last.

13 Mr. Shetterly reviewed the Excused Absence policy. In response to a question, Ms. Gagner stated past  
14 practice was to excuse any Councilor who called or emailed prior to the meeting, but noted sometimes a  
15 Councilor would call to say he or she didn't feel like coming to a meeting and it was difficult to determine  
16 if that was an excused absence. Councilor Fairchild recommended rather than put the burden to decide if an  
17 absence was excused on a staff member, the staff could take it to the Council President or Mayor to make a  
18 determination.

19 Ms. Gagner pointed out she inadvertently omitted "Telephonic Participation" from the agenda, but it was  
20 discussed in her staff report. Mr. Shetterly stated that practice was allowed by statute, but the Council had  
21 no specific rule about it. He explained participation by telephone or other electronic media required that the  
22 audience members be able to hear the Councilor. He recommended including a policy on participation by  
23 telephone in the Council Rules.

24 It was moved by Councilor Gabliks *to recommend to Council adopt changes to the Council Rules of*  
25 *Procedure as discussed*. The motion was duly seconded and carried unanimously.

### 26 **ONLINE PAYMENTS**

27 Ms. Ward stated the Finance Department conducted a survey to get public feedback for online bill  
28 payments. She outlined the results and noted it was a good look at what customers wanted. She noted that  
29 she contacted other cities and their use of a similar program varied between 4% and 13%. Mr. Foggin  
30 stated that 22% to 40% was the normal community usage. Ms. Ward stated the 22% was a good goal to  
31 determine our cost for the service. She noted that the estimated cost of the service would be \$1,600 –  
32 \$1,800 a month from the Water and Sewer Funds for the online payment system. She stated that a minimal  
33 cost to the General Fund would apply as well because of Municipal Court payments. Mr. Foggin indicated  
34 by having the customers enter their own information it would allow the Finance Department staff to work  
35 on other projects. Ms. Ward stated that this would benefit the customers and the Finance Department.

36 In response to a comment, Mr. Foggin suggested that the City would not pass any convenience fee or ser-  
37 vice charge on to the customer. He noted that it was cheaper to take credit card payments than to have  
38 staff handle the mail. Councilor Stewart asked if the City incurred a cost. Mr. Foggin reported that the

1 trend in the market was to pay online and do away with the hard copy bill. He noted if a fee was set in  
2 place for a people that wanted a hard copy bill, they would migrate to electronic payments and statements.  
3 Councilor Stewart asked what the realistic goal was to get to the 40%. Mr. Foggin stated that in Lehi 40%  
4 of the population utilized the service. He noted that the idea behind it was less mail, no mistakes and the  
5 staff was free to work on other projects.

6 Councilor Marshall asked what the breakdown was for the cost per transaction. Ms. Ward stated that was a  
7 flat rate per transaction. Mr. Shetterly asked if Ms. Ward was recommending Xpress Bill Pay to the Coun-  
8 cil for approval. Ms. Ward stated that she had checked with other companies and Xpress Bill Pay was the  
9 only company that had a flat rate as opposed to percentages.

10 It was moved by Councilor Gabliks *to recommend to the Council to review and approve Online Bill*  
11 *Payments*. The motion was duly seconded and carried unanimously.

## 12 **VACANT BUILDING ORDINANCE**

13 Mr. Locke reported staff was directed to research a possible Vacant Building Ordinance to deal with the  
14 vacant commercial space downtown. He reported that chronic long term vacant commercial properties  
15 were a hindrance and caused a downturn in business. He noted that the City of Everett, Washington, had a  
16 program in place that specifically dealt with the issues of vacant buildings. He stated that Everett's program  
17 required owners to post signs on vacant buildings and required building registration every January 1. Ever-  
18 ett also had an increasing incentive fee to help assist with the utilization of the space. He noted that empty  
19 buildings in the central business district could put a damper on momentum for progress and it was time to  
20 have the people pay for the misuse or unwillingness to deal with the vacant commercial space downtown.

21 Councilor Stewart suggested taking an aggressive approach to get people to rent their buildings. Councilor  
22 Marshall asked if Everett was having success. Mr. Locke stated he had a conversation last year with staff in  
23 Everett and they were considering raising the fees and escalating the timelines, but overall the program was  
24 very effective.

25 Councilor Marshall asked when a building owner was seriously trying to sell the building if they would still  
26 have to pay the fines. Mr. Locke responded they would.

27 Councilor Gabliks stated that she agreed with the aspects of the Everett program and recommended  
28 forwarding to Council for approval.

29 Mr. Shetterly asked for clarification on timelines for the ordinance requirements and whether the  
30 ordinance should incorporate only the central business district or all commercial properties. The  
31 Committee indicated they would like to provide more time for registration and window displays than  
32 Everett. It was the consensus of the Committee to include all commercial properties. Mr. Locke indicated  
33 that would be accomplished by including everything in the Commercial General and Central Business  
34 District Zones.

35 Councilor Marshall left the meeting at 6:59 p.m.

36 Councilor Stewart asked how the City would get access to a building for inspections if the owner didn't  
37 live in Dallas. Mr. Shetterly noted the program focused on the external appearance of the building.

1 It was moved by Councilor Gabliks *to recommend to the Council to adopt the Vacant Commercial*  
2 *Building Ordinance and to adopt the fees by resolution.* The motion was duly seconded and carried  
3 unanimously among committee members present (Councilors Fairchild, Gabliks, and Stewart); Councilor  
4 Marshall did not vote.

## 5 **CHRONIC NUISANCE ORDINANCE**

6 Mr. Locke reviewed his staff report. He noted that a chronic nuisance was a combination of a number of  
7 defined nuisance activities, either criminal or civil, at a specific address in a specified period of time. He  
8 stated that the City currently didn't have an effective way to deal with these issues. He noted that the  
9 Chronic Nuisance Property Ordinance would identify a property based on criteria. He reported that a list of  
10 offenses, the frequency of the offense, and the repetitiveness would be mitigating factors. He reported that  
11 the proposed ordinance would allow the City to enter into a compliance agreement with the person respon-  
12 sible for the property and deal with them in a holistic manner to hopefully alleviate the problems. He stated  
13 that the cases would be handled by the Municipal Court, which gave the judge an opportunity to impose  
14 fines or penalties that addressed the root of the problem.

15 Councilor Marshall returned to the meeting at 7:03 p.m.

16 Councilor Stewart asked who would represent the City for the cases that went before the Municipal Court,  
17 what the costs involved would be. Mr. Shetterly stated that Moe Brown was on contract to represent the  
18 City and already handled the code enforcement cases. Councilor Stewart asked what the benefits would be  
19 to keep the cases here. Mr. Foggin replied that the Municipal Court cared about cleaning up the town. He  
20 noted that the hope was to have the process start and end in Dallas. Mr. Shetterly stated there was a time  
21 issue in Circuit Court, which could mean a long wait for our cases to be heard.

22 Councilor Gabliks noted that on page 69 under Attorney fees on (1) it didn't mention recovering attorney  
23 fees. Mr. Shetterly stated he would look into that.

24 Mr. Shetterly added that comments from Chief Teague would be added to the ordinance before it went to  
25 the Council.

26 It was moved by Councilor Gabliks *to recommend the Council adopt a Chronic Nuisance Property*  
27 *Ordinance.* The motion was duly seconded and carried unanimously.

## 28 **CHARTER UPDATES**

29 The Committee reviewed the staff report. Councilor Fairchild asked the Committee to think about citizens  
30 being a part of a committee to look at and review the Charter. Mr. Foggin commented he would like the  
31 Committee to think about the process that would be involved in updating the Charter. He also noted that  
32 the Committee would be looking at submitting the Charter updates to the voters for approval in November  
33 2014. Councilor Gabliks agreed with Councilor Fairchild and stated that the Committee should start on the  
34 process of a citizen committee to help assist with the Charter updates. Councilor Fairchild urged a very  
35 public campaign to get interested people on the committee.

36 Mr. Shetterly recommended directing staff to develop a work plan for updating the Charter and have them  
37 bring the work plan back to the Administrative Committee for discussion.

1 It was moved by Councilor Stewart *to direct staff to develop a work program to bring to the next commit-*  
2 *tee meeting for discussion.* The motion was duly seconded and carried unanimously.

3 **FINANCE DIRECTOR'S REPORT**

4 Ms. Ward stated that Mr. Nelson had directed staff to conduct a cost allocation study to determine how  
5 much money should be transferred from the Sewer, Water, Fleet, and Street Funds to the General Fund.  
6 She reported that Donovan Enterprises had conducted the survey. She provided the study results to all the  
7 committee members and noted that the study would be brought before the Budget Committee.

8 **OTHER**

9 **TRANSIENT LODGING TAX**

10 Ms. Pope stated that while working with Jon Nelson to determine where the 30% discretionary money was  
11 used, they found the majority of the money was given to the Dallas Area Chamber of Commerce (DACC)  
12 or the Dallas Area Visitor's Center (DAVC) to provide other services, projects, programs or events. She  
13 reviewed her work plan. She noted that the Board of Directors would like to increase internal contingency  
14 due to the fact that the majority of the funds were operating expenses. She noted that operating expenses  
15 were shared between DACC and DAVC.

16 Councilor Stewart asked how many of the events were recurring. Ms. Pope stated that most of the events  
17 were, but there were a few that hadn't been included in past years.

18 It was moved by Councilor Fairchild *to recommend the Council approve the Visitor's Center Work Plan*  
19 *for the Transient Lodging Tax 30% discretionary funding.* The motion was duly seconded and carried  
20 unanimously.

21 **ADJOURNMENT**

22 There was no other business and the meeting was adjourned at 7:26 p.m.



# Administrative Committee

## AGENDA

January 28,  
2013

6:00 PM

Council  
Chambers,  
Dallas City Hall,  
187 SE Court St,  
Dallas, OR  
97338

Chair Jim Fairchild  
Jim Brown  
Kelly Gabliks  
Kevin Marshall  
Murray Stewart

1. Call to Order
2. Comments from the Public
3. Council Policies
  - a. Rotating Roll Call
  - b. Staff report requirement for agenda items
  - c. Approved as to Form on resolutions, ordinances & contracts
  - d. Council absences
  - e. Telephonic Participation in Council meetings
4. Online payments
5. Vacant Building ordinance
6. Chronic Nuisance ordinance
7. Charter updates
8. Finance Director's Report
9. Other (Visitor Center work program for transient tax 30% discretionary funding)
10. Adjournment

# DALLAS CITY COUNCIL

## ADMINISTRATIVE SUBCOMMITTEE REPORT

**TO: COUNCIL ADMINISTRATIVE SUBCOMMITTEE**

<i>City of Dallas</i>	<b>Agenda Item No.</b> 3	<b>Topic:</b> Council Policies
<b>Prepared By:</b> Emily Gagner	<b>Meeting Date:</b> January 28, 2013	<b>Attachments:</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
<b>Approved By:</b> Ron Foggin		

**RECOMMENDED MOTION:**

Motion to recommend the Council adopt changes to the Council Rules of Procedure to implement a rotational roll call, staff report requirements for agenda items, “Approved as to Form” on resolutions, ordinances, and contracts, and add details on Council absences and participation in meetings by telephone or other electronic media.

**BACKGROUND:**

Mayor Dalton has suggested implementing a rotational roll call in the interest of fairness. This would allow a different person to vote first on each roll call vote in a Council meeting. A quick survey of other City Recorders showed that it was evenly split between a set roll call and a rotating or random roll call. This change would require a change to section 9.2 of the Council Rules of Procedure.

Council President Wilson had discussed with former Interim City Manager Jon Nelson a requirement that each agenda item have a staff report. This would help the Council better understand all agenda items prior to the Council meetings, and is actually something staff has been doing in recent months. However, a change to the Council Rules of Procedure would formalize the requirement.

A recommendation by former Interim City Manager Jon Nelson was a signature block on all resolutions, ordinances, and contracts for the City Attorney to sign that it was “Approved as to Form.” Again, to formalize this, we could make a change to the Council Rules of Procedure.

We have always allowed Councilors to participate in meetings via telephone if they are otherwise unavailable to attend a meeting. I would like to establish an express procedure for the conduct of and the participation and voting by Councilors in meetings by telephone or other electronic media (such as Skype, etc.).

Finally, while there is some guidance on what constitutes an excused absence by a Councilor for a meeting, the process for the Council determining an approved absence isn’t clear. In order to facilitate the recording secretary’s minute taking, further guidance would be helpful. The City Attorney could draft some language to add to section 4.9 of the Council Rules of Procedure to clearly spell out the process for determining if an absence is for good cause.

**FISCAL IMPACT:**

None

**ATTACHMENTS:**

Council Rules of Procedure

**\*\* In order to save space in the Council packet, the original Council Rules were removed from the Admin packet. A redline version showing the updates is included later in the packet.**

# DALLAS CITY COUNCIL

## ADMINISTRATIVE SUBCOMMITTEE REPORT

**TO: COUNCIL ADMINISTRATIVE SUBCOMMITTEE**

<i>City of Dallas</i>	<b>Agenda Item No.</b>	<b>Topic:</b> Online Payments
<b>Prepared By:</b> Cecilia Ward	<b>Meeting Date:</b> January 28, 2013	<b>Attachments:</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
<b>Approved By:</b>		

RECOMMENDED MOTION:

Forward to council for review and approval of online payments

BACKGROUND:

Beginning in January 2012, finance presented to the Administrative Committee the idea and concept of the city providing online payments as a service for utility customers and court defendants. In September 2012, the Administrative Committee approved staff to conduct an online payment survey. From October-December 2012, staff was able to gather surveys via the City's website and in person in the finance office. 161 surveys were received.

During this time, finance contacted two cities to inquire on the percentage of customers that use their online payment service. The two varied considerably, 4% and 13%.

We also contacted Xpress Bill Pay (a different vendor other than our software provider) that provides this service and they were able to provide us a quote and projections to help us in estimating our cost. Their usage projections are:

Usage Projections

Average projection methodology:

A full year's worth of transaction data from other Xpress Bill Pay customers which meet the following criteria:

- Bill between 4,000 to 6,000 accounts monthly
- Accept all 3 main transaction types: credit/debit card, EFT, and online banking consolidation transactions
- Processed payments via Xpress Bill Pay for an entire calendar year

Results for 16 organizations meeting the criteria above, combined averages:

- % of accounts paid via Xpress Bill Pay: 22.6%
- % of online payments that were credit/debit: 63.7%
- % of online payments that were EFT: 36.3%
- % of online payments that were Auto Pays: 42.8%
- % of accounts paid through online banking and consolidated via Xpress Bill Pay: 16.0%

Usage is key in determining cost of providing online payment service. With the assumption of Xpress Bill Pay projections, the cost of providing online payment service would be approximately \$1,600-\$1,800 per month.

FISCAL IMPACT:

Water and Sewer Funds:

Approximately \$1,600-\$1,800 per month with additional start-up costs

ATTACHMENTS:

Agenda/Minutes from January 23, 2012, Administrative Committee Meeting

Agenda/Minutes from September 24, 2012, Administrative Committee Meeting

Online Payment Survey with results

Customer and billing benefits of online payments

Quote and cost analysis from Xpress Bill Pay

## MEETING AGENDA

### ADMINISTRATIVE COMMITTEE

Monday, January 23, 2012

4:00 p.m.

LaVonne Wilson, Chair  
Beth Jones  
Jackie Lawson  
Wes Scroggin  
Murray Stewart

1. SW Academy Street Parking
2. SDC Discount Program
3. Online Utility/Court Payments
4. Sewer Connection Maintenance Ordinance
5. Sable House Sublease
6. Administrative Services Director's report
7. Finance Director's report
8. Other
9. Adjourn

# DALLAS CITY COUNCIL SUBCOMMITTEE REPORT

**TO: COUNCIL SUBCOMMITTEE**

<i>City of Dallas</i>	<b>Agenda Item No.</b> 3	<b>Topic:</b> Online Utility/Court Payments
<b>Prepared By:</b> Cecilia Ward	<b>Meeting Date:</b> January 23, 2012	<b>Attachments:</b> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>Approved By:</b> Jerry Wyatt		

RECOMMENDED MOTION:

Information Only

BACKGROUND:

Many cities offer their customers the option of paying their utility bills or court fines online. Currently the City of Dallas does not accept online payments. The finance office has had many inquiries regarding this service. Although this would be a great convenience to our customers, it would be a cost to the City. Tyler Technologies, our software provider, can accommodate online payments for approximately \$5,000 per year (customer pays \$1.25 per transaction/court defendant pays \$1.50 per transaction). In addition to the annual fee, the City would also incur a credit/debit card transaction fee just as we now have in the office.

An advantage to this service would be the capability of emailing the customer their utility bill rather than mailing or at least notifying them by email that their bill is available online.

This is a service that can be implemented at any time. If there is enough interest, we would implement it FY 2012-2013.

FISCAL IMPACT:

Yes, in FY 2012-2013

ATTACHMENTS:

None

1 Yolanda Zuger, a local realtor, stated she was confident reducing fees would allow Dallas to become  
2 competitive with areas like South Salem, where they were dropping prices. She noted this proposal  
3 should stimulate activity and get things going on the vacant lots in town that were starting to get over-  
4 grown.

5 Nancy Rogers, another local realtor, stated she knew of several builders who wanted to build a home for  
6 the home tour. She added this proposal would allow builders to get their fees down, which they would  
7 pass on to consumers, which would be very beneficial. She stated it would start momentum and help fill  
8 in subdivisions. She indicated if the City looked at it from the standpoint that though they were initially  
9 reducing revenue by cutting the SDCs, it wouldn't take long to make that up with the taxes that would be  
10 paid on the new homes.

11 Chad Woods, a local realtor, indicated he recently showed a lady several homes in Dallas and there was  
12 not one single-story home that fit her needs. He expressed his concern about cutting off the water SDC  
13 credit at homes smaller than 1700 square feet because a lot of three bedroom, two bath homes were over  
14 that amount, up to 2,200 square feet. He stated when homes were smaller than 1,700 square feet, builders  
15 tended to narrow doors, which made it more difficult for people with walkers to navigate.

16 Mr. Locke explained the 1,700 square foot limit was only for the forgiveness of half of the water SDC  
17 credit, noting all single family homes would receive the sewer SDC credit. He noted the water SDC size  
18 limit was partially tied to usage and capacity issues.

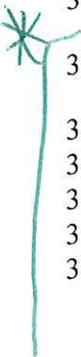
19 Councilor Wilson stated the proposal would benefit realtors and builders, noting it was beneficial for peo-  
20 ple who couldn't find what they wanted so they wouldn't go out of town. She added the Council would  
21 review it again in September to see what impacts there were.

22 There was discussion about how the timing would work for the SDC credit. Mr. Shetterly stated he and  
23 Mr. Locke could work out that issue, noting it would typically apply to when the SDC would be payable.

24 Councilor Lawson stated that along the idea of incentives, there were a lot of houses on the market and  
25 she wondered what the City could do to provide incentives for existing homes on the market. Mr. Wyatt  
26 explained there was nothing the City could do because that was all in the private sector.

27 Councilor Jones stated she was under contract to build a home with Fowler, and declared an actual con-  
28 flict of interest.

29 It was moved by Councilor Wilson and seconded by Councilor Lawson to recommend adoption of a reso-  
30 lution by the full Council to implement the proposed SDC discounts. The motion carried unanimously  
31 with Councilor Jones not voting due to her actual conflict of interest.



32 **Online Utility/Court Payments**

33 Ms. Ward stated she wanted to bring this topic to the Committee's attention. She noted customers fre-  
34 quently asked about online payments, adding that would be a service with a cost to the City. She indicat-  
35 ed the City could charge a transaction fee to the customers. She reported this could be worked into the  
36 budget if the Committee was interested. She added the City could email utility bills to the customers to  
37 see if there was interest.

1 Chair Scroggin indicated he had also received inquiries from citizens regarding online bill pay. Ms. Ward  
2 explained customers could go through their banks for automatic payments, but many were uncomfortable  
3 with that. She noted companies like Pacific Power and Northwest Natural allowed their customers to go  
4 to their website to pay directly from there. She advised many cities charged a transaction fee to pay  
5 online, adding Pacific Power and others were huge private companies so they could absorb the transaction  
6 fees.

7 Councilor Jones stated most people would expect to pay a transaction fee and recommended keeping utili-  
8 ty transaction fees at \$1.25 but increasing court fees to \$5 since they weren't paid as frequently.

9 There was discussion about the demand for the service and the costs to the City. Councilor Lawson asked  
10 if the City could take an e-check over the phone. Ms. Ward explained there weren't enough personnel in  
11 Finance to handle that.

12 Ms. Ward indicated she could work the cost of online bill pay into the budget if there was an interest. She  
13 noted customers would be able to view their bill and entire account history online. She added it would  
14 eventually save the City some money on postage because they could email customers and let them know  
15 their bill was available online. Councilor Lawson asked if this would save staff time. Ms. Ward stated  
16 she could envision that it would once customers got used to it.

17 Councilor Wilson expressed concerns over the City's exposure if the confidential information got hacked.  
18 Councilor Jones indicated Tyler would be responsible in that case. Mr. Shetterly stated he would need to  
19 look at the contract with Tyler to be sure.

20 Councilor Jones restated that court fines should cost \$5 for the transaction fee, noting if enough people  
21 paid their court fines online, it could reduce the utility bill transaction fee. Mr. Wyatt indicated the fees  
22 could always be changed. In response to a question, Ms. Ward indicated the fee for the first year with the  
23 initial start up would be \$5,600, but each subsequent year the fee would be less than \$5,000, depending on  
24 the number of customers.

25 Joe Koubek stated he paid every single bill online and didn't pay any transaction fees. He indicated no  
26 one would want to pay a transaction fee to pay their utility bill but did recommend charging a transaction  
27 fee for court payments. He advised e-delivery of utility bills would save postage.

28 Councilor Lawson indicated it was hard to implement something and then pull back if it didn't work. She  
29 stated she liked starting incrementally by first offering e-delivery of utility bills to see how many signed  
30 up for that. She recommended providing instructions for customers to pay their bills online through their  
31 bank. Councilor Jones asked how much was currently being spent on postage for utility bills. Ms. Ward  
32 replied it was about \$15,000 or so annually.

33 Chair Scroggin instructed Ms. Ward to check with other cities and bring the information to the Council.

#### 34 **Sable House Sublease**

35 It was moved by Councilor Wilson and seconded by Councilor Lawson to recommend to the full Council  
36 to direct the City Manager to enter in to a 10-year continuation of the Sable House sublease. The motion  
37 carried unanimously.



# Administrative Committee

## *POST Meeting AGENDA*

**September 24,  
2012**

**4:00 PM**

**Council  
Chambers,  
Dallas City Hall,  
187 SE Court St,  
Dallas, OR  
97338**

Chair LaVonne Wilson  
Beth Jones  
Jackie Lawson  
Wes Scroggin  
Murray Stewart

1. Call to Order
2. Comments from the Public  
Regarding Ms. Rogers' comments, staff will provide additional information to the Council once the SDC discount term is completed.
3. PEG Channel update  
Will be brought back to the committee after additional research
4. City Attorney contract  
On agenda under Reports from City Manager
5. Online payments discussion  
Staff will provide survey to customers and bring results back to committee
6. Charter Franchise IGA  
On agenda under Reports from City Manager
7. Administrative Services Director's Report
8. Finance Director's Report
9. Other
10. Adjournment

# DALLAS CITY COUNCIL

## ADMINISTRATIVE SUBCOMMITTEE REPORT

**TO: COUNCIL ADMINISTRATIVE SUBCOMMITTEE**

<i>City of Dallas</i>	<b>Agenda Item No.</b> <b>5</b>	<b>Topic:</b> Online Payments Update
<b>Prepared By:</b> Cecilia Ward	<b>Meeting Date:</b> September 24, 2012	<b>Attachments:</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
<b>Approved By:</b> Jon Nelson		

RECOMMENDED MOTION:

Approval to conduct online payment survey to walk-in customers

BACKGROUND:

In January 2012, finance presented to the Administrative Committee and the City Council the possibility of providing an online payment option for court and utilities through the city website. There were a few concerns that arose such as; charging the customer a minimal fee per transaction and the cost of providing service.

The finance office receives inquiries every month regarding this service. At this time, we would like to conduct a written survey within the office to walk-in customers to be able to understand what the customers would like to see through this service. We could also provide an online survey for our customers with a note about it on our utility bills.

FISCAL IMPACT:

None

ATTACHMENTS:

Online Payment Survey

**CITY OF DALLAS ONLINE ACCESS SURVEY**

- 1. Would you pay your bill online through our website if it was available?  
 Yes  No
- 2. How often would you use such a service?  
 Every month  Sometimes  Never
- 3. Would you be willing to pay a minimal fee to cover the charges associated with such a service?  
 Yes  No
- 4. Would you find it useful to be able to look up your account online to view your balance, payments and water consumption?  
 Yes  No
- 5. If it were available, would you prefer to get your monthly statement via email or in the mail?  
 Email  Paper Statement via US Postal Service

Additional Comments:

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**CITY OF DALLAS ONLINE ACCESS SURVEY**

- 1. Would you pay your bill online through our website if it was available?  
 Yes  No
- 2. How often would you use such a service?  
 Every month  Sometimes  Never
- 3. Would you be willing to pay a minimal fee to cover the charges associated with such a service?  
 Yes  No
- 4. Would you find it useful to be able to look up your account online to view your balance, payments and water consumption?  
 Yes  No
- 5. If it were available, would you prefer to get your monthly statement via email or in the mail?  
 Email  Paper Statement via US Postal Service

Additional Comments:

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**Administrative Committee**  
**Monday, September 24, 2012**

1 Members Present: Chair LaVonne Wilson, Beth Jones, and Wes Scroggin. Absent: Jackie Lawson and  
2 Murray Stewart.

3 Also Present: Interim City Manager Jon Nelson, Mayor Brian Dalton, City Attorney Lane Shetterly,  
4 Finance Director Cecilia Ward, Community Development/Operations Director Jason Locke, Director of  
5 Administrative Services Robert Spivey, and Recording Secretary Emily Gagner.

6 Chair Wilson called the meeting to order at 4:02 p.m.

7 **Comments from the Public**

8 Chair Wilson asked for comments from members of the audience.

9 Carol Christ indicated she wanted to tell the committee about a program for which she was the volunteer  
10 coordinator. She handed out information regarding "Start Making a Reader Today" or SMART, a copy of  
11 which is attached to these minutes and incorporated herein.

12 Nancie Rogers stated she had information for the committee regarding System Development Charges  
13 (SDCs). She handed out statistics and additional information regarding the SDC reduction, a copy of  
14 which is attached to these minutes and incorporated herein. She commented that she hoped the Council  
15 would review the information and reconsider renewing the reduction in SDC fees. Chair Wilson stated the  
16 SDC reduction would sunset on September 30 and the Council would wait for a staff report.

17 **PEG Channel Update**

18 Mr. Locke stated that since he put the staff report together, a couple things had come up that made infor-  
19 mation in the staff report not accurate. He asked the committee to give him some more time to do some  
20 research. He indicated it still stood that the City wanted a robust PEG (public education and government)  
21 channel that provided broadcasting information of interest to the residents of Dallas.

22 **City Attorney Contract**

23 Mr. Nelson reviewed the staff report. He explained when evaluating a city attorney, there were three key  
24 elements to look at including quality legal service, responsive attorneys, and cost effectiveness. He stated  
25 that in the City of Dallas's case, Mr. Shetterly provided those three key areas in a Grade-A fashion. He  
26 noted Mr. Shetterly had offered to provide the same service level at the same rate he'd had for the past  
27 several years.

28 Council President Scroggin asked if it was possible for Mr. Shetterly or the City wanted to bow out of the  
29 agreement before December 31, 2014 if that was desired. Mr. Shetterly explained it was a personal ser-  
30 vices contract, so it was terminable by either party.

31 It was moved by Councilor Jones and seconded by Council President Scroggin to recommend the Council  
32 approve the City Attorney services contract. The motion carried unanimously.

33 Chair Wilson stated she thought Mr. Shetterly had done an outstanding job for the City.

34 **Online Payments Discussion**

1 Ms. Ward stated this topic had first been brought to the committee in January and she didn't want it to fall  
2 through the cracks. She indicated staff did get inquiries every month from people wanting to make online  
3 payments. She stated one question staff had was the cost for the service, noting it depended on how many  
4 used the service. She suggested providing a survey for customers to get a better idea of what they would  
5 be looking for. She advised staff would make the survey available online as well as having paper copies  
6 available for walk-in customers and would advertise the survey on the utility bills.

7 It was moved by Council President Scroggin and seconded by Councilor Jones to authorize staff to con-  
8 duct an online payment survey. The motion carried unanimously.

#### 9 **Charter Franchise IGA**

10 Mr. Nelson reviewed the staff report.

11 It was moved by Councilor Jones and seconded by Council President Scroggin to recommend the Council  
12 approve an IGA with the City of Nehalem and other cities for joint negotiation of Charter Communica-  
13 tions franchises. The motion carried unanimously.

#### 14 **Administrative Services Director's Report**

15 Mr. Spivey reported four employees had left the City since his last report and four part time employees  
16 were hired in that time.

#### 17 **Finance Director's Report**

18 Ms. Ward reported the auditors were out the week of September 10 to complete their field work and it  
19 went smoothly. She explained the final report would be done by the end of December and the report  
20 would be presented to the Council by early in January. Ms. Ward stated she was pursuing a change from  
21 credit cards to purchase cards, which were similar but the purchase cards allowed more control by allow-  
22 ing her to set dollar limits and allow spending at specific vendors only. She noted purchase cards also  
23 provided rebates from the bank.

#### 24 **Other**

25 There was no other business and the meeting was adjourned at 4:23 p.m.

# Online Water Bill Survey Results

## 161 people surveyed

(October - December 2012)

Would you pay your utility bill online through our website if it was available?

Yes: 152

No: 9

How often would you use such a service?

Every Month: 142

Sometimes: 9

Never: 10

Would you be willing to pay a minimal fee to cover the charges associated with such a service?

Yes: 78

No: 83

If yes, how much would you be willing to pay for an online transaction?

Less than \$1:00: 43

\$1:00 to \$3:00: 34

More than \$3.00: 1

Would you find it useful to be able to look up your account online to view your balance, payments, and water consumption?

Yes: 150

No: 11

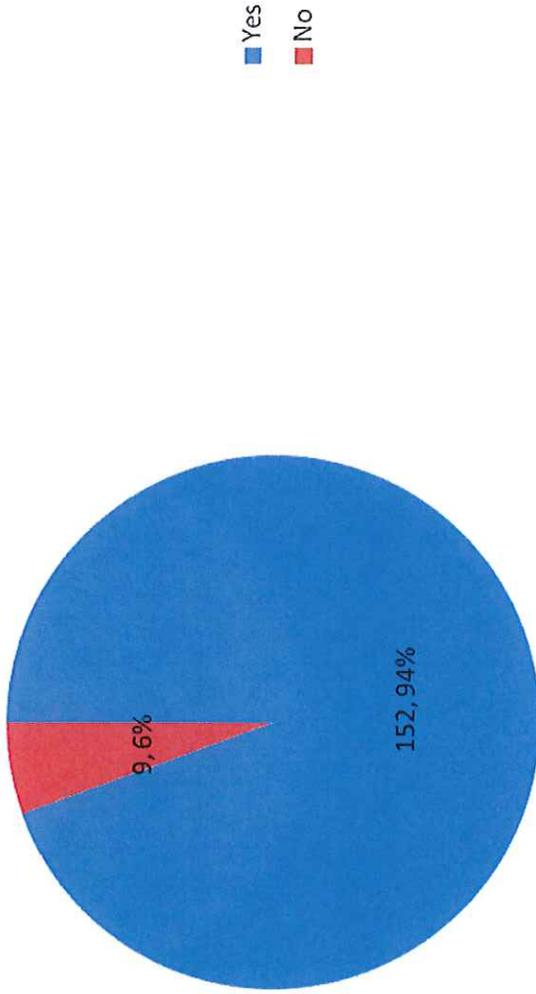
If the option was available, would you prefer to get your monthly statement via email?

Yes: 109

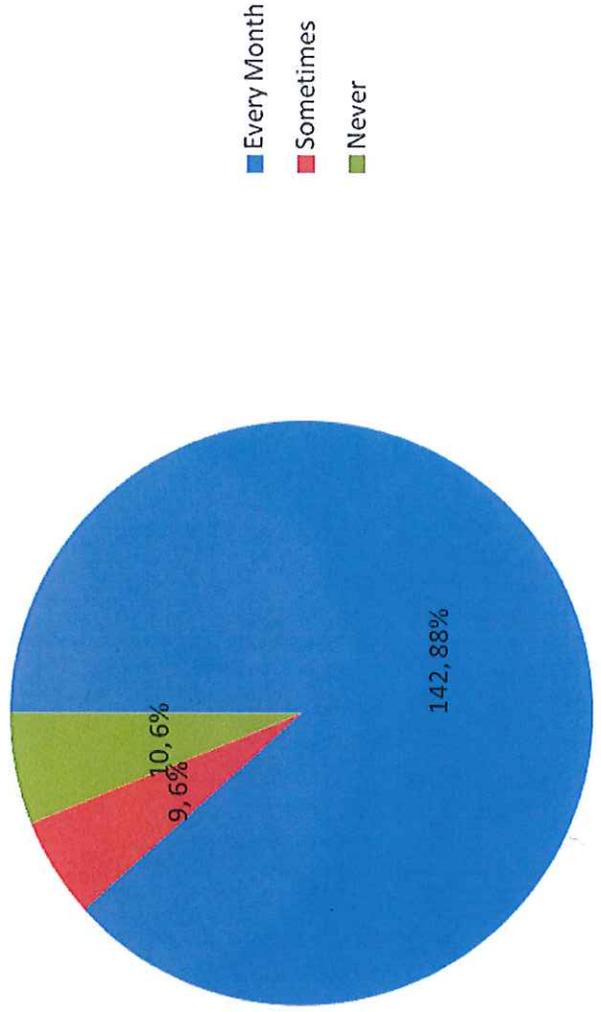
No: 52

1/24/2013

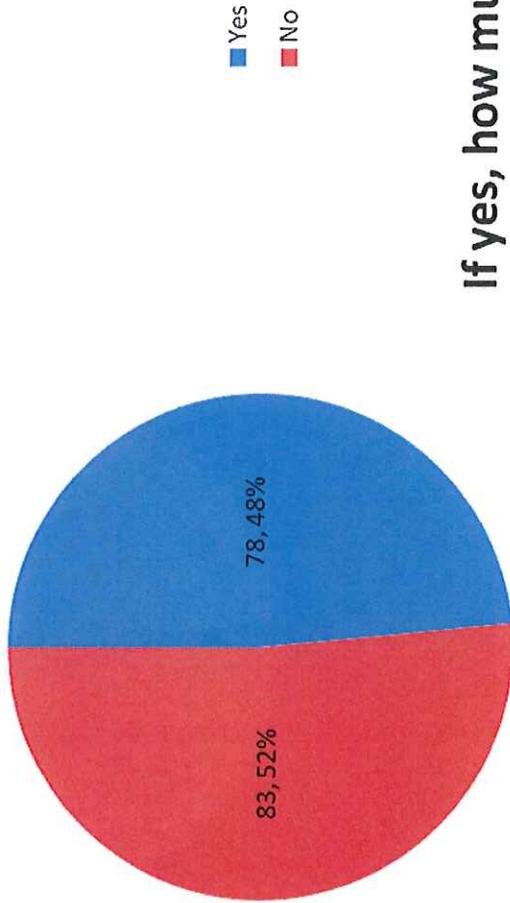
### Would you pay your utility bill online through our website if it was available?



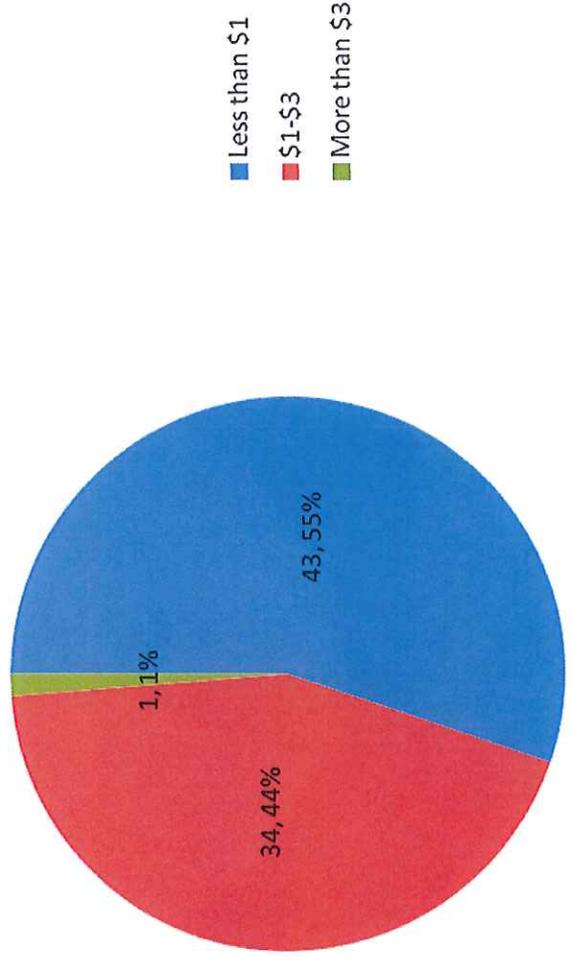
### How often would you use such a service?



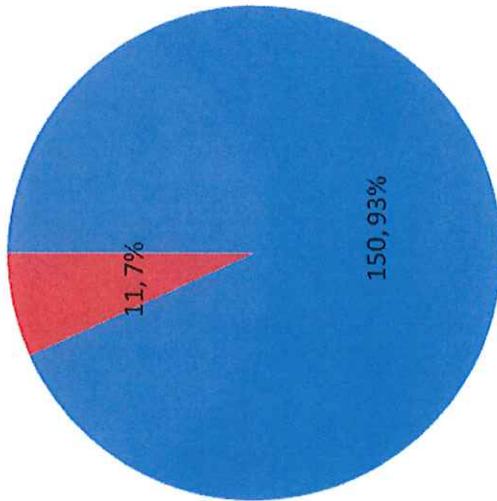
Would you be willing to pay a minimal fee to cover the charges associated with such a service?



If yes, how much would you be willing to pay for an online transaction?

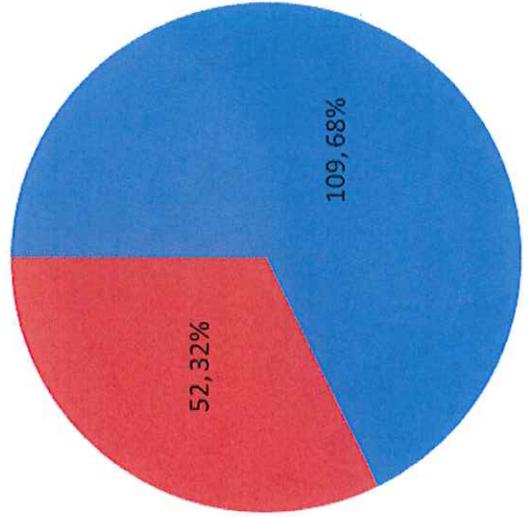


Would you find it useful to be able to look up your account online to view your balance, payments, and water consumption?



■ Yes  
■ No

If the option was available, would you prefer to get your monthly statement via email?



■ Yes  
■ No

# Customer Benefits

We just made your life more convenient!

---

Payments have never been this easy to accept or process. Give your customers the online payment they prefer, and make your life more convenient too. The Xpress Bill Pay system is designed to make bill pay easier than ever before.

## ▶ **A Modern Solution**

### **Easy to Use**

Customers receive their bills electronically with statements that are easy to view, understand, and pay online. In less time than it takes to address an envelope, customers can designate the payment date and send it in with a click.

### **Convenient**

Xpress Bill Pay lets your customers pay their bills 24/7 from any computer with Internet service. Customers are alerted when bills are due, have the ability to pay multiple bills in one transaction, and view a full

year's history online. You'll receive fewer late payments with features like Auto Pay and email reminders for bills that are due.

### **Flexible & Secure**

Customers pay with credit card, debit card, savings or checking accounts. Xpress Bill Pay uses the same high level of security as the leading online banking and financial institutions. All credit card and eCheck information is stored securely. Customers can even store multiple payment methods (such as other credit cards) if the first payment method fails.

# Billing Benefits

Your billing department will thank you!

---

Go Green! Give your customers environmentally friendly, paperless billing statements and give your billing department a break with more on-time, accurate payments. Now you can spend less time on mundane tasks and more time on customer service! You'll increase productivity and efficiency and see real-time results.

## ► Simplify Billing

### Reduced Workload

With the Xpress Bill Pay system your staff may avoid: opening envelopes, keying in credit card numbers, stamping the backs of checks, entering payments, deposits, bank trips, and additional document storage. Xpress Bill Pay can be used in any transaction: face-to-face, phone, or Internet.

### Happier Customers

Your customers have more payment choices, which adds to better customer relations. Customers can continue to use any payment method and have the ability to access their 12-month history online (example: seeing that an increase in utility usage is normal for the season).

### Safe and Accurate

Sensitive information (such as credit card numbers) are secured with our state-of-the-art encryption. You get industry-validated security used by leading financial institutions. Each user has access rights, which limits the information they can enter in the system. Your customers input their own information and you receive real-time transactions with no errors.

### Simple to Use

There is no special equipment required, no need to install any software or hardware, and best of all, the entire system is web based. You can access it anywhere, anytime. Enter the data once and your employees can be logged in all day, getting real-time feedback. Xpress Bill Pay provides world-class technical support by email and telephone if questions arise.

## City of Dallas

Cecilia Ward  
 187 SE Court Street, Dallas, OR 97338

Prepared By: Jared Swinford

Date: January 9, 2013

<b>Recurring Monthly Fees</b>
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<u>Qty</u>	<u>Description</u>	<u>Rate</u>
<b>1</b>	<b>Gateway Services Processing Fees</b>	
	Credit/Debit Card (per transaction)*	<b>\$0.22</b>
	EFT or eCheck Payment (per transaction)	<b>\$0.40</b>
	Online Banking Consolidation (per transaction)	<b>\$0.20</b>
	<i>*Merchant service fees from the card companies will be billed directly from the respective provider.</i>	
	<b>EFT Returned Items (if applicable):</b>	
	Invalid account or unable to locate account (per return)	<b>\$5.00</b>
	NSF, Account closed, or Account frozen (per return)	<b>\$10.00</b>
	Customer stop payment (per return)	<b>\$25.00</b>
<b>1</b>	<b>Support, Maintenance and Hosting Fee (per online customer bill)</b>	<b>\$0.015</b>
	Price includes: all end user and administration support via the Xpress Bill Pay toll-free 800 number, upgrades, hosting, and maintenance.	
<b>1</b>	<b>Monthly Statement Fee</b>	<b>\$19.00</b>
<b>TOTAL:</b>		<b>Based upon activity</b>

## Setup Charges

<u>Qty</u>	<u>Description</u>	<u>Price</u>
<b>1</b>	<b>Initial Setup, Configuration, and Development*</b> Price includes: Online Payment, Auto Pay, and Card Swipe Modules. You will have the ability to accept the following payments: credit/debit cards, electronic funds transfers (EFTs), and bank bill pays.  <div style="text-align: right;"> <b>Monthly Payment Option:                   \$99.00**</b>  <b>One Time Payment Option:               \$2,000.00</b> </div> <p><i>*Your organization will be responsible for verifying that you have all the software modules necessary from your accounting software provider for importing online transaction data.</i></p> <p><i>**The monthly payment option would be a recurring fee for the first 24 months, if chosen.</i></p>	
<b>1</b>	<b>On-site Training (One Time Payment)</b> Price includes: one 8 hour day of training. NOTE: You shall pay the daily rate of \$500.00 as well as reimburse roundtrip airfare and hotel. Typically only one 8 hour day of training is necessary.	<b>\$500.00</b> + airfare / hotel

**TOTAL: Based upon Payment Options chosen**

### Additional Services Available

Check Conversion

Lock Box

Interactive Voice Response (IVR) Payment

800 Operator Assisted Payment

Online Utility Service Signup Module

Online Business License Payment Module

Online Court Payment Module

Online Citation Payment Module

Online Registrations

Online Recreation - XpressRec.com

### Additional Equipment Available

Credit Card Swipe Terminal (per unit)

\$75.00

Check Conversion Scanners

Court Citation Scanner

*\*If you are interested in any of our additional services or equipment, please contact us for pricing.*

# City of Dallas

Projected Cost of Processing Payments via Xpress Bill Pay

Current Merchant Fees Paid	\$0.00
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Utility Bills:	
5,300	

Average Payment Amount:	
\$65.00	

Settled Batches:	
30	

Credit Card Transactions:	
1	

EFT Transactions:	
0	

Online Banking Transactions:	
0	

## MERCHANT SERVICE PROVIDER RATES (Estimated)

### UTILITY RATE

Credit Card Brands	\$0.75
Interchange Fee	0.11%
Assessment Rate	\$0.0195
Association Fee	

### Credit Card Processor

Discount Rate	0.250%
Authorization Fee	\$0.20
Batch Settlement Fee	\$0.20
Monthly Service Fee	\$5.00

### GOVERNMENT SERVICES RATE

Credit Card Brands	
Interchange Rate*	1.70%
Assessment Rate	0.11%
Association Fee	\$0.0195

### Credit Card Processor

Discount Rate	0.250%
Authorization Fee	\$0.20
Batch Settlement Fee	\$0.20
Monthly Service Fee	\$5.00

\*Rates vary depending on card type used, this is an estimated average interchange rate.

## GATEWAY FEES

### XPRESS BILL PAY RATES

Transaction Fees	
Credit Card Fee	\$0.22
EFT Fee	\$0.40
Online Banking Fee	\$0.20

### Monthly Fees

Hosting/Tech Support Fee*	\$0.015
Statement Fee	\$19.00
Recurring Setup Fees (if any)	\$0.00

\*Fee is per bill hosted online. However, there is a minimum charge per month if you have fewer than 5,000 bills hosted online.

# PROJECTED (AVERAGES)

Utility Bills:	
5300	

Average Payment Amount:	
\$65.00	

Settled Batches:	
30	

Credit Card Transactions:	
763	

EFT Transactions:	
435	

Online Banking Transactions:	
848	

## UTILITY RATE

<b>Credit Card Brands</b>	
Interchange Fees	\$572.25
Assessment Fees	\$54.55
Association Fees	\$14.88
<b>Credit Card Processor</b>	
Discount Fees	\$123.99
Authorization Fees	\$152.60
Batch Settlement Fees	\$6.00
Monthly Service Fee	\$5.00
<b>Total Merchant Fees</b>	<b>\$929.27</b>

## GOVERNMENT SERVICES RATE

<b>Credit Card Brands</b>	
Interchange Fees*	\$843.12
Assessment Fees	\$54.55
Association Fees	\$14.88
<b>Credit Card Processor</b>	
Discount Fees	\$123.99
Authorization Fees	\$152.60
Batch Settlement Fees	\$6.00
Monthly Service Fee	\$5.00
<b>Total Merchant Fees</b>	<b>\$1,200.14</b>

\*Rates vary depending on card type used, based on the estimated average interchange rate these are the estimated interchange fees.

## XPRESS BILL PAY RATES

<b>Transaction Fees</b>	
Credit Card Fee	\$167.86
EFT Fee	\$174.00
Online Banking Fee	\$169.60
<b>Monthly Fees</b>	
Hosting/Tech Support Fee*	\$79.50
Statement Fee	\$19.00
Recurring Setup Fees (if any)	\$0.00
<b>Total Xpress Bill Pay Fees</b>	<b>\$609.96</b>

\*Fee is per bill hosted online. However, there is a minimum charge per month if you have fewer than 5,000 bills hosted online.

<b>UTILITY RATE</b>	
Merchant Service Fees	\$929.27
Xpress Bill Pay Fees	\$609.96
<b>Total Monthly Cost</b>	<b>\$1,539.23</b>
<i>Cost per transaction</i>	<i>\$0.75</i>

<b>GOVERNMENT SERVICES RATE</b>	
Merchant Service Fees	\$1,200.14
Xpress Bill Pay Fees	\$609.96
<b>Total Monthly Cost</b>	<b>\$1,810.10</b>
<i>Cost per transaction</i>	<i>\$0.88</i>

<b>Current Merchant Fees Paid</b>	<b>\$0.00</b>
<i>Cost per transaction</i>	<i>\$0.00</i>



## Community Development Department

### Memo

**To:** Administration Committee  
**From:** Jason Locke, Community Development/Operations Director  
**Date:** January 28, 2013  
**Re:** Vacant Commercial Building Ordinance

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Staff was directed to prepare information on a possible Vacant Commercial Building Ordinance in 2011. At that time, the issue did not proceed. In doing the research, there appears to be some different approaches taken by cities, one of which involves the creation of a registration for vacant street-level storefronts and payment of an annual registration fee based on the amount of time the building has been vacant. This is a fairly straightforward approach.

Another approach has been taken in Astoria, who recently adopted an ordinance that requires that fees be paid for vacant buildings after 5 years as a way to encourage the use of those buildings for their intended purpose and to prevent blight and neighborhood degradation. (In Astoria, they have also adopted a building maintenance code)

Attached are some examples of the various approaches mentioned above for the committee to review.

If the subcommittee wants to proceed, staff would advise addressing these questions:

- 1) What is the problem we are trying to address? Maintenance or vacancy, commercial, industrial, or residential
- 2) Is a Vacant Building Ordinance/registration the way to address it?
- 3) Are there other ways to address the problem?
- 4) Is there community support?

ORDINANCE NO. 3127-09



An Ordinance Regulating Exterior Building Maintenance and Street-Level Vacant Commercial Space in the Central Business District, Adding a New Chapter to Title 16 of the Everett Municipal Code.

**WHEREAS**, the City Council of the City of Everett finds that the Central Business District (the "CBD") is an important center of retail commerce and that economic development should be encouraged in the CBD; and

**WHEREAS**, it is the purpose of this Ordinance to encourage commercial activity, including redeveloping rundown or unused property, promote a safe and vibrant streetscape, and protect the value of properties and businesses in the CBD; and

**WHEREAS**, poorly maintained buildings create the appearance of neglect, suggest that enforcement of codes and regulations is lax or non-existent, and foster blight and criminal activity, jeopardizing the health, safety and welfare of Everett's citizens; and

**WHEREAS**, street-level commercial space left vacant for long periods of time can diminish the value of neighboring properties and adversely affect nearby businesses and the character and vitality of the CBD and, if poorly maintained or not in a rentable condition, can become a cause of blight; and

**WHEREAS**, vacant commercial space causing blight in the CBD can attract nuisance and criminal activity that is a threat to the public health, safety and welfare; and

**WHEREAS**, these conditions discourage the development of retail commerce in the CBD; and

**WHEREAS**, well-maintained buildings suggest actively enforced codes and regulations and contribute to an environment that discourages criminal activity and protects property values; and

**WHEREAS**, it is the intent of the City Council that this Ordinance applies retroactively to commercial space that has been vacant for the 90 days preceding September 1, 2009, the effective date of this Ordinance;

**NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:**

**Section 1.** Scope

The provisions of this Ordinance apply to all structures in the Central Business District (B-3 zone), unless otherwise stated. All Responsible Persons (as defined in Section 3) shall comply with the requirements of this Ordinance.

**Section 2.** Administration

This Ordinance will be administered by the Building Official, who may adopt administrative rules and regulations consistent with its terms. The Building Official (and his designee), or Code Enforcement Officers, or both are authorized to enforce this Ordinance.

**Section 3.** Definitions

For the purposes of this Ordinance:

"City" means the City of Everett, its officers, employees, and agents.

"Central Business District" means the B-3 zone in the City of Everett as defined by the Everett Zoning Code, Everett Municipal Code Title 19.

"Commercial Space" means any portion of a structure in the Central Business District that is not intended for residential use.

"Occupied": A Commercial Space is considered occupied if a permitted, non-residential use is physically located and lawfully operating in the space for at least six consecutive months.

"Responsible Person" means any person, firm, association, corporation or any agent thereof, owning, leasing, renting or having lawful possession of a structure in the Central Business District.

"Vacant Commercial Space" means any portion of a street-level Commercial Space that, on or after September 1, 2009, is not occupied and has not been occupied during the preceding 90 days.

**Section 4.** General Minimum Maintenance Requirements

All Responsible Persons shall perform the following with respect to each structure they own, lease, rent or lawfully possess:

- A. Maintain all exterior surfaces, including but not limited to, doors, windows, door and window frames, cornices, porches, trim, balconies, decks, and fences, in good condition.

- B. Protect exterior wood surfaces, other than decay-resistant woods, from the elements and decay with paint or other protective covering or treatment. If protection of the surface is compromised, restore adequate protection within a reasonable time; for example, remove peeling, flaking or chipped paint and repaint the compromised surface.
- C. Cause all siding and masonry joints and joints between the building envelope and the perimeter of windows, doors, and skylights to be weather resistant and water tight.
- D. Coat all metal surfaces subject to rust or corrosion, except those designed to be stabilized by oxidation, to inhibit rust and corrosion, after first stabilizing any existing rust and corrosion. Remove oxidation stains from exterior surfaces.
- E. Maintain all exterior walls free from moss, algae, dirt, grime, holes, breaks, and loose or decaying materials. Weatherproof and properly coat the surface of all exterior walls when required to prevent deterioration.
- F. Maintain the roof and flashing of all structures so that they are sound, tight, free of moss, algae or defects that admit rain, attract pests or create a public nuisance. Maintain adequate roof drainage to prevent dampness and deterioration in the walls and inside the structure. Maintain roof drains, gutters, and downspouts in good repair and free from obstructions.

**Section 5.** Vacant commercial space registration

- A. At least one Responsible Person for each Vacant Commercial Space must register that space with the City within 10 calendar days of the date the space becomes "Vacant Commercial Space" as that term is defined in Section 3, unless:
  - 1. The space is the subject of a current, valid building permit for repair or rehabilitation and the responsible person provides proof, such as receipts, invoices or executed contracts, that the repair or rehabilitation is proceeding without significant delay; or
  - 2. The space meets all applicable codes and regulations that apply to a permitted non-residential use, and the responsible person is actively attempting to sell, lease, or rent the property (which is evidenced, in part, by appropriate signage); or
  - 3. The property the Commercial Space is located on is the subject of a land use application for redevelopment for which approval has been granted, but building permits have yet to be issued.

- B. A space will be considered to be registered on the date the City receives, on a form provided by the Building Official and properly completed and signed by a Responsible Person, the following information:
1. The street address and parcel number of the Vacant Commercial Space;
  2. The name, address, and daytime and evening telephone numbers of each Responsible Person for the Vacant Commercial Space, including any owner or tenant;
  3. The period of time the Vacant Commercial Space is expected to remain vacant;
  4. Any other information requested by the Building Official for the administration of this chapter.
- C. For every registered Vacant Commercial Space, a Responsible Person must record a notice that the space is registered with the City as a Vacant Commercial Space with the Snohomish County auditor. The notice must be approved by the Building Official, and a copy of the recorded notice must be received by the City no later than 30 days from the date the space is registered.
- D. A Responsible Person must post the following notice inside every Vacant Commercial Space so as to be clearly visible to all potential tenants, lessees, renters or buyers upon entering the space but not visible from outside the space:

This Vacant Commercial Space is registered  
with the City of Everett

This Vacant Commercial Space may not meet  
all applicable codes and regulations, which  
may include codes and regulations required to  
occupy the space for a permitted use in the  
Central Business District.

The Vacant Commercial Space was registered  
on [date]

- E. A Responsible Person must renew the registration of each Vacant Commercial Space on or before January 1 of each year that the space remains vacant. A Responsible Person must submit the renewal application to the City on forms provided by the Building Official.
- F. Upon satisfactory proof to the Building Official that the Vacant Commercial Space is occupied as defined in Section 3, the Vacant Commercial Space will be unregistered. Proof of physical occupation may include, but is not limited to, usable furniture, office equipment, retail inventory or other equipment and inventory in the space that are consistent with the unit's intended use, and persons regularly present at and using the space for its intended use. Proof of physical occupancy

must also include documentation, which may include, but is not limited to, a current, executed lease agreement, paid utility receipts reflecting payments for six consecutive months from the month the space is occupied, or valid state and local business licenses, federal income tax or City business and occupation tax statements indicating the subject space is the official business address of the person or business claiming occupancy.

- G. The determination of the number of Vacant Commercial Spaces a structure contains will be at the reasonable discretion of the Building Official.

**Section 6.** Window displays for commercial spaces not occupied for 30 days

When Commercial Space is unoccupied for more than 30 days, a Responsible Person must take steps to maintain a vibrant streetscape and avoid adverse impacts on neighborhood character by applying at least one of the following measures to all ground-floor windows that face sidewalks, streets, or public open space:

- a. Paint windows with visually appealing scenes depicting or suggesting business or cultural activities;
- b. Display works of art or provide other displays of cultural or educational value, using background panels or other methods to screen views from the street of the unoccupied space.
- c. Other measures consistent with these examples approved by the Building Official.

**Section 7.** Fees for vacant commercial space registration

- A. At least one Responsible Person shall pay an annual registration fee for each registered Vacant Commercial Space. At least one Responsible Person must pay the fee to the City at the time the space is registered and on January 1 of each year that the space remains vacant. The fee will be based on the duration of the vacancy as determined by the following scale:
  - 1. \$250 for each space vacant for less than one year;
  - 2. \$500 for each space vacant for at least one year but less than two years;
  - 3. \$750 for each space vacant for at least two years but less than three years;
  - 4. \$1000 for each space vacant for at least three years and for each year thereafter until the building is occupied.

- B. The fees are intended to defray the costs of administering sections 7 through 12 of this Ordinance and may be changed by resolution of the Council to meet these costs.

**Section 8.** Delinquent registration fees -- collection

If a Responsible Person fails to pay the registration fee by the due date, the City is authorized to take action to collect the registration fee, including filing civil actions or turning the matter over to collection, in which case costs incurred by the City as a result of the collection process will be assessed to the Responsible Person or Responsible Persons in addition to the registration fee.

**Section 9.** Duty to amend registration statement

Responsible Persons for any registered Vacant Commercial Space shall advise the Building Official, in writing, of any changes to the information on the registration form within 30 days of the occurrence of the change.

**Section 10.** Inspections

The Building Official (and his designee), or Code Enforcement Officers, or both are authorized to conduct inspections to enforce the provisions of this Ordinance.

**Section 11.** Enforcement

- A. Enforcement of the provisions of this Ordinance will be performed in accordance with Chapter 1.20 of the Everett Municipal Code.
- B. No Responsible Person may violate or fail to comply with any provisions of this Ordinance. Each Responsible Person commits a separate offense for each and every day they commit, continue or permit a violation of any provision of this Ordinance.
- C. All Responsible Persons for a Commercial Space are jointly and severally responsible with respect to that Commercial Space for compliance with the provisions of this Ordinance and for any payments that they may be required to make to the City under this Ordinance. If the Commercial Space is subject to a lease, the City shall have discretion to determine whether to enforce this Ordinance against the Commercial Space owner, the tenant or both of them, but the City shall consider in this determination whether the lease provides that the compliance with this Ordinance is the responsibility of the Commercial Space owner or the tenant.

**Section 12.** Annual Report

The Building Official shall make a report to the City Council in January of every odd year on the status of the Vacant Commercial Space Registration program.

**Section 13.** Severability

Should any section, subsection, paragraph, sentence, clause or phrase of this Ordinance or its application to any person or situation, be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to any other person or situation. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

**Section 14.** General Duty

It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

**Section 15.** Savings

The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

**Section 16.** Corrections

The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, Ordinance numbering, section/subsection numbers and any references thereto.

**Section 17.** Codification

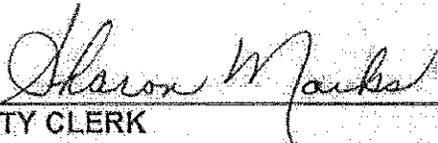
Sections 1 through 12 of this Ordinance shall be codified as a new Chapter in Title 16 of the Everett Municipal Code.

**Section 18.** Effective Date.

This Ordinance will become effective September 1, 2009.

  
\_\_\_\_\_  
Ray Stephanson, Mayor

ATTEST:

  
\_\_\_\_\_  
CITY CLERK

Passed: 6-10-09

Valid: 6-15-09

Published: 6-18-09

Effective: 6-30-09

**CITY OF HAGERSTOWN, MARYLAND**

**AN ORDINANCE TO AMEND THE CODE OF THE CITY OF HAGERSTOWN,  
BY ADDING A NEW CHAPTER 232, TO BE , ENTITLED  
*VACANT COMMERCIAL STRUCTURES*,  
WHICH CHAPTER PROVIDES FOR LICENSING AND INSPECTION OF VACANT  
COMMERCIAL STRUCTURES AND PENALTIES FOR A VIOLATION THEREOF**

**RECITALS**

WHEREAS, the City of Hagerstown is charged with promoting and ensuring public safety, health and welfare, and

WHEREAS, the Mayor and Council have found that the existence of vacant structures within the corporate limits lend themselves to the deterioration of said structures, reduction in property values, and pose an increased opportunity and risk of crime, fire, and health and safety hazards; and

WHEREAS, in order to ensure the safety of first responders and emergency personnel, to ensure the health and safety of the public in general, and to support property values within the corporate limits of the City, the Mayor and Council find it to be in the best of interests of the citizens of the City of Hagerstown to enact the following legislation;

NOW THEREFORE, BE IT RESOLVED, ENACTED AND ORDAINED by the Mayor and Council of the City of Hagerstown, Maryland, as its duly constituted legislative body as follows:

SECTION 1. The Code of the City of Hagerstown is hereby amended by adding thereto a new Chapter, to be Chapter 232, *Vacant Commercial Structures*, to read as follows:

**§232-1. Purpose.**

The purpose of this chapter is to promote and assure public safety, health and welfare, to prevent deterioration of vacant commercial structures in the C3 Zoning Districts of the City of Hagerstown, to support property values, and to encourage responsible management and use of vacant commercial structures through licensing and inspections.

**§232-2. Definitions.**

- A. CITY – City of Hagerstown, Maryland.
- B. COMMERCIAL STRUCTURE – Any structure in a C3 Zoning District that contains one or more street level commercial spaces, including, any such structure that contains other space(s) on upper level(s) used for any purpose.
- C. DEPARTMENT – The Engineering and Inspections Department of the City.
- D. OWNER – Any person, partnership, association, company, corporation or other entity having a legal or equitable interest in or control of a vacant commercial structure, excluding a mortgagee or lien holder. Owner shall also mean any person who, alone,

0-06-34

jointly or severally, shall have the charge, care, or control of any vacant commercial structure as executor, administrator, trustee or guardian of the estate or person of the owner. Owner shall also mean any person having any interest in a partnership, association, company, corporation, or other entity which owns or has any ownership interest or control of a vacant commercial structure. Any person, firm, partnership, association, company, corporation or other entity whose name appears on the deed or property tax bill for the premises of a vacant commercial structure.

- E. PREMISES – Any single parcel or lot of real property in the City, including the land and all improvements or structures, upon which a vacant commercial structure is located.
- F. VACANT COMMERCIAL STRUCTURE – Any commercial structure that contains one or more vacant street level spaces that have not been occupied for a commercial purpose for a continuous six (6) month period. Vacant Commercial Structure shall also mean a structure with a vacant upper level as defined herein. For calculation of the continuous six (6) month period required to satisfy the definition of Vacant Commercial Structure, the following periods of time shall not be included: (i) the one (1) year period immediately following the issuance of a use and occupancy permit for new construction; and (ii) any period of time during which active work is being legally performed pursuant to a valid permit issued by the City.
- G. VACANT UPPER LEVEL – Any Commercial Structure that does not contain street level vacancies pursuant to §232.2.F., but in which at least 50% of the upper level spaces have been vacant for a continuous six (6) month period.

#### §232-3. Vacant Commercial Structure License Required.

It shall be unlawful for the owner(s) of any vacant commercial structure to fail to apply for and obtain a Vacant Commercial Structure License and abide by the inspection requirements contained in this Chapter.

#### §232-4. Application; License Fee.

In addition to the inspection requirements of Section 232-5 of this Chapter, an applicant for a Vacant Commercial Structure License shall provide the following information for each vacant commercial structure on the appropriate application form provided by the Department.

- A. The address of the vacant structure.
- B. The number and location of the spaces contained in the structure.
- C. The name, street, address, and telephone number of all owners of the vacant structure.
- D. If the owner of the vacant commercial structure is not an individual, the applicant shall provide the name, street address, resident agent, resident agent address and telephone number.
- E. The name, street address and telephone number of a designated contact person for the owner(s).
- F. Except for vacant commercial structures which are deemed so solely by virtue of having a vacant upper level, a non-refundable annual license fee pursuant to the following schedule for each vacant commercial structure:

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<u>Period of Time Continuously Vacant</u>	<u>Annual License Fee</u>
6 months to 2 years	\$ 250.00
over 2 years to 4 years	\$ 500.00
over 4 years	\$1,000.00

**§232-5. Inspection.**

In connection with the application requirements contained in Section 232-4 of this Chapter, the exterior and interior of the vacant structure shall be inspected in accordance with the following schedule:

<u>Period of Time Continuously Vacant</u>	<u>No. of Annual Inspections</u>
6 months to 2 years	1
over 2 years to 4 years	2
over 4 years	4

All inspections conducted hereunder shall be conducted by the Department and shall be performed pursuant to the standards then currently adopted. Interior inspections shall be limited to the vacant portion(s) of the structure for compliance with all applicable property maintenance, fire and other City codes for vacant, unoccupied structures.

**§232-6. Issuance of license; renewal.**

Upon receipt of a completed application form, full payment of the appropriate fee and completed inspection revealing compliance with all applicable code sections, the Department shall issue a license for the subject vacant commercial structure. Said license shall expire on its anniversary date, and shall be renewable annually, with application for said renewal being made at least 60 days prior to the expiration date of the then current license. License renewal shall be made on the form provided by the Department.

**§232-7. Denial; Revocation or Suspension.**

A vacant commercial structure license may be denied, revoked or suspended at any time by the Department if, after receipt of a notice of violation, the owner fails to eliminate violations of the applicable code sections identified during any inspection within the time ordered in the notice. Denial, revocation or suspension of a vacant commercial structure license shall be in addition to, and not in substitution of the penalties provided for in Section 232-9 of this Chapter.

**§232-8. Severability.**

The provisions of this Chapter are severable. If any provision of this Chapter or its application to any person or circumstance is held to be invalid, such invalidity shall not effect the other provisions or applications of this Chapter which can be given effect without the invalid provision or application.

0-06-34

**§232-9. Violations and Penalties.**

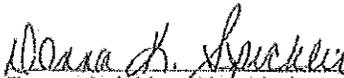
In addition to the sanctions outlined in §232-7 hereof, any owner violating the provisions of this Chapter shall be guilty of a municipal infraction and subject to a fine of up to one thousand dollars (\$1,000.00). Each day a structure is not in compliance with this Chapter shall be deemed a separate and distinct violation.

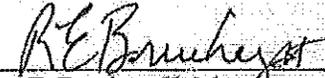
**SECTION 2. Effective Date.** This Chapter shall become effective immediately upon the effective date of this enacting Ordinance.

**BE IT FURTHER RESOLVED, ENACTED AND ORDAINED** that this enacting Ordinance shall become effective at the expiration of thirty calendar days following its approval.

WITNESS AND ATTEST  
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE CITY  
OF HAGERSTOWN, MARYLAND

  
Donna Spickler, City Clerk

By:   
Robert E. Bruchey, II, Mayor

Date of Introduction: November 28, 2006  
Date of Passage: December 19, 2006  
Effective Date: January 19, 2007

PREPARED BY:  
Urner, Nairn & Boyer, LLC, City Attorneys

0-06-34

## **CITY OF ASTORIA**

### **5.680 Vacant Buildings**

#### **A. Purpose.**

Vacant buildings are a cause and source of blight in both residential and non-residential neighborhoods, especially when the person in charge of the building fails to actively maintain and manage the building to ensure that it does not become a liability to the neighborhood. Vacant buildings discourage economic development and retard appreciation of property values. Vacant buildings are potential fire hazards and can jeopardize the ability of owners of neighboring property from securing or maintaining affordable fire insurance. Vacant buildings cause increased need for police protection due to misuse of the property by persons not having permission or right to use the property. It is the responsibility of property ownership to prevent owned property from becoming a burden to the neighborhood and community and a threat to the public health, safety, or welfare. One vacant building which is not actively and well maintained and managed can be the core and cause of spreading blight.

#### **B. Maintenance and Security Requirements.**

In addition to the maintenance standards in Sections 5.670 to 5.678, the person in charge of a vacant property and/or building shall comply with the following maintenance and security requirements:

1. The building and/or property shall be kept free of any accumulation of newspapers, circulars or flyers, graffiti, discarded items including but not limited to furniture, clothing, appliances, or any other items that give the appearance that the property or building is vacant.
2. The building and/or property shall be secure so that it is not accessible to unauthorized persons, including but not limited to the closure and locking of windows and doors (walk through, sliding, and garage) and any other opening of such size that may allow a child to access the interior of a structure; chaining or padlocking gates, and repairing fencing.
3. Broken windows and/or doors shall be secured by means of reglazing with undamaged glass or other approved permanent material, and not by cardboard, plywood, or other temporary means except as necessary temporarily for not more than three months while awaiting reglazing.
4. If the person in charge of the property or building is an entity or does not reside within 50 miles of the City limits, the person in charge shall contract with or otherwise engage a person to provide property management to perform inspections to verify that all requirements of this ordinance, enforcement notice, and any other applicable laws are being met.
5. The property shall be posted with name and 24-hour contact phone number of the owner, person in charge, or a local property management representative. The posting shall be no larger than

18" X 24" and shall contain the words "THIS PROPERTY MANAGED BY . . ." The posting shall be secured to the exterior of the building or placed in a location on the property so it is visible from the street.

6. Vegetation around the building shall be pruned back from the walls to allow good airflow and security visibility. Overhanging dead tree limbs and branches shall be removed.
7. Buildings located in commercial areas shall have some street presence by the display of goods in the storefront windows, interpretive displays, or some other activity that give the appearance of the building being occupied. Displays in vacant buildings shall be reviewed and approved by the Community Development Director prior to installation. Displays shall be reviewed for the following:
  - a. The goods and/or interpretive displays should encompass a minimum of approximately 25% of the window area.
  - b. The displays shall be maintained in good condition and not faded or deteriorated.
  - c. Content of the displays shall be in compliance with allowable uses within the zone.
  - d. Displays shall comply with the requirements of the Sign Code if applicable.

#### C. Long Term Vacant Buildings.

If a property is determined to be vacant for more than five years, the property may be subjected to a fee as established by Resolution.

1. A building is deemed to be a Long Term Vacant Building if the following has occurred for a period of five years or more, including the years prior to adoption of this Code as verified by City records or other documentation:
  - a. Utilities have been turned off or not in use; or
  - b. Building has been boarded up or secured against any regular use entry; or
  - c. Building is in disrepair to a state that is obviously not habitable; or
  - d. Building is not in compliance with the Maintenance and Security Requirements of Section 5.680.B above; or
  - e. Building has not been legally occupied, regardless of the condition of the building.
2. Exception.
  - a. The person in charge has obtained a building permit and is progressing diligently to repair the building for occupancy; or
  - b. The building meets all applicable codes, including the Property Maintenance Standards, and is actively being offered for sale, lease, or rent; or

- c. The Community Development Director may approve an exception based on a written finding that there is a benefit to the community in the building remaining vacant such as, but not limited to, historical significance of the building interior that prevents current use of the building, use of the building that serves a current or future need of the business and/or property owner, etc. and provided that the building is maintained to the standards as identified in the Property Maintenance Code.

#### D. Enforcement and Fees.

After a determination that a building is deemed a Long Term Vacant Building, the City shall notify the person in charge of the property of the following requirements:

1. Repair and/or Use of Property.

The building shall be repaired to a useable condition and shall be offered for sale, lease, or rent, or shall be legally occupied; and

2. Fee Payment.

There is imposed upon the person in charge of a vacant building pursuant to this Code, an annual Vacant Building Fee in an amount as established by resolution. The fee shall be payable for any building vacant for more than five consecutive years. Regardless of an imposition of a fee, the building shall be repaired to a useable condition.

Payment shall be in accordance with the following procedures:

- a. Payment is due within 30 days of the date the City notifies the person in charge of the property of the Long Term Vacant Building determination. Payment for additional years shall be due on the same due date as the first year's determination.

- b. Failure to pay the fee by the due date shall result in a 10% per month penalty up to a maximum of double the fee each year. If payment is not received by the end of the year in which it is due, it may be turned over to a collection agency, become a lien on the property in accordance with this Chapter, or be subject to any other enforcement available to the City.

3. Waiver of Fee.

The Vacant Building Fee shall be waived if the person in charge of the property makes the necessary repairs and offers the building for sale, lease, or rent as follows:

- a. During the first year of imposition, the full amount of the fee may be waived; or

- b. During subsequent years of imposition, an amount equal to the cost of improvements may be waived upon submittal of a request to the Community Development Director with copies of receipts for work completed. The City may retain a portion of the fee for administrative costs.

RESOLUTION NO. 11-01

A RESOLUTION OF THE CITY OF ASTORIA RELATING TO FEES FOR SERVICES.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASTORIA:

Section 1. Authority for Fees. The various departments of the City incur expenses in searching for and furnishing copies of records, reports and documents, and providing special services for private individuals and private concerns. The City Council deems it advisable, for the efficient conduct of the affairs of the various departments, that reasonable fees be charged for furnishing such records, reports, documents and services. A deposit may be requested in advance of providing the requested information.

Section 2. Schedule of Fees. The schedule fees as adopted in Schedule C, established by Resolution 05-01, adopted January 18, 2005, effective February 18, 2005, is hereby amended by the addition of the following fees:

"Nuisance Enforcement

In addition to the fines as established in City Code Section 1.010, the following fines, fees, and charges shall apply to the enforcement of nuisances. All fines, fees, charges, and costs collected in the enforcement of nuisances shall be deposited in the Nuisance Abatement Fund for use in the on-going abatement of nuisances, including but not limited to conducting the repair work, legal fees, purchase of properties, etc.

Long Term Vacant Building Fee

Commercial, first year declared .....	\$1,000.00
Commercial, second year .....	\$3,000.00
Commercial, third year .....	\$5,000.00
Commercial, subsequent years beyond three .....	\$7,000.00
Residential (one or two family), first year declared .....	\$300.00
Residential (one or two family), second year .....	\$500.00
Residential (one or two family), third year .....	\$800.00
Residential (one or two family), subsequent years beyond three .....	\$1,000.00

Citation for Nuisance - In addition to any other sentence or fine that may be imposed, the court shall impose a mandatory minimum fine per day. For purposes of minimum fines imposed, an offense may have multiple citations before it is deemed to be resolved, after which subsequent enforcement actions would be deemed separate offenses.

The minimum fine shall be as follows:

First offense within a calendar year .....	\$100.00
Second offense within a calendar year .....	\$200.00
Subsequent offenses within a calendar year .....	\$300.00

Reinstatement of each suspended permit, license, etc. .... \$250.00

Appeal of Chronic Nuisance determination ..... \$400.00

Appeal to City Council of Property Maintenance or Vacant Building violation determination .....\$150.00

Housing Receivership Administrative Fee .....Actual Costs to Process (court filing fees, attorney fees, staff time, etc.)”

Section 3. Effective Date. The provisions of this Resolution shall become effective on March 1, 2011.

ADOPTED BY THE COMMON COUNCIL THIS 7th DAY OF February, 2011.

APPROVED BY THE MAYOR THIS 7th DAY OF February, 2011.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Paul Benoit, City Manager

ROLL CALL ON ADOPTION:                    YEA                    NAY                    ABSENT

Commissioner      LaMear  
                             Roscoe  
                             Mellin  
                             Warr

Mayor Van Dusen



**CITY OF DEARBORN, ECD - COMMERCIAL SERVICES DIVISION, 4500 Maple Suite 1, Dearborn, MI 48126 - Phone: 313-943-2133 -- Fax: 313-943-3023**

**COMMERCIAL VACANT PROPERTY REGISTRATION FORM**

The purpose of this ordinance is to enhance the economic viability of business districts, promote their marketability, build neighborhood integrity, avoiding the creation and maintenance of nuisances and identifying unsafe and unsanitary maintenance issues of commercial and industrial buildings.

- A building or structure that is considered vacant when it is not currently occupied, or not legally occupied (No C of O).
- Commercial property must be registered within 90 days of vacancy.
- Registration fee is \$150.00 annually, payable to "City of Dearborn." **CR Code: VR**
- The above fee includes 1 full year of Field Inspection monitoring for property maintenance & safety issues.
- If a property maintenance issue or safety issue is identified, you will be contacted by a Field Inspector for resolution.

First Notification

Revised Information

PROPERTY ADDRESS			
Dearborn, MI <input type="checkbox"/> 48120 <input type="checkbox"/> 48124 <input type="checkbox"/> 48126 <input type="checkbox"/> 48128			
PROPERTY OWNER			
NAME			
ADDRESS			
CITY	STATE	ZIP	
PHONE NUMBER		E-MAIL ADDRESS	
PROPERTY MANAGER			
NAME			
ADDRESS			
CITY	STATE	ZIP	
PHONE NUMBER		E-MAIL ADDRESS	
EMERGENCY CONTACT			
<input type="checkbox"/> Property Owner <input type="checkbox"/> Property Manager <input type="checkbox"/> Other -- Name _____ <div style="text-align: right;">Phone Number _____</div>			
UTILITY STATUS			
Gas: <input type="checkbox"/> Disconnected <input type="checkbox"/> In Proper Working Order <input type="checkbox"/> Other-Explain _____			
Electric: <input type="checkbox"/> Disconnected <input type="checkbox"/> In Proper Working Order <input type="checkbox"/> Other-Explain _____			
Water: <input type="checkbox"/> Disconnected <input type="checkbox"/> In Proper Working Order <input type="checkbox"/> Other-Explain _____			
AUTHORIZATION			
By signing and submitting this document, I am authorizing the City of Dearborn to utilize this information, certifying that I have the legal authority to do so. I affirm the information provided is accurate. I am granting permission to the City of Dearborn Authorized Staff to access all exterior areas of the property for inspection purposes.			
SIGNATURE			
PRINT NAME			
DRIVER'S LICENSE # OR MI STATE ID#			DATE

OFFICE USE ONLY: Case# \_\_\_\_\_ Receipt# \_\_\_\_\_ II date \_\_\_\_\_ Scanned \_\_\_\_\_

Please visit the ECD Commercial Services Department at [cityofdearborn.org](http://cityofdearborn.org) to submit a comment or suggestion.  
 ECD-CS-100-09-R1-092809



CITY OF ALBANY  
DEPARTMENT OF PUBLIC SAFETY  
DIVISION OF BUILDING & CODES  
PUBLIC SAFETY BUILDING  
165 HENRY JOHNSON BLVD. - 1<sup>ST</sup> FLOOR  
PHONE: (518) 434-5165  
FAX: (518) 434-6015

## VACANT BUILDING REGISTRATION FORM

(Please complete and return within thirty (30) days - Must be typed or legibly printed)

(See Reverse for Directions)

Sheet \_\_\_\_\_ of \_\_\_\_\_

Building Address: \_\_\_\_\_  
Owner of Record: \_\_\_\_\_  
Owner's Address: \_\_\_\_\_  
(please include zip) \_\_\_\_\_  
Owner's Phone: ( ) \_\_\_\_\_  
  
Agent's Name: \_\_\_\_\_  
Agent's Address: \_\_\_\_\_  
(please include zip) \_\_\_\_\_  
Agent's Phone: ( ) \_\_\_\_\_  
  
Contact Person: \_\_\_\_\_  
Business Number: \_\_\_\_\_  
Other Number: \_\_\_\_\_

OFFICIAL USE ONLY	
Date Rec'd	_____
Amt. Encl.	_____
Check No.	_____
Reg. No.	_____

Lienholder (1) Name: \_\_\_\_\_  
Lienholder (1) Address: \_\_\_\_\_  
(please include zip) \_\_\_\_\_  
Lienholder (1) Phone: ( ) \_\_\_\_\_  
  
Lienholder (2) Name: \_\_\_\_\_  
Lienholder (2) Address: \_\_\_\_\_  
(please include zip) \_\_\_\_\_  
Lienholder (2) Phone: ( ) \_\_\_\_\_

Property Description \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\* Vacant Building Plan: Must meet approval of enforcement officer!  
includes statement of reason why building is left vacant

Signed: \_\_\_\_\_ Title: \_\_\_\_\_  
Name: \_\_\_\_\_ Company: \_\_\_\_\_  
Date: \_\_\_\_\_

DIRECTIONS FOR COMPLETION OF VACANT BUILDING REGISTRATION FORM:

1. OWNER -- Those shown to be the owner or owners on the records of the City of Albany Department of Assessment and Taxation, those identified as the owner or owners on a vacant building registration form, a mortgagee in possession, a mortgagor in possession, assignee of rents, receiver, executor, trustee, lessee, other person, firm or corporation in control of the premises. Any such person shall have a joint and several obligation for compliance with the provisions of this article.
2. AGENT -- If the owner does not reside in Albany County or any adjoining county, the name and address of any third party with whom the owner has entered into a contract or agreement for property management.
3. CONTACT PERSON PHONE -- A responsible party that can be reached at all time during business and non-business hours. Please include both telephone numbers.
4. LIENHOLDERS -- The names and addresses of all known lienholders and all other parties with an ownership interest in the building.
5. PROPERTY DESCRIPTION -- Description of the property, including number of units; type of structure and number of stories.
6. VACANT BUILDING PLAN --The owner shall submit a vacant building plan which must meet the approval of the Enforcement Officer. The plan, at a minimum, must contain information from one of the following three choices for the property:
  - (a) If the building is to be demolished, a demolition plan indicating the proposed time frame for demolition.
  - (b) If the building is to remain vacant, a plan for the securing of the building in accordance with standards provided in §§ 133-68.1 and 133-68.2, if applicable, along with the procedure that will be used to maintain the property in accordance with Article XI, and a statement of the reasons why the building will be left vacant.
  - (c) If the building is to be returned to appropriate occupancy or use, a rehabilitation plan for the property. The rehabilitation plan shall not exceed 365 days, unless the Enforcement Officer grants an extension upon receipt of a written statement from the owner detailing the reasons for the extension. Any repairs, improvements or alterations to the property must comply with any applicable zoning, housing, historic preservation or building codes and must be secured in accordance with § 133-68, if applicable, during the rehabilitation.
7. SIGNATURE -- Must be signed by the owner or the designated agent of the property.
8. TITLE & COMPANY -- Include the title and company of agent.



*Community Development/Operations Department*

## **Memo**

**To:** Administration Committee  
**From:** Jason Locke, Community Development/Operations Director   
**Date:** January 28, 2013  
**Re:** Chronic Nuisance Property Ordinance

---

The purpose of this proposal is to ensure that there are adequate and effective tools to deal with a property upon which there are repetitive and ongoing illegal activities. These types of activities are outlined in 5.590 of the proposed ordinance. They include a wide range of both criminal and Code violation activities.

The proposed ordinance allows the City Manager to begin the process of declaring the property a chronic nuisance, with varying steps of enforcement, starting with a compliance agreement with the property owner and, if unsuccessful, moving the matter to municipal court where fines and even the closure of the property can occur.

**Recommendation:** Review and discuss the attached ordinance, and if the committee determines that it is in the best interest of the city and the public, move it forward to the full Council.

An Ordinance defining chronic nuisance property, establishing the procedure and penalties therefore; and declaring an emergency.

WHEREAS, the City Council has determined that real property, employed as the site of recurring nuisance activity, is itself a nuisance to the people of the City of Dallas, and causes damage to and deterioration of the civil peace of the City, and is detrimental to the health, safety and welfare of the people of the City; and

WHERE AS, the City Council has the authority to declare such real property a nuisance and regulate and abate the nuisance created by the use of real property pursuant to ORS 105.550 through 105.600, ORS 221.915, and ORS 221.926; and

WHEREAS, the City Council does further find that it is both necessary and appropriate, in order to deter recurring nuisance activity from the same premises and to preserve and protect the habitability of the real property in the City of Dallas and the habitability of adjacent properties, to enact a civil penalty for a third violation from the same premises in any sixty-day period.

NOW, THEREFORE, THE CITY OF DALLAS DOES ORDAIN AS FOLLOWS:

Section 1. The following is adopted and made a part of Dallas City Code Chapter, under the heading: "Chronic Nuisance Property."

5.590. Definitions. In addition to those terms defined in section 5.500, for purposes of sections 5.590 through 5.597, the following definitions shall apply:

Chronic Nuisance Property. Property upon which three or more nuisance activities have occurred during any sixty (60) day period; or property upon which, or within 200 feet of which, any person associated with the property, including owners, tenants, occupants, guests, patrons, employees, or employers, has engaged in three or more nuisance activities during any sixty (60) day period.

Nuisance Activities. (1) Any commission, attempt to commit (as defined by ORS 161.405), or conspiracy to commit (as defined by ORS 161.455), the following activities, behaviors, or criminal conduct:

(a) Alcoholic liquor violations as provided in ORS 471.105 through ORS 471.482;

- (b) Animal Abuse or Neglect as provided in ORS 167.315 through 167.330;
- (c) Animal or Dog Fighting as provided in ORS 167.355 or ORS 167.365;
- (d) Arson or related offences as provided in ORS 164.315 through 164.335;
- (e) Assault as provided in ORS 163.160 through ORS 163.185, or in section 5.010 of this code;
- (f) Criminal Mischief as provided in ORS 164.345 through 164.365, or in sections 5.120 and 5.122 of this code;
- (g) Criminal Trespass as provided in ORS 164.243 through 164.265 or or in sections 5.128 and 5.130 of this code;
- (h) Discharging a Weapon as provided in section 5.102 of this code;
- (i) Disorderly Conduct as provided in ORS 166.025 or in section 5.000 of this code;
- (j) Harassment as provided in ORS 166.065 or in section 5.006 of this code;
- (k) Illegal Gambling as provided in ORS 167.117, and ORS 167.122 through 167.127;
- (L) Intimidation as provided in ORS 166.155 through 166.165;
- (m) Menacing as provided in ORS 163.190 or in section 5.012 of this code;
- (n) Offensive Littering as provided in ORS 164.805;
- (o) Prohibited Exposure as provided in section 5.203 of this code;
- (p) Prostitution or related offences as provided in ORS 167.007, ORS 167.012, and ORS 167.017;
- (q) Public Indecency as provided in ORS 163.465 or in section 5.202 of this code;
- (r) Rape as provided in ORS 163.375;

(s) Sex Abuse, Contributing to the Delinquency of a Minor, or sexual misconduct as provided in ORS 163.415 through 163.445;

(t) Theft as provided in ORS 164.015 through 164.140 or in sections 5.132 through 5.136 of this code;

(u) Unlawful Entry into a Motor Vehicle as provided in ORS 164.272 or in section 5.142 of this code;

(v) Unlawful Possession of a Firearm as provided in ORS 166.260 or in section 5.100 of this code;

(w) Unlawful Manufacture, Delivery, or Possession of a Controlled Substance or related offenses as provided in ORS 167.203, ORS 475.005 through 475.285, and ORS 475.940 through 475.995;

(x) Unnecessary Noise as provided in section 5.020 of this code.

(y) Maintenance of a Dangerous Building in violation of sections 8.400 through 8.455 of this code.

(z) Any nuisance condition or activity in violation of sections 5.540, (Nuisances affecting public health), 5.550 (Creating a hazard), 5.552 (Attractive nuisance), 5.556 (Scattering rubbish), 5.562 (Surface waters, Drainage), 5.582 (Junk), 5.584 (Inoperable motor vehicles and recreational vehicles), 5.586 (Exterior lighting), 5.588 (Graffiti).

Permit. To suffer, allow, consent to, acquiesce by failure to prevent, or expressly assent or agree to an act, or failure to act.

5.591. Violation. Any property used or maintained as chronic nuisance property within the city is declared to be a nuisance and shall be enjoined and abated.

5.592. Procedure.

(1) After three occurrences of any nuisance activity, as defined in section 5.590, within a sixty-day period, the City Manager or his or her designee shall notify the person or persons responsible for the property on which the activity occurred of the property of the incidents which are alleged to violate this ordinance and the remedies available to the City under this ordinance.

(2) Notice under this section is sufficient if it is delivered in person or sent by certified mail, return receipt requested, addressed to person or persons responsible at the address of the property where the incidents occurred, and, if different, to the address for the person or persons responsible as shown on the tax rolls of Polk County or such other place which is reasonably believed to give the person or persons responsible actual notice.

(3) A copy of the notice required under this section shall be served on the person or persons responsible at least ten (10) days prior to the commencement of any action by the city under section 5.594. In addition, a copy of the notice shall be posted at the property if ten (10) days has lapsed from the mailing of the notice to the person or persons responsible, and no contact has been received by the City from them during that period of time.

(4) The failure of any person to receive actual notice as provided in this section shall not invalidate or otherwise affect any proceedings under this chapter.

#### 5.593. Compliance Agreement.

After the giving of the notice required in section 5.592, but prior to commencement of action as provided in section 5.594, the person or persons responsible may enter into a compliance agreement with the city to voluntarily abate the nuisance activities giving rise to the notice. Such a compliance agreement must be in writing and signed by the City Manager or his or her designee, and all responsible persons.

#### 5.594. Commencement of Action; Remedies.

(1) The city may commence legal proceedings in the municipal court to enjoin or abate chronic nuisance property and seek closure of the property as well as the imposition of civil penalties against any or all of the owners or occupants thereof, and such other relief as may be deemed appropriate.

(2) In the event the court determines the property to be chronic nuisance property, the court may:

(a) Order that the property be closed and secured against all use and occupancy for not less than thirty (30) days, but not more than one (1) year;

(b) Impose upon the person or persons responsible a civil penalty in an amount up to \$500 per day for each day the person or persons had actual

knowledge that the property was chronic nuisance property and permitted the property to remain as such;

(c) Order any other remedy deemed to be appropriate to abate the nuisance.

(3) In establishing the length of closure of the property, as provided in subsection (2), the court may consider any of the following factors, as may be appropriate:

(a) The actions taken by the person or persons responsible to correct or mitigate the nuisance activities the property;

(b) The cooperativeness of the person or persons responsible with the city;

(c) Whether the activities at the property were repeated or continuous;

(d) The magnitude or gravity of the problem;

(e) The cost to the city of investigating and correcting or attempting to correct the nuisance activities;

(f) Any other factor deemed to be relevant by the court.

#### 5.595. Burdens of Proof; Defenses; Mitigation of Civil Penalty

(1) In an action under section 5.594, the city shall have the initial burden of proof to show by a preponderance of the evidence that the property is chronic nuisance property.

(2) It is a defense to an action brought pursuant to section 5.594 that the person or persons responsible at the time in question could not, in the exercise of reasonable care or diligence, have known or determined that the property was chronic nuisance property, or could not, in the exercise of reasonable care and diligence, control the conduct leading to the finding that the property is chronic nuisance property. It is no defense that the person or persons responsible was not physically present at the property at or during the time of the incidents leading to the chronic nuisance situation.

(3) In establishing the amount of any civil penalty requested, the court may consider any of the following factors, as may be appropriate, and shall cite those found applicable:

- (a) The actions taken by the person or persons responsible to correct or mitigate the nuisance activities the property;
- (b) The cooperativeness of the person or persons responsible with the city;
- (c) Whether the activities at the property were repeated or continuous;
- (d) The magnitude or gravity of the problem;
- (e) The cost to the city of investigating and correcting or attempting to correct the nuisance activities;
- (f) Any other factor deemed to be relevant by the court.

5.596. Closure During Pendency of Action; Emergency Closures. In addition to any other remedy available to the city under this ordinance, in the event that the City Manager or the City Manager's designee determines that the property is an immediate threat to the public safety and welfare, the city may apply to the court for such interim relief as is deemed by the city to be appropriate. Proceedings to obtain an order of emergency closure shall be governed by the provisions of Oregon Rule of Civil Procedure 79. In such an event the notification procedures set forth in section 5.591 need not be complied with.

5.597. Enforcement of Closure Order; Costs; Attorney Fees.

(1) The court may authorize the city to physically secure the property against the use or occupancy in the event that the person or persons ordered to do so fail to do so within the time specified by the court. In the event that the city is authorized to secure the property, all costs reasonably incurred by the city to effect a closure shall be made a lien upon the property. As used in this subsection, "costs" includes those costs actually incurred by the city for the physical securing of the property, as well as tenant relocation costs given pursuant to subsection (3) of this section.

(2) The city shall prepare a statement of the costs of physically securing the property, and shall thereafter submit that statement to the court. If no objection to the

statement is made within the period prescribed by Oregon Rule of Civil Procedure 68, the statement of costs shall be included in the city's money judgment and lien.

(3) The court may award a tenant, as defined by ORS 90.100, reasonable relocation costs as those are determined by the court, if without actual notice the tenant moved into the property after either:

(a) The person or persons responsible, or agent thereof, received notice pursuant to section 5591; or

(b) The person or persons responsible, or agent thereof, received notice of an action pursuant to section 5.591.

(4) Persons assessed any costs pursuant to this ordinance shall be jointly and severally liable for the payment thereof to the city.

Section 2. The provisions of this ordinance are severable, and if any phrase, clause or part of this ordinance is found by a court of competent jurisdiction to be invalid or unenforceable, each and every remaining phrase, clause and part shall nonetheless remain in full force and effect.

Section 3. This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist and this ordinance shall take effect on its passage.

Read for the first time:  
Read for the second time:  
Adopted by the City Council:  
Approved by the Mayor:

---

BRIAN W. DALTON, MAYOR

ATTEST:

Ordinance

7

# DALLAS CITY COUNCIL

## ADMINISTRATIVE SUBCOMMITTEE REPORT

**TO: COUNCIL ADMINISTRATIVE SUBCOMMITTEE**

<i>City of Dallas</i>	<b>Agenda Item No.</b> 7	<b>Topic:</b> Charter Update
<b>Prepared By:</b> Emily Gagner	<b>Meeting Date:</b> January 28, 2013	<b>Attachments:</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
<b>Approved By:</b> Ron Foggin		

RECOMMENDED MOTION:

None. At the Mayor’s request, staff is looking for input and direction from the Committee to proceed with work on drafting a revised Charter for review and discussion.

BACKGROUND:

The Charter of 1964 has served the City well for nearly half a century. However, it could certainly use some updates and revisions to modernize it and make it better meet the current needs and policy choices of the City. This will not be a quick process, but one that will take thoughtful discussion and community input. A Charter revision or update will require approval by the voters of Dallas.

The attached Model Charter from the League of Oregon Cities could serve as a guide for our discussion. Dallas’s new charter will need to include provisions and procedures that will best serve our community and its unique needs.

If the Council is ready to begin work toward a new Charter, staff can work with the City Attorney to develop a process for drafting a new Charter for the Council to review. It is anticipated that such a process would involve the appointment of a citizens committee to assist and advise staff and the Council. As noted above, upon approval of a new Charter by the Council it would have to be presented to the voters of the City for adoption.

FISCAL IMPACT:

None

ATTACHMENTS:

Current Charter of 1964  
League of Oregon Cities Model Charter

**\*\* In order to save space in the Council packet, the current Charter of 1964 was removed. It is available to view on our website at [www.dallasor.gov](http://www.dallasor.gov).**

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# MODEL CHARTER FOR OREGON CITIES

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JANUARY 2004

**PREPARED BY:**  
Thomas Sponsler, Beery & Elsner, LLP

**FOR AND IN COOPERATION WITH:**  
League of Oregon Cities



## FOREWARD

This is the 6<sup>th</sup> edition of the Model Charter for Oregon Cities. It is the first published by the League of Oregon Cities. Previous versions were published by the Bureau of Governmental Research and Service at the University of Oregon.<sup>a</sup>

The purpose of the Model Charter is to serve as guide for charter drafting by city officials and citizens by providing a foundation for meeting different needs and policy choices about city government structure. It is not intended for submission to community voters without discussion. Each city that undertakes charter revision or the preparation of a new charter must consider provisions and procedures that best serve its unique community.

This 2004 version contains several changes from the 5<sup>th</sup> edition of 1988. The format continues as one document. All models prior to 1988 had two separate versions: one for the mayor-council form of government and one for the council-manager form of government. Language for the council-manager form is now presented in the text. Except for the city manger section 33, this model is useful for cities without a city manager. Alternative mayor-council language is included in the endnotes. Substantive changes include:

- ? Specific identification of council legislative, administrative and quasi-judicial authority, and ordinances, resolutions and orders as the forms for exercising that authority.
- ? Separate chapters with procedural requirements for council legislative, administrative and quasi-judicial decisions.
- ? Reorganization of certain chapters into separate topics (i.e., council and elections).
- ? Updating mayor and city manager duties.
- ? Deletion of some provisions better left to city ordinances, such as election nomination procedures, public improvements, and special assessments.

This edition also makes numerous clarifications, simplifications and style changes from previous versions. This includes the consistent use of “councilor” in reference to the holder of that office, and “council” and “member of council” as including the councilors and the mayor. Gender-neutral language has also been introduced.

Thanks to Sandy Arp, Don Ashmanskas, Pam Beery, Jeff Condit, Dan Cooper, Candace Haines, Ken Jones, Glenn Klein, Terry Mahr, Jim Mattis, Gussie McRobert, Rich Rodeman and Pete Wells for taking time to review and comment on earlier drafts. This final draft was presented on November 14, 2003 at the Legal Issues Workshop session of the LOC 78<sup>th</sup> Annual Conference in Eugene. Questions and comments from attendees contributed to this document.

*Thomas Sponsler  
Beery & Elsner, LLP  
January, 2004*

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<sup>a</sup> The first Oregon Model Charter was published in 1947; revisions were published in 1951, 1959, 1967 and 1988. A Model Charter for Oregon Counties was published in 1977.

## **PREAMBLE\***

**W**e, the voters of \_\_\_\_\_, Oregon exercise our power to the fullest extent possible under the Oregon Constitution and laws of the state, and enact this Home Rule Charter.<sup>1</sup>

### **Chapter I NAMES AND BOUNDARIES**

Section 1. Title. This charter may be referred to as the 20\_\_\_\_ Charter.<sup>2</sup>

Section 2. Name. The City of \_\_\_\_\_, Oregon, continues<sup>3</sup> as a municipal corporation with the name City of \_\_\_\_\_.<sup>4</sup>

Section 3. Boundaries. The city includes all territory within its boundaries as they now exist or are legally modified. The city will maintain as a public record an accurate and current description of the boundaries.

### **Chapter II POWERS**

Section 4. Powers. The city has all powers that the constitutions, statutes and common law of the United States and Oregon expressly or impliedly grant<sup>5</sup> or allow<sup>6</sup> the city, as fully as though this charter specifically enumerated each of those powers.<sup>7</sup>

Section 5. Construction. The charter will be liberally construed<sup>8</sup> so that the city may exercise fully all powers possible under this charter and under United States and Oregon law.

Section 6. Distribution. The Oregon Constitution reserves initiative and referendum powers as to all municipal legislation to city voters.<sup>9</sup> This charter vests all other city powers in the council except as the charter otherwise provides. The council has legislative,<sup>10</sup> administrative and quasi-judicial authority. The council exercises legislative authority by ordinance, administrative authority by resolution, and quasi-judicial authority by order. The council may not delegate its authority to adopt ordinances.<sup>11</sup>

### **Chapter III COUNCIL**

Section 7. Council. The council consists of a mayor<sup>12</sup> and six councilors<sup>13</sup> nominated and elected from the city at large.<sup>14</sup>

Section 8. Mayor. The mayor presides over and facilitates council meetings, preserves order, enforces council rules, and determines the order of business under council rules. The mayor is a voting member of the council and has no veto authority.<sup>15</sup> With the consent of council, the mayor appoints members of commissions and committees established by ordinance or resolution.

The mayor must sign all records of council decisions.<sup>16</sup> The mayor serves as the political head of the city government.<sup>17</sup>

Section 9. Council President. At its first meeting each year, the council must elect a president from its membership. The president presides in the absence of the mayor and acts as mayor when the mayor is unable to perform duties.

Section 10. Rules. The council must by resolution adopt rules to govern its meetings.<sup>18</sup>

Section 11. Meetings. The council must meet at least once a month at a time and place designated by its rules, and may meet at other times in accordance with the rules.

Section 12. Quorum. A majority of the council members is a quorum to conduct business,<sup>19</sup> but a smaller number may meet and compel attendance of absent members as prescribed by council rules.<sup>20</sup>

Section 13. Vote Required. The express<sup>21</sup> approval of a majority of a quorum of the council is necessary for any council decision,<sup>22</sup> except when this charter requires approval by a majority of the council.<sup>23</sup>

Section 14. Record. A record of council meetings must be kept in a manner prescribed by the council rules.<sup>24</sup>

## **Chapter IV**

### **LEGISLATIVE AUTHORITY<sup>25</sup>**

Section 15. Ordinances. The council will exercise its legislative authority by adopting ordinances. The enacting clause for all ordinances must state “The City of \_\_\_\_\_ ordains as follows:”.

#### Section 16. Ordinance Adoption.

(a) Except as authorized by subsection (b), adoption of an ordinance requires approval by a majority of the council at two meetings.<sup>26</sup>

(b) The council may adopt an ordinance at a single meeting by the unanimous approval of at least a quorum of the council,<sup>27</sup> provided the proposed ordinance is available in writing to the public at least one week before the meeting.

(c) Any substantive amendment to a proposed ordinance must be read aloud or made available in writing to the public before the council adopts the ordinance at that meeting.

(d) After the adoption of an ordinance, the vote of each member must be entered into the council minutes.

(e) After adoption of an ordinance, the city custodian of records must endorse it with the date of adoption and the custodian's name and title.

Section 17. Effective Date of Ordinances. Ordinances normally take effect on the 30<sup>th</sup> day after adoption, or on a later day provided in the ordinance. An ordinance may take effect as soon as adopted or other date less than 30 days after adoption if it contains an emergency clause.<sup>28</sup>

## **Chapter V**

### **ADMINISTRATIVE AUTHORITY<sup>29</sup>**

Section 18. Resolutions. The council will normally exercise its administrative authority by approving resolutions.<sup>30</sup> The approving clause for resolutions may state "The City of \_\_\_\_\_ resolves as follows:".

#### Section 19. Resolution Approval.

(a) Approval of a resolution or any other council administrative decision requires approval by the council at one meeting.<sup>31</sup>

(b) Any substantive amendment to a resolution must be read aloud or made available in writing to the public before the council adopts the resolution at that meeting.

(c) After approval of a resolution or other administrative decision, the vote of each member must be entered into the council minutes.

(d) After approval of a resolution, the city custodian of records must endorse it with the date of approval and the custodian's name and title.

Section 20. Effective Date of Resolutions. Resolutions and other administrative decisions take effect on the date of approval, or on a later day provided in the resolution.<sup>32</sup>

## **Chapter VI**

### **QUASI-JUDICIAL AUTHORITY<sup>33</sup>**

Section 21. Orders. The council will normally exercise its quasi-judicial authority by approving orders. The approving clause for orders may state "The City of \_\_\_\_\_ orders as follows:".

#### Section 22. Order Approval.

(a) Approval of an order or any other council quasi-judicial decision requires approval by the council at one meeting.<sup>34</sup>

(b) Any substantive amendment to an order must be read aloud or made available in writing to the public at the meeting before the council adopts the order.

(c) After approval of an order or other council quasi-judicial decision, the vote of each member must be entered in the council minutes.

(d) After approval of an order, the city custodian of records must endorse it with the date of approval and the custodian's name and title.

Section 23. Effective Date of Orders. Orders and other quasi-judicial decisions take effect on the date of final approval, or on a later day provided in the order.

## **Chapter VII ELECTIONS**

Section 24. Councilors. The term of a councilor in office when this charter is adopted is the term for which the councilor was elected.<sup>35</sup> At each general election after the adoption, three councilors will be elected<sup>36</sup> for four-year terms.<sup>37</sup>

Section 25. Mayor. The term of the mayor in office when this charter is adopted continues until the beginning of the first odd-numbered year after adoption. At every other general election after the adoption, a mayor will be elected for a four-year term.<sup>38</sup>

Section 26. State Law. City elections must conform to state law except as this charter or ordinances provide otherwise. All elections for city offices must be nonpartisan.<sup>39</sup>

### Section 27. Qualifications.

(a) The mayor and each councilor must be a qualified elector under state law, and reside within the city for at least one year immediately before election or appointment to office.<sup>40</sup>

(b) No person may be a candidate at a single election for more than one city office.

(c) Neither the mayor nor a councilor may be employed by the city.<sup>41</sup>

(d) The council is the final judge of the election and qualifications of its members.

Section 28. Nominations. The council must adopt an ordinance prescribing the manner for a person to be nominated to run for mayor or a city councilor position.<sup>42</sup>

Section 29. Terms. The term of an officer elected at a general election begins at the first council meeting of the year immediately after the election, and continues until the successor qualifies and assumes the office.<sup>43</sup>

Section 30. Oath. The mayor and each councilor must swear or affirm to faithfully perform the duties of the office and support the constitutions and laws of the United States and Oregon.

Section 31. Vacancies: The mayor or a council office becomes vacant:

- (a) Upon the incumbent's:
  - (1) Death,
  - (2) Adjudicated incompetence,<sup>44</sup> or
  - (3) Recall from the office.<sup>45</sup>
  
- (b) Upon declaration by the council after the incumbent's:
  - (1) Failure to qualify for the office within 10 days of the time the term of office is to begin,
  - (2) Absence from the city for 30 days without council consent, or from all council meetings within a 60-day period,
  - (3) Ceasing to reside in the city,<sup>46</sup>
  - (4) Ceasing to be a qualified elector under state law,
  - (5) Conviction of a public offense punishable by loss of liberty,<sup>47</sup>
  - (6) Resignation from the office, or
  - (7) Removal under Section 33(i).

Section 32. Filling Vacancies. A mayor or councilor vacancy will be filled by appointment by a majority of the remaining council members.<sup>48</sup> The appointee's term of office runs from appointment until expiration of the term of office of the last person elected to that office. If a disability prevents a council member from attending council meetings or a member is absent from the city, a majority of the council may appoint a councilor pro tem.<sup>49</sup>

## **Chapter VIII**

### **APPOINTIVE OFFICERS**

#### Section 33. City Manager.

- (a) The office of city manager is established as the administrative head of the city government.<sup>50</sup> The city manager is responsible to the mayor and council for the proper administration of all city business. The city manager will assist the mayor and council in the development of city policies, and carry out policies established by ordinances and resolutions.<sup>51</sup>
  
- (b) A majority of the council must appoint and may remove the manager. The appointment must be made without regard to political considerations and solely on the basis of education and experience in competencies and practices of local government management.<sup>52</sup>
  
- (c) The manager need not reside in the city.<sup>53</sup>
  
- (d) The manager may be appointed for a definite or an indefinite term, and may be removed at any time by a majority of the council. The council must fill the office by appointment as soon as practicable after the vacancy occurs.
  
- (e) The manager must:
  - (1) Attend all council meetings unless excused by the mayor or council;
  - (2) Make reports and recommendations to the mayor and council about the needs of the city;
  - (3) Administer and enforce all city ordinances, resolutions, franchises, leases, contracts, permits, and other city decisions;

- (4) Appoint, supervise and remove city employees;<sup>54</sup>
- (5) Organize city departments and administrative structure;
- (6) Prepare and administer the annual city budget;
- (7) Administer city utilities and property;
- (8) Encourage and support regional and intergovernmental cooperation;
- (9) Promote cooperation among the council, staff and citizens in developing city policies, and building a sense of community<sup>55</sup>;
- (10) Perform other duties as directed by the council;
- (11) Delegate duties, but remain responsible for acts of all subordinates.

(f) The manager has no authority over the council or over the judicial functions of the municipal judge.<sup>56</sup>

(g) The manager and other employees designated by the council may sit at council meetings but have no vote. The manager may take part in all council discussions.

(h) When the manager is temporarily disabled from acting as manager or when the office of manager becomes vacant, the council must appoint a manager pro tem. The manager pro tem has the authority and duties of manager, except that a pro tem manager may appoint or remove employees only with council approval.

(i) No council member may directly or indirectly attempt to coerce the manager or a candidate for the office of manager in the appointment or removal of any city employee, or in administrative decisions regarding city property or contracts.<sup>57</sup> Violation of this prohibition is grounds for removal from office by a majority of the council after a public hearing. In council meetings, councilors may discuss or suggest anything with the manager relating to city business.<sup>58</sup>

Section 34. City Attorney. The office of city attorney is established as the chief legal officer of the city government. A majority of the council must appoint and may remove the attorney. The attorney must appoint and supervise, and may remove any office employees.<sup>59</sup>

Section 35. Municipal Court and Judge.

(a) A majority of the council may appoint and remove a municipal judge. A municipal judge will hold court in the city at such place as the council directs. The court will be known as the Municipal Court.

(b) All proceedings of this court will conform to state laws governing justices of the peace and justice courts.

(c) All areas within the city and areas outside the city as permitted by state law are within the territorial jurisdiction of the court.

(d) The municipal court has jurisdiction over every offense created by city ordinance. The court may enforce forfeitures and other penalties created by such ordinances. The court also has jurisdiction under state law unless limited by city ordinance.<sup>60</sup>

(e) The municipal judge may:

- (1) Render judgments and impose sanctions on persons and property;
- (2) Order the arrest of anyone accused of an offense against the city;
- (3) Commit to jail or admit to bail anyone accused of a city offense;
- (4) Issue and compel obedience to subpoenas;
- (5) Compel witnesses to appear and testify and jurors to serve for trials before the court;
- (6) Penalize contempt of court;
- (7) Issue processes necessary to enforce judgments and orders of the court;
- (8) Issue search warrants; and
- (9) Perform other judicial and quasi-judicial functions assigned by ordinance.

(f) The council may appoint and may remove municipal judges pro tem.

(g) The council may transfer some or all of the functions of the municipal court to an appropriate state court.<sup>61</sup>

## **Chapter IX PERSONNEL**

Section 36. Compensation. The council must authorize the compensation of city officers and employees as part of its approval of the annual city budget.<sup>62</sup>

Section 37. Merit Systems. The council<sup>63</sup> by resolution will determine the rules governing recruitment, selection, promotion, transfer, demotion, suspension, layoff, and dismissal of city employees based on merit and fitness.<sup>64</sup>

## **Chapter X PUBLIC IMPROVEMENTS**

Section 38 Procedure. The council may by ordinance provide for procedures governing the making, altering, vacating, or abandoning of a public improvement.<sup>65</sup> A proposed public improvement may be suspended for six months upon remonstrance by owners of the real property to be specially assessed for the improvement. The number of owners necessary to suspend the action will be determined by ordinance.

Section 39. Special Assessments. The procedure for levying, collecting and enforcing special assessments for public improvements or other services charged against real property will be governed by ordinance.

**Chapter XI**  
**MISCELLANEOUS PROVISIONS**

Section 40. Debt. City indebtedness may not exceed debt limits imposed by state law.<sup>66</sup> A charter amendment is not required to authorize city indebtedness.

Section 41. Ordinance Continuation. All ordinances consistent with this charter in force when it takes effect remain in effect until amended or repealed.

Section 42. Repeal. All charter provisions adopted before this charter takes effect are repealed.<sup>67</sup>

Section 43. Severability. The terms of this charter are severable. If any provision is held invalid by a court, the invalidity does not affect any other part of the charter.

Section 44. Time of Effect. This charter takes effect \_\_\_\_\_, 20\_\_\_\_.

## APPENDIX A

### GENERAL GRANTS OF POWER

The first version of the Model Charter for Oregon Cities was published in 1947. It was drafted to confer powers on cities in general terms rather than by a detailed enumeration of specific powers. All subsequent revisions have continued this practice.

Since about 1910, a city charter has been viewed as a city constitution. For this reason city powers have generally been stated in general, comprehensive terms. The charter should deal only with the basic, broad fundamentals of city government. The charter should be as concise as possible, and adaptable to changing conditions to avoid the need for frequent amendment.

Most Oregon cities have charters that grant authority for their activities under general grants of powers. In 1934, Huntington adopted a general powers charter quite similar to the 1947 model charter. Since then, almost all Oregon cities have adopted charters that resemble this model.

The Oregon Incorporation Act (now ORS 224.010-221.100) provides that cities without a home rule charter have comprehensive power and need no grants of specific powers.

A general grant of power allows a city to assume extraterritorial powers granted by statute and conditioned upon the existence of charter authority. ORS 225.020 authorizes a city to own and operate utilities outside city limits if its charter allows it such power. *Kassel v. City of Salem*, 34 Or. App. 739, 579 P.2d 875 (1978) construes this section and states that Salem’s charter “accepts this offer [of extramural powers] in broad terms.” These broad terms were more specific than the general grant of powers in the model. No city with a general grant has been challenged in its exercise of the power offered by ORS 225.020.

#### Constitutional Grants in General Terms.

The 1906 home rule amendments to the Oregon Constitution empower “the legal voters of every city ... to enact and amend their municipal charter, subject to the Constitution and criminal laws of the State.”<sup>b</sup> They also empower “the qualified voters of each municipality” to exercise the powers of initiative and referendum “as to all local, special and municipal legislation of every character in or for their municipality ... .”<sup>c</sup> These grants of power are general in terms.

#### Specific Power Derived from General Grants.

Courts have often held that a general grant of power confers a particular power not specified in the grant. Such specific powers include the following:

- (1) To regulate amusement devices.<sup>d</sup>
- (2) To levy special assessments.<sup>e</sup>
- (3) To develop a program of free parking using tax revenues.<sup>f</sup>

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<sup>b</sup> Or. Const. art. XI, sec. 2.

<sup>c</sup> Or. Const. art. IV, sec. 1a (1906), sec. 1(5) (1968).

<sup>d</sup> *Terry v. City of Portland*, 204 Or. 478, 269 P.2d 544 (1955); app. dis., 348 U.S. 979 (1955); 33 Or. Op. Att’y. Gen. 174 (1967).

<sup>e</sup> *Paget v. City of Pendleton*, 219 Or. 253, 346 P.2d 1111 (1959).

- (4) To govern labor relations with public employees.<sup>g</sup>
- (5) To license certain businesses or occupations.<sup>h</sup>
- (6) To levy license taxes for revenue.<sup>i</sup>
- (7) To provide police protection.<sup>j</sup>
- (8) To control disposal of refuse.<sup>k</sup>
- (9) To regulate the storage of gasoline and kerosene.<sup>l</sup>
- (10) To control streets.<sup>m</sup>
- (11) To levy taxes in the form of licenses.<sup>n</sup>
- (12) To adopt taxes on sales and incomes.<sup>o</sup>
- (13) To supply water.<sup>p</sup>
- (14) To impose registration and license fees.<sup>q</sup>
- (15) To impose fees and regulatory requirements on telecommunications providers.<sup>r</sup>

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<sup>f</sup> *Jarvill v. City of Eugene*, 289 Or. 157, 613 P.2d 1 (1980), U.S. cert. den. at 449 U.S. 1013 (1980). Although the majority opinion in this case relies on a specific grant of power stemming from a 1973 amendment to the Eugene city charter, this charter has been repealed. At the court of appeals level, the majority opinion relied on the general grant of power in the 1976 revised city charter to explain the city's ability to levy taxes. "In those cases, it was held that a general grant of powers in a city charter, like that contained in the Eugene charter, carries with it the power to impose revenue taxes." 40 Or. App. 185, 198-99, 594 P.2d 1261 (1979).

<sup>g</sup> *Beaverton v. International Assoc. of Firefighters*, 20 Or. App. 293, 531 P.2d 730 (1975).

<sup>h</sup> *Davidson Baking Co. v. Jenkins*, 216 Or. 51, 337 P.2d 352 (1959).

<sup>i</sup> *City of Idanha v. Consumers Power, Inc.* 8 Or. App. 551, 495 P.2d 294 (1972), aff'd, 13 Or. App. 431 (1973).

<sup>j</sup> *City of East Portland v. County of Multnomah*, 6 Or. 62, 64 (1876).

<sup>k</sup> *Dunn v. Gray*, 238 Or. 71, 392 P.2d 1018 (1964); *City of Tigard v. Werner*, 15 Or. App. 335, 515 P.2d 934 (1973).

<sup>l</sup> Cf. *Leathers v. City of Burns*, 251 Or. 206, 444 P.2d 1010 (1968).

<sup>m</sup> See also, *City of East Portland v. County of Multnomah*, 6 Or. 62, 64 (1876).

<sup>n</sup> *City of Idanha v. Consumers Power, Inc.* 8 Or. App. 551, 495 P.2d 294 (1972), aff'd 13 Or. App. 431 (1973).

<sup>o</sup> 33 Or. Op. Att'y Gen. 238 (1967).

<sup>p</sup> *Paget v. City of Pendleton*, 219 Or. 253, 346 P.2d 1111 (1959).

<sup>q</sup> *AT & T Communications v. City of Eugene*, 177 Or App 379 (2001), *rev den*, 334 Or 491 (2002). The court held that a general power charter gave the city power to impose registration and license fees. The court relied on *Multnomah Kennel Club v. Department of Revenue*, 295 Or 279 (1983), a case that involved a general power county home rule charter that provided authority to impose a business income tax.

<sup>r</sup> *Sprint Spectrum v. City of Eugene*, 177 Or App 417 (2001), *rev den*, 334 Or 491 (2002). The court found that home rule authority includes the taxation of businesses that conduct business within city boundaries.

**APPENDIX B**  
**PROVISIONS NOT INCLUDED IN THE MODEL CHARTER**

The 2004 Model Charter omits many provisions contained in city charters granted by the Oregon legislature prior to 1906, and charters adopted soon after the 1906 home rule amendments took effect. A general grant of powers replaced specific grants of authority. Subjects and procedures covered by state statutes are generally no longer included in charters. The model charter also omits provisions better left to adoption by ordinance.

Annexation Procedure

An Oregon city may not assume extramural power under its home rule charter unless authorized by state statute.<sup>s</sup> City power under the home rule amendments is only intramural in character.<sup>t</sup> A city may only exercise the extramural power delegated by the legislature.<sup>u</sup> A home rule charter may provide a procedure for the intramural aspects of annexation, such as the manner of acceptance of the annexation by the city. The model charter contains no provision relating to annexation of territory to a city because state statutes control annexation procedures in both its extramural and intramural aspects.

Elections

Elections in Oregon are generally under the control of the secretary of state. The conduct of elections is governed by ORS Chapter 254. Many duties relating to the conduct of elections are delegated to county clerks. Time of elections, wording of ballot titles, printing of ballots, and fixing of precinct boundaries are examples of matters governed by state law. City initiative and referendum requirements and process are found in ORS Chapter 250. Therefore, the model charter contains no sections relating to elections in general. Sections 26 and 28 do authorize the council to govern certain election matters by ordinance.

Subjects Covered by State Law

The 2004 Model Charter contains no provision on several other subjects covered by state law:

Budgeting .....	ORS 294.305 to 294.565
Public contracts.....	ORS Chapter 279
Assessment bonding and lien enforcement .....	ORS 223.205 to 223.295 and 223.505 to 223.670
Tort liability .....	ORS 30.260 to 30.300

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<sup>s</sup> *Thurber v. Henderson*, 63 Or 410, 415-416, 128 P 43 (1912); *State ex rel. Mullins v. Port of Astoria*, 79 Or 1, 19-20, 154 P 399 (1916).

<sup>t</sup> *Kiernan v. City of Portland*, 57 Or 454, 464, 111 P 379, 112 P 402 (1910); *State ex rel. Mullins v. Port of Astoria*, 79 Or 1, 18-19, 154 P 399 (1916); *Curtis v. Tillamook City*, 88 Or 443, 454-455, 171 P 574, 172 P 122 (1918).

<sup>u</sup> *Couch v. Marvin*, 67 Or 341, 136 P 6 (1913); *McBee v. Town of Springfield*, 58 Or 459, 114 P 637 (1911); *Landess v. City of Cottage Grove*, 64 Or 155, 129 P 537 (1913).

Debt limitations.....	ORS 223.295 and 287.004
Ethics.....	ORS Chapter 244
Public meetings and records .....	ORS 192.410 to 192.710
Land use panning and regulation.....	ORS Chapters 92, 197, and 227
Street vacation.....	ORS 271.080 to 271.230
Condemnation.....	ORS Chapter 35; 223.005 to 223.105; 226.310 to 226.380; 227.300; 281.010; and 281.510 to 281.550
Collective bargaining .....	ORS 243.650 to 243.782
Public Employee’s Retirement System.....	ORS Chapter 238

Other Subjects

The model charter contains no provision on a number of other subjects that may be covered as well or better by ordinance. Such subjects include council rules, personnel rules, procedures for local improvements, levying and collecting special assessments, and city commissions and committees.

Municipal Judge as Ex Officio Justice of the Peace

Some Oregon charters enacted as special legislative acts prior to 1906 provide that the municipal judge has the jurisdiction and authority of an ex officio justice of the peace. The 2004 Model Charter contains no such provision. A home rule charter may not grant such authority to a municipal judge; such authority may only be granted by state statute.

The decision in *In re Application of Boalt*<sup>v</sup> suggests that once a municipal judge is given the jurisdiction and authority of an ex officio justice of the peace by a special legislative act, it continues regardless of a subsequent home rule charter. It may be withdrawn by the legislature. A city in this situation may retain its charter provisions conferring jurisdiction and authority of an ex officio justice of the peace on its municipal judge by enacting its new charter as an amendment to its former legislative charter. A municipal judge may continue to exercise this authority under this Supreme Court decision.

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<sup>v</sup> 123 Or 1, 260 P 1004 (1927).

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## NOTES

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<sup>1</sup> This uses the “voters” language of Article XI, section 2 of the Oregon Constitution and makes clear the intent to use all the home rule power.

<sup>2</sup> Insert the year the charter is adopted and the city name. For convenience, this may be used as the charter’s short title.

<sup>3</sup> The continuity of a city’s existence is not broken by the adoption of a new charter.

<sup>4</sup> If this section changes the name of the city, it may read: “The municipal corporation previously known as the City of \_\_\_\_\_ continues under this charter as a municipal corporation with the name ‘City of \_\_\_\_\_.’ ”

<sup>5</sup> The city home rule amendments to the Oregon Constitution reserve powers to city voters. Oregon Constitution, Article XI, section 2 (1906, 1910). The Oregon Supreme Court has said that the amendments are a “continuous offer” of “all powers properly belonging to municipal government.” *Robertson v. City of Portland*, 77 Or. 121, 127 (1915). The offer is conditional. City voters may accept the offer by adopting charter terms. This general grant of power accepts the offer completely.

<sup>6</sup> The US Constitution does not mention cities, but does not restrict city actions. The Oregon Constitution imposes some restrictions, but also authorizes city actions. Federal and state statutes impose many requirements and restrictions on cities, but still authorize or allow them a wide range of action. “Allow” in this section is intended to provide a basis for city authority to act even though the city cannot identify clear statutory authority for the city action. It assumes the authority is municipal in nature and not prohibited by federal or state law.

<sup>7</sup> Appendix A discusses the legal basis for general grants of authority.

<sup>8</sup> This requirement that the charter be liberally construed is intended to negate the effect of a rule of strict construction of city charters known as Dillon’s Rule.

<sup>9</sup> Article IV, section 1, subsection (5) of the Oregon Constitution.

<sup>10</sup> City council members are immune from suit under 42 USC § 1983 for their legislative activities. *Bogan v. Scott-Harris*, 523 US 44 (1998).

<sup>11</sup> While part of federal and state government structures, separation of powers is rarely found in cities. The council has powers analogous to those of the three branches of the federal government and the three departments of the Oregon government. The context, substance and form of council decisions determine the nature of the power exercised. Only the council may adopt ordinances and exercise its legislative authority. Only its legislative authority is subject to voter initiative and referendum. The council may by ordinance delegate its administrative and quasi-judicial authority.

<sup>12</sup> Although some charters provide that the mayor is not a member of the council, this model recommends that the council include the mayor as a member. This means that the mayor participates in and votes on matters before the council as do other council members. Section 8 states that the mayor is a voting member of the council. If the mayor is not to have a council vote, then section 7 should state that the council consists of a specified number of councilors elected from the city at large.

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<sup>13</sup> Some Oregon cities have five member councils. If the council is to have five members, “six” needs to be changed to “four.” A city may want a larger council of nine members or more. If so, “six” needs to be changed accordingly.

<sup>14</sup> Most Oregon cities nominate and elect councilors at large. Some nominate and elect councilors by district or ward. A third option is to nominate by district and elect at large. If there are districts, then the district boundaries must be specified. The most efficient way of doing this is by ordinance. For that purpose, this section could read: “The council consists of a mayor nominated and elected at large, and six councilors nominated and elected by districts with the boundaries fixed by ordinance.” District boundaries must be periodically adjusted to meet equal protection requirements. Most charters that provide for election of councilors by district also require as a qualification that each councilor reside in the district the councilor represents and continue to so reside for the term of office.

<sup>15</sup> Some charters permit the mayor to vote only to break a tie. If the mayor’s vote is to be so limited, this section needs to be changed accordingly.

<sup>16</sup> The council may assign by ordinance or council rules additional duties to the mayor for authenticating ordinances, resolutions, orders, and other council documents.

<sup>17</sup> This section adds facilitator and political leader to enhance the role of the mayor. It makes specific the apparent and inherent authority of the office of mayor. It also parallels the administrative authority of city manager in section 33. It follows the example of 8<sup>th</sup> edition of National League of Cities (NLC) Model Charter (2003).

<sup>18</sup> Council meetings must comply with the requirements of the Oregon Public Meetings Law. ORS 192.610 – 192.710. Council rules should be considered administrative and adopted by resolution. They are easier to keep updated and less formal than if adopted by ordinance. Also, they are not subject to initiative and referendum.

<sup>19</sup> A majority is more than half of the council. For a seven member council, a quorum is four or more. If there is one vacancy, the quorum is still four. If there are two vacancies, the quorum is three, the same as for a five member council. If through resignation or other events, the number of councilors is reduced to two or one, the quorum is also reduced to two or one.

<sup>20</sup> For example, council rules may state that the members present may order a city police officer to find and bring an absent member to the meeting. The rules may also provide a penalty for the absent member.

<sup>21</sup> “Express” is used here to clarify the effect of abstention from voting. At common law abstention from voting was regarded as concurrence with the decision made by the votes cast. Thus, the concurrence could be either affirmative or negative depending on how the majority voted on a decision. “Express” is intended to make clear that an abstention from voting on a question may not contribute to answering the question affirmatively; it amounts to a “no” vote. Use of the word “express” means that no vote less than a majority of a quorum may decide affirmatively a question before the council.

<sup>22</sup> A “decision” is any action taken by council vote. This includes votes on formal documents such as ordinances, resolutions, orders and contracts. It also includes votes to direct city staff, and other questions and motions before the council. Unless the charter provides otherwise, the council may act affirmatively through less than a majority of its positions. A seven member council thus may act through three councilors; its quorum is four. A five member council may so act through two members; its quorum is three. A question may be decided negatively by fewer councilors than required to decide it affirmatively. For example, a 2 to 2 vote or a 2 to 1 vote when the quorum is four councilors, and one councilor is absent.

<sup>23</sup> Some charter sections require a vote of a majority of the council to make certain decisions. In this model, they are sections 16(a), 32, 33(b) and (d), 34 and 35(a). Section 16(b) requires a unanimous vote of at least a council quorum to adopt an ordinance at one meeting.

<sup>24</sup> The Oregon Public Meetings Law, ORS 192.650, requires written minutes. This section provides an independent requirement for council records and authorizes the council to adopt requirements in addition to those of state law.

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<sup>25</sup> The most significant power granted to cities is the authority to adopt legislation. Legislation is local law that applies throughout a city. Legislative authority is properly exercised in the form of ordinances. City charters traditionally prescribe specific requirements for adoption of ordinances, and no provisions for approval of resolutions (administrative) or orders (quasi-judicial). Only using ordinances for legislation and using other forms for non-legislative decisions makes clear which council actions are subject to referendum. Oregon Constitution, Article IV, section 1(5) gives voters initiative and referendum powers over “municipal legislation.”

<sup>26</sup> Under section 12, the majority of the council membership must be present at the time a decision is made. If there is one or more unfilled council vacancy, the majority is calculated on the temporarily diminished membership. However, action by a majority of a quorum (e.g. three votes when quorum of four is present) is not sufficient to enact an ordinance under this section. See note 19 above.

<sup>27</sup> This section requires the presence of at least four councilors and a unanimous vote to adopt an ordinance at one meeting when there is a seven member council. The presence of three councilors and a unanimous vote is required when the council has five members.

<sup>28</sup> Ordinances containing an emergency clause take effect immediately and are not subject to referendum. Legislation may not take effect when it is subject to referendum. Procedures for city initiative and referendum are found in ORS 250.255 to 250.355, and city ordinances. Emergency clauses are legislative and not subject to judicial review. *Kadderly v. City of Portland*, 44 Or 118 (1903). City use of an emergency clause preventing a referendum on the ordinance is not subject to federal court review as a violation of civil rights. *Stone v. City of Prescott*, 173 F.3d 1172 (9th Cir. 1999).

<sup>29</sup> Councils formally exercise their administrative authority in the form of resolutions. Administrative decisions normally implement requirements of city ordinances and state statutes. Examples include city budgets, budget amendments, financial transfers, public contracts, fees and charges, council rules, and city personnel rules. Administrative decisions often are “internal” and relate to the city government. City charters traditionally prescribe specific requirements for adoption of ordinances (legislative), and include no provisions for approval of resolutions (administrative). This model suggests that charters specifically recognize council resolutions as the proper form for the exercise of its administrative authority. Use of this form for non-legislative decisions makes clear which council actions are subject to referendum. Oregon Constitution, Article IV, section 1(5) gives voters initiative and referendum powers over “municipal legislation”, but not municipal administration..

<sup>30</sup> The preferred method for the council to exercise its administrative authority is by resolution. However, “normally” is used in this sentence to allow the council to approve contracts and other documents, give direction to the city manager, city attorney and city employees, and make other administrative decisions by approving a motion without adopting a resolution.

<sup>31</sup> Under section 12, the majority of the council membership must be present at the time a decision is made. If there is one or more unfilled council vacancy, the majority is of the temporarily diminished membership. Action by a majority of a quorum (e.g. three votes when quorum of four is present) is sufficient to approve a resolution under this section. See note 18 above.

<sup>32</sup> ORS 221.310(3) applies to cities of 2,000 or more. It provides that a resolution may take effect any time after passage by the city council. The resolution must state the resolution effective date in a separate section.

<sup>33</sup> Quasi-judicial authority is normally exercised in the form of orders. Under this authority, the council holds hearings and is required to make decisions. The most common examples are land use matters and nuisance proceedings. City charters traditionally prescribe specific requirements for adoption of ordinances (legislative) and include no provisions for adoption of orders (quasi-judicial). This model suggests that charters specifically recognize council orders as the proper form for the exercise of quasi-judicial authority. Use of this form for non-legislative decisions helps make clear which council actions are subject to referendum. Oregon Constitution, Article IV, section 1(5) gives voters initiative and referendum powers over “municipal legislation,” but not municipal quasi-judicial decisions.

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<sup>34</sup> Under section 12, the majority of the council membership must be present at the time a decision is made. If there is one or more unfilled council vacancy, the majority is of the temporarily diminished membership. Action by a majority of a quorum (e.g. three votes when quorum of four is present) is sufficient to approve an order under this section. See note 19 above.

<sup>35</sup> This sentence anticipates the charter vote at a primary or special election. If the charter vote is at a general election, the words “or is elected at the time of adoption” should be added.

<sup>36</sup> Oregon Constitution, Article II, section 14a requires cities to hold their regular elections for officers at the same time as the general biennial elections for state and county officers are held. ORS 254.035 implements this provision. ORS 254.056 states that general elections are held on the first Tuesday after the first Monday in November of even numbered years. It further states that primary elections may be held on the third Tuesday in May of even numbered years.

<sup>37</sup> This language assumes that adoption of the charter will not affect the council size or terms of office. It does provide a transition from the city government before charter adoption to the city government under the charter.

<sup>38</sup> A four-year term for the mayor and four-year staggered terms for an even number of councilors gives the voters an opportunity to vote for a majority of the council positions at every other general election. It may also be necessary to change “first” to “second” in the first sentence. A mayor elected to a four year term when this charter provision is adopted would serve until the beginning of the second odd-numbered year after adoption. If the mayor is to have a two-year term, the second sentence of this section needs to be changed.

The mayor is appointed from the council by the councilors under the Incorporation Act, ORS 221.130. If this is to continue under the charter, then the second sentence of section 25 needs to be replaced by the sentence: “At the first meeting of the council in each odd numbered year, the council must appoint one of its members to serve as mayor for a term of two years.” If the mayor is appointed from the council, the council should have an odd number of members, and section 7 should be changed.

<sup>39</sup> The last sentence of this section makes specific the Oregon tradition that local government elections are nonpartisan. This provision is included in the county model home rule charter and county charters. It is also consistent with the 8<sup>th</sup> edition of the NLC Model Charter (2003).

<sup>40</sup> Courts have consistently invalidated residency qualifications of more than 12 months.

<sup>41</sup> This prohibition is intended to avoid certain conflicts of interest in city service. It bars full-time or part-time employees from serving as mayor or councilor. It does not, however, prevent the mayor or a councilor from receiving reimbursement of expenses for services.

<sup>42</sup> This model charter does not prescribe a nominating procedure. It allows flexibility by requiring that an ordinance govern the nominating process.

<sup>43</sup> These words allow for a successor to be appointed as well as elected, and require that the successor meet the necessary qualifications for the office at the time of election or appointment. Some charters have provisions limiting the number of terms or years that a citizen may serve in an elected office.

<sup>44</sup> “Adjudicated incompetence” means inability or unfitness to manage one’s affairs because of mental condition determined in a court proceeding.

<sup>45</sup> Recall of elective officers is governed by Oregon Constitution, Article II, section 18, and ORS 249.865 to 249.877.

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<sup>46</sup> Section 27 requires each member to be a qualified voter and resident of the city. Under subsections (3) and (4) of section 31(b), moving outside the city or allowing voter registration to lapse permits the council to declare a council position vacant.

<sup>47</sup> Note the use of “punishable” rather than punished. “Loss of liberty” is used because the legislature often describes public offenses with other than criminal terms.

<sup>48</sup> Normally a single vacancy is filled at one time. This section permits the council to fill multiple vacancies at the same time. Most vacancies are created in positions filled by election. However, this section also applies to appointments to fill vacancies created in positions previously filled by an appointee to the council.

<sup>49</sup> A member’s disability under this section is usually temporary. If the disability is permanent, it often results in the resignation of the disabled member. A permanent disability does not create a vacancy unless the member resigns. However, the council may appoint a pro tem councilor, and the appointment may continue until a successor to the disabled member is elected and takes office.

<sup>50</sup> The city manager exercises the administrative authority delegated by the city charter and the city council. The manager and the council both exercise administrative authority. Only the council may exercise legislative authority.

<sup>51</sup> This makes specific the city manager responsibility to mayor and council for city administration. It gives the manager a role in policy development consistent with the 8<sup>th</sup> edition of the NLC Model Charter. (2003) It makes the manager responsible for carrying out city policy adopted by council resolution or ordinance.

<sup>52</sup> This section adds more specific qualifications for city manager consistent with the 8<sup>th</sup> edition of the NLC Model Charter (2003).

<sup>53</sup> If the city wants the charter to require the manager to live in the city, the following may be added: “but must become and remain a resident of the city while manager.” This requirement can be imposed more flexibly by ordinance or contract.

<sup>54</sup> Note that the manager appoints, supervises and removes city employees. The council appoints, supervises and removes city officers.

<sup>55</sup> Subsection (8) and (9) of this section add provisions that update the charter by recognizing the increasing importance of regional and intergovernmental issues, and the participatory nature of policy development. They are consistent with the 8<sup>th</sup> edition of the NLC Model Charter (2003).

<sup>56</sup> Municipal judges have administrative duties incidental to their judicial functions such as record keeping and accounting for certain funds. These administrative duties may be supervised by the city manager.

<sup>57</sup> A similar charter restriction was the basis for damages in *Still v. Benton*, 252 Or. 463, 445 P.2d 492 (1968). The court found that the mayor did not act within the scope of his authority in pressuring the manager to discharge the police chief. The chief was awarded punitive as well as general damages.

<sup>58</sup> This does not affect the ability of a council member to obtain information from the manager or other city employees. Council members also have at least as much right to public records as other members of the public under the Oregon Public Records Law, ORS 192.420 to 192.505.

<sup>59</sup> If a city attorney office is established by the charter, it is independent of the wishes of the council or manager. This language places office employees under the supervision of the attorney rather than the manager. The charter could establish the office and provide for appointment by the manager, although that would be unusual. If not created by charter, the city attorney office may be created by ordinance. The ordinance may provide for city attorney appointment by the council or manager. Attorney duties may be assigned by ordinance and contract.

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<sup>60</sup> ORS 221.339 gives municipal courts jurisdiction over violations and misdemeanors committed or triable in the city. Municipal courts do not have jurisdiction over felonies. The section provides that jurisdiction over misdemeanors may be limited by city ordinance.

<sup>61</sup> ORS 51.035.

<sup>62</sup> ORS 294.352(5) requires that the budget list the salary for each officer and employee. If councilors are to receive no compensation for their services to the city, the following may be added to this section: “However, no councilor may receive compensation for serving in that capacity.” This prohibition does not prevent reimbursement for expenses.

<sup>63</sup> If there is a city manager, the manager may be substituted for the council. Rules adopted by the manager may be made subject to council approval. The council may also delegate authority to the city manager or city administrator to adopt rules.

<sup>64</sup> “Merit and fitness” allows wide discretion in the interpretation and application of personnel rules and practices.

<sup>65</sup> Few procedures applicable to cities appear in state statute. ORS 223.387 to 223.401 apply to assessments for local improvements. ORS 223.805 to 223.845 relate to city motor vehicle parking facilities. ORS 271.080 to 271.230 apply to vacation of certain public property.

<sup>66</sup> ORS 287.004(2) generally limits city bonded debt to “three percent of the true cash value of all taxable property” in the city “computed in accordance with ORS 308.207.” This limitation does not “apply to bonds issued for water, sanitary or storm sewers, sewage disposal plants, hospitals, infirmaries, gas, power or lighting purposes, or the acquisition, establishment, construction or reconstruction of any off-street motor vehicle parking facilities, nor to [Bancroft] bonds issued pursuant to applications to pay assessments for improvements in installments under statutory or charter authority.” ORS 287.004(4). Bancroft bonds may not “exceed .03 of the latest true cash valuation of the city.” ORS 223.295(1).

<sup>67</sup> It may be necessary to continue unusual charter provisions such as bond approvals, special levies or annexations.

**Building and Grounds Committee**  
**Monday, January 28, 2013**

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Members Present: Murray Stewart, Chair, Jim Fairchild, Kelly Gabliks, Kevin Marshall. Absent: Jim Brown

Also Present: City Manager Ron Foggin, Mayor Brian Dalton, City Attorney Lane Shetterly, Finance Director Cecilia Ward, Community Development/Operations Director Jason Locke, City Recorder Emily Gagner, and Recording Secretary Jeremy Teal.

Chair Stewart called the meeting to order at 6:00 p.m.

**COMMENTS FROM THE PUBLIC**

There were none.

**FARMHOUSE UPDATE**

Mr. Locke stated the clean up and repairs were completed at the farmhouse, and some equipment left on the property was sold to the County. He noted that the well had not been maintained and was being repaired. He stated that after the repairs were completed the property would be ready for sale.

Councilor Marshall asked how long the property had been vacant. Mr. Locke responded since September 2012. He noted that the heat was on and the property was checked weekly.

Councilor Marshall asked what the listing price would be. Mr. Locke stated that the market analysis the City obtained valued the property at \$225-\$235,000 and it would be listed in that range.

Councilor Marshall asked if the sale would be for the full parcel. Mr. Locke stated it would include the full five acres and the house.

Councilor Stewart asked where the funds from the sale of the farmhouse would be deposited. Mr. Locke stated that the sewer fund purchased the property, so the revenue from the sale would be deposited in that account.

**COMMUNITY DEVELOPMENT/OPERATIONS DIRECTOR'S REPORT**

Mr. Locke reported the City secured state assistance to develop a redevelopment plan for the Weyerhauser site.

**OTHER**

**ADJOURNMENT**

There was no other business and the meeting was adjourned at 6:05 p.m.



# Building & Grounds Committee

## AGENDA

**January 28,  
2013**

**6:00 PM**

**Council  
Chambers,  
Dallas City Hall,  
187 SE Court St,  
Dallas, OR  
97338**

1. Call to Order
2. Comments from the Public

*This time is provided for citizens to address the Committee on any matters, including agenda items. This is the only time during the meeting that the public will be allowed to speak.*

3. Farmhouse update
4. Community Development/Operations  
Director's Report
5. Other
6. Adjournment

**Chair Murray Stewart  
Jim Brown  
Jim Fairchild  
Kelly Gabliks  
Kevin Marshall**



*Community Development/Operations Department*

## **Memo**

**To:** Buildings and Grounds Committee  
**From:** Jason Locke, Community Development/Operations Director   
**Date:** January 28, 2013  
**Re:** Status of City-owned Farmhouse at 11235 Orrs Corner Road

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Most of the cleanup and basic repairs have been completed on the farmhouse property. Ted Cuno, our Building Official, has been overseeing the project. The current issue that is being addressed is the well water treatment system, which was not maintained by the prior tenant. Once the maintenance is complete and the various parts replaced and cleaned, the well system should be fully operational.

The plan is to list the property for sale in the next 60 days.

**DALLAS CITY COUNCIL  
REPORT**

**TO: MAYOR BRIAN DALTON AND CITY COUNCIL**

<i>City of Dallas</i>	<b>Agenda Item No. 8.a</b>	<b>Topic:</b> Joining the Oregon Main Street Network
<b>Prepared By:</b> Jason Locke, Community Development/ Operations Director <i>JL</i>	<b>Meeting Date:</b> February 4, 2013	<b>Attachments:</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
<b>Approved By:</b> Ron Foggin, City Manager <i>RJ</i>		

**RECOMMENDED ACTION:** Authorize staff to enroll the City in the Oregon Main Street Network at the Exploring Downtown Level.

**BACKGROUND:** The City and Urban Renewal Agency are increasingly dedicating resources to downtown. Examples include the streetscape projects, loan and grant programs, and business assistance. Given that there appears to be a gathering momentum downtown, with new building owners and businesses, staff is proposing that it may be time to join the Oregon Main Street Network. The network is run by the State Historic Preservation Office, and has dedicated staff and resources to assist a city like ours to move forward on downtown revitalization. The city would enter the program at a lower level (Exploring Downtown) and hopefully move up after a period of time. The Exploring level does not commit the city to any onerous requirements, and will allow us to access resources to enhance downtown.

**FISCAL IMPACT:** Undetermined, will require some staff time

**ATTACHMENTS:**

Main Street Information sheet  
Exploring Downtown Application



Where Place and Time meet

**CONTACT INFORMATION**

Sheri Stuart  
Main Street Coordinator  
Oregon Main Street  
725 Summer St. NE, Ste. C  
Salem, OR 97301

503.986-0679  
sheri.stuart@state.or.us

www.oregonheritage.org

**Main Street's Economic Success**

Historic Preservation  
Economic Development

In 2010, Oregon Main Street's "Performing Main Street" communities (Albany, Baker City, Corvallis, Medford, Oregon City, Salem and Tualumville) are:

- \$1.2-21 million total public and private investment in physical improvements
- 100 building improvement projects
- 65 new businesses
- 215 new jobs
- 12 new local schools
- 4222 additional value of volunteer hours

# Oregon Main Street

Oregon Main Street provides assistance, training, and technical services to communities who want to strengthen, preserve, and revitalize their historic downtown commercial districts. The program is a locally driven process following the proven Main Street Approach® which is a practical and comprehensive model capitalizing on downtown's unique assets. The goal is to build high quality, livable, and sustainable communities that will grow Oregon's economy while maintaining a sense of place. Oregon Main Street is administered by the State Historic Preservation Office (Oregon Parks and Recreation Department).



## The Main Street Approach®

The Main Street Approach is a proven comprehensive approach to historic commercial district revitalization. This approach has been implemented in over 2,200 cities and towns in 40 states across the nation with the help of the National Main Street Center and statewide downtown revitalization programs. The success of the Main Street Approach® is based on its comprehensive nature. By fully integrating four points into a practical downtown management strategy, a local program will produce fundamental changes in a community's economic base:

**Organization** involves building a Main Street® framework that is well represented by business and property owners, bankers, citizens, public officials, chambers of commerce, and other local economic development organizations. Everyone must work together to renew downtown. A strong organization provides the stability to build and sustain a long-term effort.

**Promotion** creates excitement downtown. Street festivals, parades, retail events, and image development campaigns are some of the ways Main Street® encourages customer traffic. Promotion involves marketing an enticing image to shoppers, investors, and visitors.

**Design** enhances the attractiveness of the business district. Historic building rehabilitation, street and alley clean-up, colorful banners, landscaping, and lighting all improve the physical image of the downtown as a quality place to shop, work, walk, invest in, and live. Design improvements result in a reinvestment of public and private dollars to downtown.

**Economic Restructuring** involves analyzing current market forces to develop long-term solutions. Recruiting new businesses, creatively converting unused space for new uses, and sharpening the competitiveness of Main Street's traditional merchants are examples of economic restructuring activities.

## Meeting the Needs of Oregon Communities

Oregon Main Street provides assistance to all communities whether they are just beginning to explore options for their downtown or seeking national recognition as an accredited Main Street® town. Currently, there are 72 communities participating in one of the three levels of Oregon Main Street:

**Exploring Downtown** is for those communities that demonstrate an interest in revitalizing their downtowns and want to learn more about the Main Street Approach®. Interested communities may join at anytime by submitting a letter of intent and completing a brief community assessment survey.

**Transforming Downtown** is for communities who are committed to downtown revitalization using the Main Street Approach® but need technical assistance to take them to the next level. Application rounds are held as resources permit.

**Performing Main Street** is for those communities who were previously certified National Main Street cities and those communities with advanced downtown programs following the Main Street Approach®. Application rounds are held as resources permit.



Where Place and Time meet

### Why Downtown is Important

1. Historic core of community.
2. Includes unique shopping and service activities.
3. Represents vast amount of public and private investment.
4. Provides a sense of community and place.
5. Reflection of how the community views itself and is a critical factor in business retention and recruitment efforts.
6. Most of the downtown businesses are locally owned.
7. Represents a significant portion of the community's tax base.
8. Serves as an incubator for new businesses.
9. Typically a government center.
10. Often the largest employer in town.

## Principles of Main Street

The National Trust Main Street Center's experience in helping communities bring their commercial corridors back to life has shown time and time again that the Main Street Four-Point Approach succeeds. That success is guided by the following eight principles which set the Main Street methodology apart from other redevelopment strategies:

1. **Comprehensive:** A single project cannot revitalize a downtown. An ongoing series of initiatives is vital to build community support and create lasting progress.
2. **Incremental:** Small projects make a big difference. They demonstrate that "things are happening" on Main Street and hone the skills and confidence the program will need to tackle more complex problems.
3. **Self-help:** Although Oregon Main Street can provide valuable direction and technical assistance, only local leadership can initiate long-term success through community involvement and commitment to the revitalization effort.
4. **Public/private partnership:** Successful downtown revitalization organizations must have the support and expertise of both the public and private sectors.
5. **Identifying and capitalizing on existing assets:** local assets provide the solid foundation for a successful, unique downtown revitalization initiative.
6. **Quality:** From storefront design and promotional campaigns to special events, quality must be the main goal.
7. **Change:** Changing community attitudes and habits is essential. A carefully planned downtown program will help shift public perceptions and practices to support and sustain the revitalization process.
8. **Action-oriented:** Successful downtown revitalization programs are pro-active. They plan for the future.

## Partners and the Main Street Approach®

Local Main Street Programs must involve groups throughout the community to be successful. Different groups have different interests in the downtown. And, while each may have a particular focus, all groups ultimately share the common goal of revitalizing the commercial district. By involving a broad range of constituents in the process, the downtown program can help each group realize that this common goal exists and that cooperation is essential for successful revitalization. By identifying each group's strengths, the downtown program can help focus that group's energy in the areas where it will be most effective. Groups typically involved in successful local downtown revitalization programs include:

- Retail and Service Sector Businesses
- Property Owners
- Chambers of Commerce
- Financial Institutions
- Consumers
- City and County Government
- Economic Development Officials
- Industries
- Hospitals
- Media
- Utilities
- Historic Societies and Historic Preservation Groups
- Civic Organizations
- Schools

*"all of us, if we are reasonably comfortable, healthy and safe, owe immense debts to the past. There is no way of course, to repay the past. We can only repay those debts by making gifts to the future." Jane Jacobs*



## **Oregon Main Street Network 2011-2012 Exploring Downtown Level Application**

Oregon Main Street provides Exploring Downtown level organizations a range of services and assistance to meet a variety of community commitment and readiness levels. It is for communities that are just starting a downtown revitalization effort and wish to explore using the Main Street Approach®.

Our organization would like to become an Exploring Downtown level member of the Oregon Main Street Network.

We agree to:

- Provide a local contact.
- Consider forming a downtown revitalization organization.
- Send a representative to at least one Oregon Main Street training per year (current offerings include the annual Oregon Main Street conference and quarterly Oregon Main Street Network workshops).
- Take time to learn about the Main Street Approach®.

In exchange, the Oregon Main Street Program will provide:

- Invitation and notification of all statewide Oregon Main Street workshops and conferences.
- "Introduction to the Main Street Approach®" Community Presentation (as requested).
- Board Work Plan Retreat (as requested).
- Reconnaissance level historic building surveys.
- Telephone consultations.
- Oregon Main Street listserv access.
- Resource lending library access.
- Eligibility for the "Excellence in Downtown Revitalization" Awards.

Submission Instructions:

- Application for the Oregon Main Street Exploring Downtown level may be submitted at any time.
- The answers to the questions are to help us serve your community effectively.
- All five questions must be answered and attachments provided.
- Answers to all questions must not exceed 2 pages (8½ x 11).

**Send form to:**

Sheri Stuart, Coordinator  
Oregon Main Street  
725 Summer Street N.E., Suite C, Salem, Oregon, 97301  
Questions: 503.986.0679 or [sheri.stuart@state.or.us](mailto:sheri.stuart@state.or.us)

## Exploring Downtown Level Commitment Statement:

\_\_\_\_\_ agrees to meet the requirements of Oregon Main Street  
(community and/or organization)  
as outlined above and will be eligible to receive Exploring Downtown level services from Oregon Main Street if the requirements are met. We understand that our Exploring Downtown level membership within the Oregon Main Street network does not authorize us to use the Main Street® trademark name and further understand that the Main Street® name is a trademarked brand, owned by the National Trust National Main Street Center.

\_\_\_\_\_  
Signature of Designated Contact Person

\_\_\_\_\_  
Date

### Question 1: Applicant Information (please print)

Name of designated contact person:
This person's title or affiliation:
Name of the Community:
Population:
Organization (if applicable):
Mailing address of the contact person:
City, state, zip code:
Phone number of the contact person:
Email address:

**Question 2: Briefly describe the economic and physical characteristics of your downtown district.**

**Question 3: Briefly describe the structure of your organization (if you have a board of directors and officers, attach a list).**

**Question 4: Briefly describe any efforts to improve the downtown or historic commercial district over the past 5 years.**

**Question 5: Briefly describe what you hope to achieve by participating as an Exploring Downtown level community.**

# DALLAS CITY COUNCIL REPORT

**TO: MAYOR BRIAN DALTON AND CITY COUNCIL**

<i>City of Dallas</i>	<b>Agenda Item No. 8 b</b>	<b>Topic: Council Rules of Procedure revisions</b>
<b>Prepared By:</b> Emily Gagner	<b>Meeting Date:</b> February 4, 2013	<b>Attachments:</b> Yes <input checked="" type="checkbox"/>   No <input type="checkbox"/>
<b>Approved By:</b> 		

RECOMMENDED MOTION:

Motion to adopt the Council Rules of Procedure as presented.

BACKGROUND:

At the January 28 Administrative Committee meeting, the Committee discussed some changes to the Council Rules of Procedure. The Committee voted unanimously to recommend the Council adopt the proposed changes. Details on the discussion are included earlier in the agenda packet in the Administrative Committee meeting minutes.

Among the changes included in the revised Council Rules of Procedures (attached) are the following:

- Implementation of a rotational roll call
- Requiring a staff report for each agenda item
- Inclusion of an “Approved as to Form” signature block on all resolutions, ordinances, and contracts to show the City Attorney has reviewed the document
- Specific procedure for Councilors’ participation in a Council meeting via telephone
- Procedure for determining if a Councilor’s absence from a meeting is for good cause. The Administrative Committee determined the best procedure would be to have the Councilor notify the Council President of his or her absence prior to the meeting. If the Council President does not excuse the absence, he or she will notify the Council at the beginning of the meeting for final determination.

FISCAL IMPACT:

None

ATTACHMENTS:

Redline version of the updated Council Rules of Procedure  
Final version of Council Rules of Procedure



# City Council Rules of Procedure

First Review Date January 27, 2009  
Adopted by Council December 5, 2011  
Amended by Council February 2, 2013

**SECTION 1 – PURPOSE**

The purpose of this document is to outline the rules of the Council and procedures for Council proceedings.

**SECTION 2 – AUTHORITY**

The Charter of the City of Dallas provides that the Council shall adopt rules for the government of its members and proceedings. The following rules shall be in effect upon their adoption by the Council and shall remain in effect until they are amended or new rules are adopted. These rules shall be presented to all City Council members during the first work session in January of odd-number years following general elections. Within 30 days of taking office, each appointed or elected Councilor shall sign that they have reviewed and received a copy of these rules. The City Recorder shall retain the signature copy.

### SECTION 3 – GENERAL RULES

#### 3.1 Open Meetings

All meetings will be held in accordance with the Oregon public meeting requirements of Oregon law (ORS 192.610 to 192.690) which is herein incorporated by reference into these rules. To the extent that any local procedure conflicts with the Public Meetings Law, the latter shall prevail. No final action of the Council shall have legal effect unless the motion and the vote by which it is disposed of take place at a proceeding that is open to the public.

#### 3.2 Quorum

A majority of the members of the Council shall constitute a quorum for its business.

#### 3.3 Rules of Order

Proceedings of the Council shall be conducted according to the provisions of the City's Charter, the City Code, these rules, and, when not so governed, in accordance with the parliamentary procedure contained in *Robert's Rules of Order*. However, strict adherence to the requirements of these rules is not required. No action of the Council shall be in violation of this section or deemed invalid for the reason that the action was not in conformance with *Robert's Rules of Order*. Any Councilor may move a question, second a motion, debate and vote.

#### 3.4 Address by Council Members

Every Councilor desiring to speak to an issue will address the Presiding Officer and upon recognition, will confine remarks to the issue under debate. Councilors questioning, seeking clarification, or soliciting a recommendation from staff will direct the concern to the City Manager or the City Attorney. The City Manager may respond directly or may redirect the inquiry to a staff member.

## SECTION 4 – COUNCIL MEETINGS

### 4.1 Regular Meeting

The Dallas City Council will meet in regular session at least once per month. The regular meeting shall be held on the first and/or third Monday of each month at such place and hour as the Council may prescribe. If the regular meeting falls on a legal holiday, the meeting shall be convened at the same time and place on the next business day, unless the meeting has been cancelled by the Council in accordance with Rule 4.7-

### 4.2 Work Sessions

In addition to the regular meetings of the Council under Rule 4.1, a meeting, or any portion thereof, may be designated as a work session. The City Council may hold a work session on the second Wednesday of each month in the Council Chambers or at another time and place in the City that the Council may prescribe. Work sessions will be used to review forthcoming projects of the City, determine goals for the ensuing year, receive progress reports on current programs or projects, or to hold open discussions on any City-related subject. Typically, a work session designation indicates that matters of substance will be discussed, but that final action will not be taken. Notice of work sessions shall be given in the same manner as notice of regular meetings. Work sessions shall be open to the public, however an opportunity for public testimony will only be allowed at the discretion of the Presiding Officer by a majority vote of the Council members.

### 4.3 Special Meetings

The Mayor upon his own motion may, or at the request of three members of the Council shall, by giving notice thereof to all members of the Council, call a special meeting of the Council for a time not earlier than three nor later than forty-eight hours after the notice is given. Only the subject(s) listed on the special meeting agenda may be acted upon.

### 4.4 Emergency Meetings

In the case of an actual emergency, an emergency meeting of the Council may be called by common consent of all available Councilors upon such notice as is appropriate to the circumstances. The minutes of the emergency meeting shall describe the emergency justifying less than 24 hours notice. Attempts will be made to contact the media to provide notice of the emergency meeting.

### 4.5 Executive Session

The Mayor may call any regular, special, or emergency meeting into executive session by citing the specific provision of ORS 192.660 which authorizes the session. Executive sessions may also be separately scheduled pursuant to the requirements for special meetings. Prior to opening an executive session, the Presiding Officer shall announce:

- a) The purpose of the executive session;
- b) The state statute authorizing the executive session; and
- c) Notification to all present, including the media, that matters discussed in executive session are not to be disclosed or reported to the public.

Executive sessions shall be held in accordance with the Oregon Public Meetings Law. Matters discussed in executive session shall be exempt from public disclosure pursuant to state statutes. No formal or final action may be taken during an executive session, but an opinion or consensus of the Council may be gathered. To make a final decision, the Presiding Officer shall call the meeting into open session or place the decision on the agenda of a future open session. Executive session shall be closed to all persons except:

- a) The City Council;
- b) Persons reporting to the Council on the subject of the executive session;
- c) The City Manager unless directed otherwise by the Council;
- d) News media representatives, unless excluded by the Public Meeting Law (The Presiding Officer shall instruct any media representatives present not to disclose the substance of any discussion during executive session);
- e) And other persons authorized by the City Council to attend.
- f) No elected official who declares an actual conflict of interest on a topic to be discussed in executive session shall remain in the room during such executive session discussion.

Council members will keep all written materials and verbal information provided to them in executive session or on matters of confidentiality under law in complete confidence to insure that the City's position is not compromised. No mention of the information read or heard should be made to anyone other than other Council members, the City Administrator or the City Attorney, except that a Councilor may describe generally the purpose for which an executive session was held.

If the Council, pursuant to an executive session provides direction or consensus to staff on proposed terms and conditions for any type of negotiations whether it be related to property acquisition or disposal, pending or likely claim or litigation, or employee negotiations, all contact with the other parties shall be made by designated staff or representatives handling the negotiation or litigation. A Council member shall not have any contact or discussion with any other party or its representative nor communicate any executive session discussion.

#### [4.6 Attendance by Telephone or Other Electronic Media](#)

Any Council or committee meeting may, upon prior Council or committee approval or, in the event of an emergency, upon determination by the Mayor (or, in the case of a committee of the council, by the committee chair), be conducted by telephonic conference call or other electronic communication, and any Councilor may participate in such a meeting by telephone or other electronic communication, as available. Notice and opportunity for public access to a meeting held by telephonic conference call or other electronic communication shall be provided, and such meeting shall be conducted in accordance with the Oregon Public Meetings Law. For non-executive sessions of the Council or committee, meetings held by telephonic conference call or other electronic communication must provide at least one place where members of the public can hear (or hear and see) the meeting by speakers or other devices. For executive sessions at which media attendance is provided under the Public Meetings Law, the media must be provided with at least one place where the media can hear (or hear and see) the meeting by speakers or other devices.

4.76 Cancellation of Meeting

Upon a majority vote of the members of the City Council present, a meeting may be cancelled when deemed appropriate. The Charter requires one regular meeting be held each month. Notice of cancellation shall be posted on the bulletin board at City Hall, distributed to members of the media, and to interested citizens.

4.87 Americans With Disabilities Act

All meetings of the Council shall be held in compliance with the Americans with Disabilities Act.

4.89 Attendance Duty

It is the duty of each member of the City Council to attend all meetings of the Council. The Charter provides in Chapter VII, Section 32 that a Council office shall be deemed vacant upon a Councilor's absence from the city for 30 days without the consent of Council or upon the absence from meetings of the Council for 60 days without like consent. Consent will be given for good cause.

Good cause shall include, but is not limited to:

- a) Illness;
- b) Family obligations;
- c) Employment requirements;
- d) Scheduled vacations; or

e) Other City business

4.109 Excused Absence

When ~~any~~ Council member cannot attend a meeting of the Council, the member shall notify the ~~City Recorder~~Council President prior to the meeting, and must state the reason for his or her absence. If the Council President determines the reason is for good cause, as identified in Rule 4.9, above, the Council President will excuse the absence and notify the City Clerk and, if there are no objections from other Councilors, the City Recorder may announce the absence is for good cause and the absence shall be listed in the minutes as excused. If the Council President does not excuse the absence the Council President will notify the City Clerk and inform the Council at the meeting and, if there are no objections from other Councilors, City Council determines the absence is not for good cause, the absence shall be listed in the minutes as unexcused. If a Councilor objects to the Council President's determination that another Councilor's absence is excused or unexcused, the Council will determine the question by vote. A Councilor whose absence has been determined to be unexcused may, at the next meeting at which the Councilor is in attendance, ask the Council to reconsider its determination.

**SECTION 5 – THE PRESIDING OFFICER**

5.1 Mayor

The Mayor shall preside at all regular and special meetings, work sessions, and executive sessions of the City Council. The Mayor is entitled to vote in case of a tie vote of the Council, except on the final passage of an ordinance. The Mayor shall preserve order and enforce the rules of the Council.

5.2 Council President

At the first meeting of the Council in each odd-numbered year, the Council will elect a Council President from its membership. In the Mayor's absence from a Council meeting, the President shall preside over it. Whenever the Mayor is unable to perform the functions of his office, the President shall act as Mayor.

5.3 Sergeant at Arms

The Sergeant at Arms will be the Council President. It will be the duty of the Sergeant at Arms to assist the Presiding Officer, as appropriate, to maintain the order and decorum at all meetings. The Council President may appoint a designee to act as the Sergeant at Arms.

5.4 Absence of Mayor and Council President

In the absence of the Mayor and Council President, the Council shall elect a Councilor to serve as presiding officer as its first order of business. The Presiding Officer will immediately assume the duty of Sergeant at Arms, or appoint a designee to do so. Any Councilor may call a meeting to order for the purpose of electing a presiding officer.

**SECTION 6 – DECORUM AND ORDER**

**6.1 Presiding Officer**

The Presiding Officer shall enforce the rules of the Council. In addition, the Presiding Officer has the authority to preserve decorum and decide all points of order, subject to the appeal to the Council. The Presiding Officer shall enforce order, prevent personal attacks or impugning members' motives, and restrict in debate to the question under discussion.

**6.2 Councilors**

Councilors shall maintain order and decorum during Council meetings, and shall not by conversation or other action, delay or interrupt the proceedings or refuse to obey the order of conduct or these Rules. Councilors shall when addressing staff or members of the public, confine themselves to questions or issues then under discussion, shall not engage in personal attacks, shall not impugn the motives of any speaker, and shall at all times, while in session or otherwise, conduct themselves in a manner appropriate to the dignity of their office.

**6.3 Staff and Public**

All persons attending Council meetings shall observe the same rules of procedure, decorum, and good conduct applicable to the members of the Council.

**6.4 Removal of Any Person**

The Presiding Officer may eject from the meeting any person in attendance, including any Councilor, who becomes disorderly, abusive, or disruptive, or who fails or refuses to obey the matter of order or procedure. The Presiding Officer or Sergeant at Arms may summon the assistance of the City of Dallas Police to assist in maintaining order. In case the Presiding Officer should fail to act, any member of the Council may obtain the floor and move to require enforcement of this rule.

**SECTION 7 – AGENDA AND ORDER OF BUSINESS; STAFF REPORTS AND CITY ATTORNEY REVIEW OF CERTAIN ACTIONS**

7.1 Setting the Agenda

The Mayor and City staff shall determine the business to be placed on the Council meeting agenda. Any Councilor may request that an item be placed on the Council agenda.

7.2 Consent Agenda

A consent agenda will be among the first items on the Council agenda. At the beginning of the Council meeting, the Presiding Officer will ask if any Council member wishes to have any item removed from the consent agenda for deliberation. If any Council member requests that an item be removed, it will be removed. Any item removed from the consent agenda shall be discussed and acted upon following approval of other consent agenda items. When there are no more items to be removed, the Presiding Officer will ask the Council for a motion to approve the consent agenda.

7.3 Agenda Distribution

Promptly after it is developed, the agenda for a regular meeting or work session shall be distributed with any supporting materials not later than 48 hours prior to the meeting to members of the Council, staff, news media, and interested citizens who have requested the agenda. The agenda for a special or emergency meeting shall be made available as appropriate under the circumstances.

7.4 Special Accommodations

All Council meeting agendas shall contain proper notice of the City's intent to conduct the meeting in accordance with the Americans with Disabilities Act and that persons needing accommodations may contact the City Manager's office at least 48 hours prior to the meeting time to request necessary accommodations. Such notice shall provide the telephone number at which the City Manager may be contacted.

7.5 Alteration of the Agenda

- a) New Matters: Except in emergency meetings, matters not on the printed agenda may come before the Council as determined by the Presiding Officer or a majority of the Council.

## 7.6 Order of Business

The general rule to the business at regular meetings of the City Council will be:

- a) **Call to Order** – The Presiding Officer shall call the meeting to order.
- b) **Roll Call** – The City Recorder shall call the name of each Councilor and note each Councilor’s attendance or absence in the record, under the guidelines set forth in Section 4.8 and 4.9 to establish a quorum is present to conduct business.
- c) **Pledge of Allegiance** – The Presiding Officer or designee may lead the Council and audience in the Pledge of Allegiance.
- d) **Comments from the Audience** – An opportunity for members of the audience shall be given to address the Council on any matter, other than those issues on the agenda scheduled for public hearing, during this portion of the meeting. Participants must state their name and address for the record prior to addressing the Council. Testimony will be limited to three minutes unless additional time is granted by the Presiding Officer. Items brought before the Council from the public during public testimony should be referred to the staff for appropriate action and a report returned to the Council if requested.
- e) **Public Hearings** – A public hearing shall be held on each matter required by state law or City policy. Written and oral testimony shall be heard prior to Council action.
- f) **Consent Agenda** – The consent agenda shall consist of a list of routine, non-controversial matters, not typically requiring discussion, presented for Council approval by a single motion.
- g) **Items Removed from Consent Agenda** – Any item removed from the consent agenda will be discussed, and if appropriate, acted upon.
- h) **Reports or Comments from the Council Members** – Special reports from various boards and commissions may be given at this time. In addition, awards, proclamations, or Council liaison reports may also be presented.
- i) **Reports from City Manager and Staff** – Time provided for City staff to bring administrative action (items that require formal action or Council direction) before the Council.
- j) **Resolutions** – Resolutions shall be read and a roll call vote taken.
- k) **First Reading of Ordinances** – The Mayor shall declare an Ordinance to have passed its first reading.
- l) **Second Reading of Ordinances** – Unless an emergency was declared, an Ordinance will be brought for a second reading at the Council meeting following the first reading. After the Mayor has declared the Ordinance to have passed its second reading, a roll call vote will be taken.
- m) **Other Business** – Time provided for members of the Council or City staff to bring new or old matters before the Council. These matters need not

be specifically listed on the agenda, but formal action on these matters should be deferred until a subsequent Council meeting.

- n) **Adjournment** – Following completion of all matters listed on the agenda, the Presiding Officer shall declare the meeting adjourned.

#### 7.7 Recess

The Presiding Officer may recess any meeting of the Council upon the consensus of the majority of the members present. The Presiding Officer shall announce the time in which the meeting shall reconvene.

#### 7.8 Staff Reports

Each item of business that comes before the council for action will be presented with a staff report that explains the item and provides a recommended action, including options for action, where appropriate. The staff report will be distributed to the Council with the agenda prior to the meeting at which it is to be presented for action. The Council may grant exceptions to this requirement for good cause, as the Council may determine.

#### 7.9 Legal Counsel Review

All resolutions, ordinances and contracts brought before the Council for approval will be reviewed first for legal sufficiency by the City Attorney, and will bear the attestation "Approved as to Form" for the City Attorney's signature.

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## SECTION 8 – MINUTES

### 8.1 Recording of minutes

Minutes are the official record of the City Council meetings. They record the substance of a meeting and should be a clear, accurate, concise, informative record of the proceedings. Minutes will generally follow the chronological order of items considered during a meeting. Minutes are not a verbatim transcript. It is general practice to sound record the meetings of the City Council for back up reference. Minutes will be made available to the public within a reasonable time after the meeting. The minutes are to include, at a minimum:

- a) Councilors present;
- b) All motions, proposals, resolutions, orders, ordinances, and measures proposed and their disposition;
- c) The result of all votes and the vote of each Councilor by name;
- d) The substance of any discussion on any matter; and
- e) A reference to any public document discussed.

### 8.2 Distribution of Minutes

Draft minutes are distributed to the City Council with the agenda on which those minutes appear as an item for approval.

### 8.3 Correction and Approval of the Minutes

Approval of the minutes usually takes place at the next regular meeting following the date of the minutes under approval. Generally, minutes appear on the agenda under the consent agenda. If minor changes are made to the minutes, a Councilor may offer such amendment prior to the consent agenda being approved. For extensive amendments, the minutes should be pulled off the consent agenda for consideration. All corrections will appear in the minutes of the meeting when the changes took place.

If a Councilor has a concern over the reporting of minutes, it is that Councilor's responsibility to review the tape of the meeting and bring corrections forward to the City Council at the next regular meeting with the tape cued, ready to be played if necessary. It is not appropriate to expend staff time when only one member of Council is requesting the review.

## SECTION 9 – VOTING

### 9.1 Method of Voting

The vote on any question shall be taken by voice or by roll call vote. The vote shall be taken by roll call at the direction of the Mayor or at the request of any Councilor. The minutes shall reflect the vote of each Councilor by name. The Mayor is entitled to vote in case of a tie vote of the City Council, except on the final passage of an ordinance.

### 9.2 Order of Voting

Roll call votes shall be called in alphabetical order by last name, on a rotational basis.

### 9.3 Vote Required to Decide a Question

Except as otherwise provided in the City Charter, the concurrence of a majority of the whole number of the council is necessary to decide a question.

### 9.4 Abstention

Abstentions are discouraged. For the purposes of Rule 9.3 above, an abstention shall not be considered an affirmative vote. Councilors who have an actual conflict of interest or a disqualifying bias should declare their conflict or bias and decline to participate rather than abstaining (See Rule 10, below).

## SECTION 10 – CONFLICT OF INTEREST / BIAS / EX-PARTE CONTACT

### 10.1 Conflict of Interest

Prior to participating in any decision, a Councilor shall declare any potential or actual conflict of interest. No Councilor shall participate in any manner regarding an agenda item if doing so would create an actual conflict of interest, except as otherwise provided by state law.

- a) "Potential Conflict of Interest" means any action by a Councilor which could be to the private pecuniary benefit or detriment of the Councilor or a member of the Councilor's household, or a business with which the Councilor or member of the Councilor's household is associated. "Potential conflict of interest" does not include pecuniary affects arising out of:
  - i. Membership in a particular occupation or class required by law as a prerequisite to holding the office of Councilor; or
  - ii. An action which would affect to the same degree a class consisting of an industry, occupation, or other group to which the Councilor or a member of the Councilor's household belongs.
- b) "Actual Conflict of Interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or the person's relative or any business with which the person or a relative of the person is associated unless the pecuniary benefit or detriment arises out of circumstances described in (a) of this section.

### 10.2 Bias

No Councilor shall participate in any manner in a quasi-judicial decision if the Councilor has actual bias regarding the decision.

- a) "Quasi-judicial decision" means a decision involving the application of existing criteria to identified persons or properties.
- b) "Actual Bias" means prejudice or prejudgment of facts to such a degree that a Councilor is incapable of rendering an objective decision on the merits of the case.

### 10.3 Ex-Parte Contact

Before participating in any quasi-judicial decision, a Councilor shall declare any ex-parte contacts. An ex-parte contact is an oral or written communication by a member of the public with a member of the Council regarding the facts of the case made outside of the public hearing process during the pendency of a proceeding. (Communication with staff is not an ex-parte contact). Effective declaration of an ex-parte contact shall include identification of the party and disclosure of the nature of the communication.

**SECTION 11 – COUNCIL STANDING COMMITTEES (DCC 2.050)**

The Mayor shall at the first regular meeting in January of each year, or as soon thereafter as convenient, appoint Council standing committees. Each Council standing committee shall comply with the Council Rules of Procedure, subject to the following exceptions and additions:

- a) The Mayor shall appoint a chair of the Council standing committees to serve as presiding officer.
- b) Council standing committees shall consist of:
  - i. Committee on public works.
  - ii. Committee on public safety.
  - iii. Committee on public building and grounds.
  - iv. Committee on public administration.
- c) At the regular meeting of the council following a committee meeting, the committees shall make a report of their activities.

**CITY OF DALLAS**  
**CITY COUNCIL RULES OF PROCEDURE**  
**ACKNOWLEDGMENT**

I have received, read and understand the contents of the City Council Rules of Procedure. I agree to comply with the provisions of the City Council Rules of Procedure.

Signature \_\_\_\_\_

Printed Name \_\_\_\_\_ Date \_\_\_\_\_

(This form should be signed, dated and returned to the City Recorder.)



# City Council Rules of Procedure

First Review Date January 27, 2009  
Adopted by Council December 5, 2011  
Amended by Council February 4, 2013

## SECTION 1 – PURPOSE

The purpose of this document is to outline the rules of the Council and procedures for Council proceedings.

## SECTION 2 – AUTHORITY

The Charter of the City of Dallas provides that the Council shall adopt rules for the government of its members and proceedings. The following rules shall be in effect upon their adoption by the Council and shall remain in effect until they are amended or new rules are adopted. These rules shall be presented to all City Council members during the first work session in January of odd-number years following general elections. Within 30 days of taking office, each appointed or elected Councilor shall sign that they have reviewed and received a copy of these rules. The City Recorder shall retain the signature copy.

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All meetings will be held in accordance with the Oregon public meeting requirements of Oregon law (ORS 192.610 to 192.690) which is herein incorporated by reference into these rules. To the extent that any local procedure conflicts with the Public Meetings Law, the latter shall prevail. No final action of the Council shall have legal effect unless the motion and the vote by which it is disposed of take place at a proceeding that is open to the public.

### 3.2 Quorum

A majority of the members of the Council shall constitute a quorum for its business.

### 3.3 Rules of Order

Proceedings of the Council shall be conducted according to the provisions of the City's Charter, the City Code, these rules, and, when not so governed, in accordance with the parliamentary procedure contained in *Robert's Rules of Order*. However, strict adherence to the requirements of these rules is not required. No action of the Council shall be in violation of this section or deemed invalid for the reason that the action was not in conformance with *Robert's Rules of Order*. Any Councilor may move a question, second a motion, debate and vote.

### 3.4 Address by Council Members

Every Councilor desiring to speak to an issue will address the Presiding Officer and upon recognition, will confine remarks to the issue under debate. Councilors questioning, seeking clarification, or soliciting a recommendation from staff will direct the concern to the City Manager or the City Attorney. The City Manager may respond directly or may redirect the inquiry to a staff member.

## **SECTION 4 – COUNCIL MEETINGS**

### **4.1 Regular Meeting**

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### **4.2 Work Sessions**

In addition to the regular meetings of the Council under Rule 4.1, a meeting, or any portion thereof, may be designated as a work session. The City Council may hold a work session on the second Wednesday of each month in the Council Chambers or at another time and place in the City that the Council may prescribe. Work sessions will be used to review forthcoming projects of the City, determine goals for the ensuing year, receive progress reports on current programs or projects, or to hold open discussions on any City-related subject. Typically, a work session designation indicates that matters of substance will be discussed, but that final action will not be taken. Notice of work sessions shall be given in the same manner as notice of regular meetings. Work sessions shall be open to the public, however an opportunity for public testimony will only be allowed at the discretion of the Presiding Officer by a majority vote of the Council members.

### **4.3 Special Meetings**

The Mayor upon his own motion may, or at the request of three members of the Council shall, by giving notice thereof to all members of the Council, call a special meeting of the Council for a time not earlier than three nor later than forty-eight hours after the notice is given. Only the subject(s) listed on the special meeting agenda may be acted upon.

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In the case of an actual emergency, an emergency meeting of the Council may be called by common consent of all available Councilors upon such notice as is appropriate to the circumstances. The minutes of the emergency meeting shall describe the emergency justifying less than 24 hours notice. Attempts will be made to contact the media to provide notice of the emergency meeting.

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- a) The purpose of the executive session;
- b) The state statute authorizing the executive session; and
- c) Notification to all present, including the media, that matters discussed in executive session are not to be disclosed or reported to the public.

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- a) The City Council;
- b) Persons reporting to the Council on the subject of the executive session;
- c) The City Manager unless directed otherwise by the Council;
- d) News media representatives, unless excluded by the Public Meeting Law (The Presiding Officer shall instruct any media representatives present not to disclose the substance of any discussion during executive session);
- e) And other persons authorized by the City Council to attend.
- f) No elected official who declares an actual conflict of interest on a topic to be discussed in executive session shall remain in the room during such executive session discussion.

Council members will keep all written materials and verbal information provided to them in executive session or on matters of confidentiality under law in complete confidence to insure that the City's position is not compromised. No mention of the information read or heard should be made to anyone other than other Council members, the City Administrator or the City Attorney, except that a Councilor may describe generally the purpose for which an executive session was held.

If the Council, pursuant to an executive session provides direction or consensus to staff on proposed terms and conditions for any type of negotiations whether it be related to property acquisition or disposal, pending or likely claim or litigation, or employee negotiations, all contact with the other parties shall be made by designated staff or representatives handling the negotiation or litigation. A Council member shall not have any contact or discussion with any other party or its representative nor communicate any executive session discussion.

#### 4.6 Attendance by Telephone or Other Electronic Media

Any Council or committee meeting may, upon prior Council or committee approval or, in the event of an emergency, upon determination by the Mayor (or, in the case of a committee of the council, by the committee chair), be conducted by telephonic conference call or other electronic communication, and any Councilor may participate in such a meeting by telephone or other electronic communication, as available. Notice and opportunity for public access to a meeting held by telephonic conference call or other electronic communication shall be provided, and such meeting shall be conducted in accordance with the Oregon Public Meetings Law. For non-executive sessions of the Council or committee, meetings held by telephonic conference call or other electronic communication must provide at least one place where members of the public can hear (or hear and see) the meeting by speakers or other devices. For executive sessions at which media attendance is provided under the Public Meetings Law, the media must be provided with at least one place where the media can hear (or hear and see) the meeting by speakers or other devices.

#### 4.7 Cancellation of Meeting

Upon a majority vote of the members of the City Council present, a meeting may be cancelled when deemed appropriate. The Charter requires one regular meeting be held each month. Notice of cancellation shall be posted on the bulletin board at City Hall, distributed to members of the media, and to interested citizens.

#### 4.8 Americans With Disabilities Act

All meetings of the Council shall be held in compliance with the Americans with Disabilities Act.

#### 4.9 Attendance Duty

It is the duty of each member of the City Council to attend all meetings of the Council. The Charter provides in Chapter VII, Section 32 that a Council office shall be deemed vacant upon a Councilor's absence from the city for 30 days without the consent of Council or upon the absence from meetings of the Council for 60 days without like consent. Consent will be given for good cause.

Good cause shall include, but is not limited to:

- a) Illness;
- b) Family obligations;
- c) Employment requirements;
- d) Scheduled vacations; or
- e) Other City business

#### 4.10 Excused Absence

When a Council member cannot attend a meeting of the Council, the member shall notify the Council President prior to the meeting, and must state the reason for his or her absence. If the Council President determines the reason is for good cause, as identified in Rule 4.9, above, the Council President will excuse the absence and notify the City Clerk and, if there are no objections from other Councilors, the absence shall be listed in the minutes as excused. If the Council President does not excuse the absence the Council President will notify the City Clerk and inform the Council at the meeting and, if there are no objections from other Councilors, the absence shall be listed in the minutes as unexcused. If a Councilor objects to the Council President's determination that another Councilor's absence is excused or unexcused, the Council will determine the question by vote. A Councilor whose absence has been determined to be unexcused may, at the next meeting at which the Councilor is in attendance, ask the Council to reconsider its determination.

## **SECTION 5 – THE PRESIDING OFFICER**

### 5.1 Mayor

The Mayor shall preside at all regular and special meetings, work sessions, and executive sessions of the City Council. The Mayor is entitled to vote in case of a tie vote of the Council, except on the final passage of an ordinance. The Mayor shall preserve order and enforce the rules of the Council.

### 5.2 Council President

At the first meeting of the Council in each odd-numbered year, the Council will elect a Council President from its membership. In the Mayor's absence from a Council meeting, the President shall preside over it. Whenever the Mayor is unable to perform the functions of his office, the President shall act as Mayor.

### 5.3 Sergeant at Arms

The Sergeant at Arms will be the Council President. It will be the duty of the Sergeant at Arms to assist the Presiding Officer, as appropriate, to maintain the order and decorum at all meetings. The Council President may appoint a designee to act as the Sergeant at Arms.

### 5.4 Absence of Mayor and Council President

In the absence of the Mayor and Council President, the Council shall elect a Councilor to serve as presiding officer as its first order of business. The Presiding Officer will immediately assume the duty of Sergeant at Arms, or appoint a designee to do so. Any Councilor may call a meeting to order for the purpose of electing a presiding officer.

## SECTION 6 – DECORUM AND ORDER

### 6.1 Presiding Officer

The Presiding Officer shall enforce the rules of the Council. In addition, the Presiding Officer has the authority to preserve decorum and decide all points of order, subject to the appeal to the Council. The Presiding Officer shall enforce order, prevent personal attacks or impugning members' motives, and restrict in debate to the question under discussion.

### 6.2 Councilors

Councilors shall maintain order and decorum during Council meetings, and shall not by conversation or other action, delay or interrupt the proceedings or refuse to obey the order of conduct or these Rules. Councilors shall when addressing staff or members of the public, confine themselves to questions or issues then under discussion, shall not engage in personal attacks, shall not impugn the motives of any speaker, and shall at all times, while in session or otherwise, conduct themselves in a manner appropriate to the dignity of their office.

### 6.3 Staff and Public

All persons attending Council meetings shall observe the same rules of procedure, decorum, and good conduct applicable to the members of the Council.

### 6.4 Removal of Any Person

The Presiding Officer may eject from the meeting any person in attendance, including any Councilor, who becomes disorderly, abusive, or disruptive, or who fails or refuses to obey the matter of order or procedure. The Presiding Officer or Sergeant at Arms may summon the assistance of the City of Dallas Police to assist in maintaining order. In case the Presiding Officer should fail to act, any member of the Council may obtain the floor and move to require enforcement of this rule.

**SECTION 7 – AGENDA AND ORDER OF BUSINESS; STAFF REPORTS AND CITY ATTORNEY  
REVIEW OF CERTAIN ACTIONS**

7.1 Setting the Agenda

The Mayor and City staff shall determine the business to be placed on the Council meeting agenda. Any Councilor may request that an item be placed on the Council agenda.

7.2 Consent Agenda

A consent agenda will be among the first items on the Council agenda. At the beginning of the Council meeting, the Presiding Officer will ask if any Council member wishes to have any item removed from the consent agenda for deliberation. If any Council member requests that an item be removed, it will be removed. Any item removed from the consent agenda shall be discussed and acted upon following approval of other consent agenda items. When there are no more items to be removed, the Presiding Officer will ask the Council for a motion to approve the consent agenda.

7.3 Agenda Distribution

Promptly after it is developed, the agenda for a regular meeting or work session shall be distributed with any supporting materials not later than 48 hours prior to the meeting to members of the Council, staff, news media, and interested citizens who have requested the agenda. The agenda for a special or emergency meeting shall be made available as appropriate under the circumstances.

7.4 Special Accommodations

All Council meeting agendas shall contain proper notice of the City's intent to conduct the meeting in accordance with the Americans with Disabilities Act and that persons needing accommodations may contact the City Manager's office at least 48 hours prior to the meeting time to request necessary accommodations. Such notice shall provide the telephone number at which the City Manager may be contacted.

7.5 Alteration of the Agenda

- a) New Matters: Except in emergency meetings, matters not on the printed agenda may come before the Council as determined by the Presiding Officer or a majority of the Council.

## 7.6 Order of Business

The general rule to the business at regular meetings of the City Council will be:

- a) **Call to Order** – The Presiding Officer shall call the meeting to order.
- b) **Roll Call** – The City Recorder shall call the name of each Councilor and note each Councilor’s attendance or absence in the record, under the guidelines set forth in Section 4.8 and 4.9 to establish a quorum is present to conduct business.
- c) **Pledge of Allegiance** – The Presiding Officer or designee may lead the Council and audience in the Pledge of Allegiance.
- d) **Comments from the Audience** – An opportunity for members of the audience shall be given to address the Council on any matter, other than those issues on the agenda scheduled for public hearing, during this portion of the meeting. Participants must state their name and address for the record prior to addressing the Council. Testimony will be limited to three minutes unless additional time is granted by the Presiding Officer. Items brought before the Council from the public during public testimony should be referred to the staff for appropriate action and a report returned to the Council if requested.
- e) **Public Hearings** – A public hearing shall be held on each matter required by state law or City policy. Written and oral testimony shall be heard prior to Council action.
- f) **Consent Agenda** – The consent agenda shall consist of a list of routine, non-controversial matters, not typically requiring discussion, presented for Council approval by a single motion.
- g) **Items Removed from Consent Agenda** – Any item removed from the consent agenda will be discussed, and if appropriate, acted upon.
- h) **Reports or Comments from the Council Members** – Special reports from various boards and commissions may be given at this time. In addition, awards, proclamations, or Council liaison reports may also be presented.
- i) **Reports from City Manager and Staff** – Time provided for City staff to bring administrative action (items that require formal action or Council direction) before the Council.
- j) **Resolutions** – Resolutions shall be read and a roll call vote taken.
- k) **First Reading of Ordinances** – The Mayor shall declare an Ordinance to have passed its first reading.
- l) **Second Reading of Ordinances** – Unless an emergency was declared, an Ordinance will be brought for a second reading at the Council meeting following the first reading. After the Mayor has declared the Ordinance to have passed its second reading, a roll call vote will be taken.
- m) **Other Business** – Time provided for members of the Council or City staff to bring new or old matters before the Council. These matters need not

be specifically listed on the agenda, but formal action on these matters should be deferred until a subsequent Council meeting.

- n) **Adjournment** – Following completion of all matters listed on the agenda, the Presiding Officer shall declare the meeting adjourned.

#### 7.7 Recess

The Presiding Officer may recess any meeting of the Council upon the consensus of the majority of the members present. The Presiding Officer shall announce the time in which the meeting shall reconvene.

#### 7.8 Staff Reports

Each item of business that comes before the council for action will be presented with a staff report that explains the item and provides a recommended action, including options for action, where appropriate. The staff report will be distributed to the Council with the agenda prior to the meeting at which it is to be presented for action. The Council may grant exceptions to this requirement for good cause, as the Council may determine.

#### 7.9 Legal Counsel Review

All resolutions, ordinances and contracts brought before the Council for approval will be reviewed first for legal sufficiency by the City Attorney, and will bear the attestation "Approved as to Form" for the City Attorney's signature.

## SECTION 8 – MINUTES

### 8.1 Recording of minutes

Minutes are the official record of the City Council meetings. They record the substance of a meeting and should be a clear, accurate, concise, informative record of the proceedings. Minutes will generally follow the chronological order of items considered during a meeting. Minutes are not a verbatim transcript. It is general practice to sound record the meetings of the City Council for back up reference. Minutes will be made available to the public within a reasonable time after the meeting. The minutes are to include, at a minimum:

- a) Councilors present;
- b) All motions, proposals, resolutions, orders, ordinances, and measures proposed and their disposition;
- c) The result of all votes and the vote of each Councilor by name;
- d) The substance of any discussion on any matter; and
- e) A reference to any public document discussed.

### 8.2 Distribution of Minutes

Draft minutes are distributed to the City Council with the agenda on which those minutes appear as an item for approval.

### 8.3 Correction and Approval of the Minutes

Approval of the minutes usually takes place at the next regular meeting following the date of the minutes under approval. Generally, minutes appear on the agenda under the consent agenda. If minor changes are made to the minutes, a Councilor may offer such amendment prior to the consent agenda being approved. For extensive amendments, the minutes should be pulled off the consent agenda for consideration. All corrections will appear in the minutes of the meeting when the changes took place.

If a Councilor has a concern over the reporting of minutes, it is that Councilor's responsibility to review the tape of the meeting and bring corrections forward to the City Council at the next regular meeting with the tape cued, ready to be played if necessary. It is not appropriate to expend staff time when only one member of Council is requesting the review.

## **SECTION 9 – VOTING**

### 9.1 Method of Voting

The vote on any question shall be taken by voice or by roll call vote. The vote shall be taken by roll call at the direction of the Mayor or at the request of any Councilor. The minutes shall reflect the vote of each Councilor by name. The Mayor is entitled to vote in case of a tie vote of the City Council, except on the final passage of an ordinance.

### 9.2 Order of Voting

Roll call votes shall be called in alphabetical order by last name, on a rotational basis.

### 9.3 Vote Required to Decide a Question

Except as otherwise provided in the City Charter, the concurrence of a majority of the whole number of the council is necessary to decide a question.

### 9.4 Abstention

Abstentions are discouraged. For the purposes of Rule 9.3 above, an abstention shall not be considered an affirmative vote. Councilors who have an actual conflict of interest or a disqualifying bias should declare their conflict or bias and decline to participate rather than abstaining (See Rule 10, below).

## **SECTION 10 – CONFLICT OF INTEREST / BIAS / EX-PARTE CONTACT**

### 10.1 Conflict of Interest

Prior to participating in any decision, a Councilor shall declare any potential or actual conflict of interest. No Councilor shall participate in any manner regarding an agenda item if doing so would create an actual conflict of interest, except as otherwise provided by state law.

- a) "Potential Conflict of Interest" means any action by a Councilor which could be to the private pecuniary benefit or detriment of the Councilor or a member of the Councilor's household, or a business with which the Councilor or member of the Councilor's household is associated. "Potential conflict of interest" does not include pecuniary affects arising out of:
  - i. Membership in a particular occupation or class required by law as a prerequisite to holding the office of Councilor; or
  - ii. An action which would affect to the same degree a class consisting of an industry, occupation, or other group to which the Councilor or a member of the Councilor's household belongs.
- b) "Actual Conflict of Interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or the person's relative or any business with which the person or a relative of the person is associated unless the pecuniary benefit or detriment arises out of circumstances described in (a) of this section.

### 10.2 Bias

No Councilor shall participate in any manner in a quasi-judicial decision if the Councilor has actual bias regarding the decision.

- a) "Quasi-judicial decision" means a decision involving the application of existing criteria to identified persons or properties.
- b) "Actual Bias" means prejudice or prejudgment of facts to such a degree that a Councilor is incapable of rendering an objective decision on the merits of the case.

### 10.3 Ex-Parte Contact

Before participating in any quasi-judicial decision, a Councilor shall declare any ex-parte contacts. An ex-parte contact is an oral or written communication by a member of the public with a member of the Council regarding the facts of the case made outside of the public hearing process during the pendency of a proceeding. (Communication with staff is not an ex-parte contact). Effective declaration of an ex-parte contact shall include identification of the party and disclosure of the nature of the communication.

**SECTION 11 – COUNCIL STANDING COMMITTEES (DCC 2.050)**

The Mayor shall at the first regular meeting in January of each year, or as soon thereafter as convenient, appoint Council standing committees. Each Council standing committee shall comply with the Council Rules of Procedure, subject to the following exceptions and additions:

- a) The Mayor shall appoint a chair of the Council standing committees to serve as presiding officer.
- b) Council standing committees shall consist of:
  - i. Committee on public works.
  - ii. Committee on public safety.
  - iii. Committee on public building and grounds.
  - iv. Committee on public administration.
- c) At the regular meeting of the council following a committee meeting, the committees shall make a report of their activities.

**CITY OF DALLAS**  
**CITY COUNCIL RULES OF PROCEDURE**  
**ACKNOWLEDGMENT**

I have received, read and understand the contents of the City Council Rules of Procedure. I agree to comply with the provisions of the City Council Rules of Procedure.

Signature \_\_\_\_\_

Printed Name \_\_\_\_\_ Date \_\_\_\_\_

(This form should be signed, dated and returned to the City Recorder.)

# DALLAS CITY COUNCIL REPORT

**TO: MAYOR BRIAN DALTON AND CITY COUNCIL**

<i>City of Dallas</i>	<b>Agenda Item No. 8 c</b>	<b>Topic: Online Payment</b>
<b>Prepared By:</b> Cecilia Ward	<b>Meeting Date:</b> February 4, 2013	<b>Attachments:</b> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>Approved By:</b> 		

RECOMMENDED MOTION:

Direct staff to implement online payment service.

BACKGROUND:

Per the Administrative Subcommittee report, staff was directed to conduct an online payment survey and gather some more information regarding online payments. From October-December 2012, staff was able to gather surveys via the City's website and in person in the finance office. 161 surveys were received. Of the 161 surveys received 152 said they would pay their utility bill online through our website.

Usage is key in determining cost of providing online payment service. With some assistance from a vendor that provides online payment service, we were able to come up with an estimate of cost based upon their client usage. Clients with a similar customer base, has an average of a 22.6% usage rate. Based upon this usage and the city absorbing all costs, our approximate cost would be \$1,600-\$1,800 per month.

FISCAL IMPACT:

Water and Sewer Funds: Approximately \$1,600-\$1,800 per month with additional start-up costs  
 General Fund (Municipal Court): \$50-\$150 per month with additional start-up costs

ATTACHMENTS:

None

# DALLAS CITY COUNCIL REPORT

TO: MAYOR BRIAN DALTON AND CITY COUNCIL

City of Dallas	Agenda Item No. 8 d	Topic: Transient Occupancy Tax 30% Discretionary Allocation for 2013
Prepared By: Emily Gagner	Meeting Date: February 4, 2013	Attachments: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Approved By: 		

RECOMMENDED MOTION:

Motion to approve the work program submitted by the Dallas Area Visitor Center and direct the City Attorney to prepare a contract for services implementing the plan.

BACKGROUND:

In January, the Council adopted the Transient Lodging Tax Policy which outlines the procedure for approval of spending for the forecasted discretionary (30%) amount available each calendar year. The Administrative Committee has reviewed the Visitors Center's proposal and recommended by a unanimous vote that the Council approve it.

Once City Council approves the work program, the City Attorney will prepare a contract for services.

FISCAL IMPACT:

Anticipated \$18,700 for calendar year 2013

ATTACHMENTS:

Dallas Area Visitors Center Work Program

January 15, 2013

Dallas City Council  
187 SE Court Street  
Dallas, OR 97338

As outlined within Resolution 3258 and the Transient Lodging Tax Policy, following is the annual presented work program associated with funding from the 30% discretionary allocation.

We are projecting \$18,700 to be received in 2013. Projects are listed in order of priority;

- \$1,762 = Chamber membership dues for all departments for 2013
- \$ 500 = Community Awards Ceremony
- \$2,500 = Bounty Market
- \$2,500 = Summerfest
- \$1,500 = Tourism Conference
- \$3,000 = Winterfest Lights
- \$2,500 = Travel Salem Magazine (paid in 2013 for 2014 publication)
- \$ 100 = Old Timers Picnic
- \$ 250 = Reader Board Maintenance
- \$ 250 = Flag Maintenance (downtown flags)
- \$1,000 = Banners (portion of new banners for 800-900 blocks)
- \$ 500 = Partner Sponsorships (example: Mid Willamette Valley Wine Trail)
- \$2,338 = Balance to remain in contingency. This helps build our contingency base for unexpected opportunities, expenses, low tax collection periods. We will also develop a system for organizations requesting support of a tourism related event or project.

Sincerely,



Chelsea Pope  
Executive Director

cc: Dallas Area Visitors Center Board of Directors;  
Steve Segal/President, Dani Mouser/Vice President, Shellie Friesen-Berry,  
Susan Morrill, Lynette Henshaw, Bonnie Beck, LaVonne Wilson,  
Chris Anderson, and Bonnie Dreier/Program Manager

# DALLAS CITY COUNCIL REPORT

**TO: MAYOR BRIAN DALTON AND CITY COUNCIL**

<i>City of Dallas</i>	<b>Agenda Item No.</b> 9 a	<b>Topic:</b> Budget Transfer Resolution
<b>Prepared By:</b> Cecilia Ward	<b>Meeting Date:</b> February 4, 2013	<b>Attachments:</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
<b>Approved By:</b> 		

**RECOMMENDED MOTION:**

Adopt Resolution No. 3261

**BACKGROUND:**

Oregon Budget Law allows for unanticipated changes to the budget throughout the fiscal year. ORS 294.463 allows for appropriation transfers which includes intra-and inter-fund transfers between appropriation categories and contingency transfers. Appropriation transfers require a budget resolution.

Following are the necessary transfers:

**General Fund:**

From:	To:	Purpose:	Amount:
Contingency	Parks Department - professional services	Tree removal in city park.	\$ 5,000
Contingency	Parks Department - materials and supplies	Part of RTP trail grant match. To purchase bench for trail.	\$ 1,300
Contingency	Library Department - salaries	Reorganization of library personnel.	\$ 7,000

**FISCAL IMPACT:**

General Fund: \$13,300  
 Contingency will decrease by \$13,300  
 Departments will increase by \$13,300

**ATTACHMENTS:**

Budget Resolution

RESOLUTION NO. 3261

A Resolution authorizing the transfer of budgetary funds.

WHEREAS, it is necessary to transfer the appropriation authority of \$5,000 from the General Fund, Operating Contingency, to the General Fund, Parks Department, for unanticipated tree removal in city park; and

WHEREAS, it is necessary to transfer the appropriation authority of \$1,300 from the General Fund, Operating Contingency, to the General Fund, Parks Department, for unanticipated trail grant match; and

WHEREAS, it is necessary to transfer the appropriation authority of \$7,000 from the General Fund, Operating Contingency, to the General Fund, Library Department, for unanticipated personal services;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

Section 1. That the City Manager be, and he hereby is, authorized and directed to transfer the appropriation authority of \$5,000 from the General Fund, Operating Contingency, to the General Fund, Parks Department.

Section 2. That the City Manager be, and he hereby is, authorized and to transfer the appropriation authority of \$1,300 from the General Fund, Operating Contingency, to the General Fund, Parks Department.

Section 3. That the City Manager be, and he hereby is, authorized and directed to transfer the appropriation authority of \$7,000 from the General Fund, Operating Contingency, to the General Fund, Library Department.

Section 4. This Resolution shall be effective upon its passage.

Adopted: February 4, 2013

Approved: February 4, 2013

\_\_\_\_\_  
BRIAN W. DALTON, MAYOR

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
RON FOGGIN, CITY MANAGER

\_\_\_\_\_  
LANE P. SHETTERLY,  
CITY ATTORNEY

# DALLAS CITY COUNCIL REPORT

**TO: MAYOR BRIAN DALTON AND CITY COUNCIL**

<i>City of Dallas</i>	<b>Agenda Item No. 10.a</b>	<b>Topic:</b> Ordinance 1752 Chronic Nuisance Property
<b>Prepared By:</b> Jason Locke, Community Development Operations Director 	<b>Meeting Date:</b> February 4, 2013	<b>Attachments:</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
<b>Approved By:</b> <del>Ron Foggin,</del> City Manager 		

**RECOMMENDED ACTION:** Move Ordinance 1752 to a second reading

**BACKGROUND:** The purpose of this proposal is to ensure that there are adequate and effective tools to deal with a property upon which there are repetitive and ongoing illegal activities. These types of activities are outlined in 5.590 of the proposed ordinance. They include a wide range of both criminal and Code violation activities.

The proposed ordinance allows the City Manager to begin the process of declaring the property a chronic nuisance, with varying steps of enforcement, starting with a compliance agreement with the property owner and, if unsuccessful, moving the matter to municipal court where fines and even the closure of the property can occur.

The Administration Committee recommended moving this issue to the full Council for consideration.

**FISCAL IMPACT:** Undetermined

**ATTACHMENTS:**

Ordinance 1752

ORDINANCE NO. 1752

An Ordinance defining chronic nuisance property, establishing the procedure and penalties therefore; and declaring an emergency.

WHEREAS, the City Council has determined that real property, employed as the site of recurring nuisance activity, is itself a nuisance to the people of the City of Dallas, and causes damage to and deterioration of the civil peace of the City, and is detrimental to the health, safety and welfare of the people of the City; and

WHERE AS, the City Council has the authority to declare such real property a nuisance and regulate and abate the nuisance created by the use of real property pursuant to ORS 105.550 through 105.600, ORS 221.915, and ORS 221.926; and

WHEREAS, the City Council does further find that it is both necessary and appropriate, in order to deter recurring nuisance activity from the same premises and to preserve and protect the habitability of the real property in the City of Dallas and the habitability of adjacent properties, to enact a civil penalty for a third violation from the same premises in any sixty-day period.

NOW, THEREFORE, THE CITY OF DALLAS DOES ORDAIN AS FOLLOWS:

Section 1. The following is adopted and made a part of Dallas City Code Chapter, under the heading: "Chronic Nuisance Property."

5.590. Definitions. In addition to those terms defined in section 5.500, for purposes of sections 5.590 through 5.597, the following definitions shall apply:

Chronic Nuisance Property. Property upon which three or more nuisance activities have occurred during any sixty (60) day period; or property upon which, or within 200 feet of which, any person associated with the property, including owners, tenants, occupants, guests, patrons, employees, or employers, has engaged in three or more nuisance activities during any sixty (60) day period.

Nuisance Activities. (1) Any commission, attempt to commit (as defined by ORS 161.405), or conspiracy to commit (as defined by ORS 161.455), the following activities, behaviors, or criminal conduct:

(a) Alcoholic liquor violations as provided in ORS 471.105 through ORS 471.482;

Ordinance

- (b) Animal Abuse or Neglect as provided in ORS 167.315 through 167.330;
- (c) Animal or Dog Fighting as provided in ORS 167.355 or ORS 167.365;
- (d) Arson or related offences as provided in ORS 164.315 through 164.335;
- (e) Assault as provided in ORS 163.160 through ORS 163.185, or in section 5.010 of this code;
- (f) Criminal Mischief as provided in ORS 164.345 through 164.365, or in sections 5.120 and 5.122 of this code;
- (g) Criminal Trespass as provided in ORS 164.243 through 164.265 or or in sections 5.128 and 5.130 of this code;
- (h) Discharging a Weapon as provided in section 5.102 of this code;
- (i) Disorderly Conduct as provided in ORS 166.025 or in section 5.000 of this code;
- (j) Harassment as provided in ORS 166.065 or in section 5.006 of this code;
- (k) Illegal Gambling as provided in ORS 167.117, and ORS 167.122 through 167.127;
- (L) Intimidation as provided in ORS 166.155 through 166.165;
- (m) Menacing as provided in ORS 163.190 or in section 5.012 of this code;
- (n) Offensive Littering as provided in ORS 164.805;
- (o) Prohibited Exposure as provided in section 5.203 of this code;
- (p) Prostitution or related offences as provided in ORS 167.007, ORS 167.012, and ORS 167.017;
- (q) Public Indecency as provided in ORS 163.465 or in section 5.202 of this code;
- (r) Rape as provided in ORS 163.375;

(s) Sex Abuse, Contributing to the Delinquency of a Minor, or sexual misconduct as provided in ORS 163.415 through 163.445;

(t) Theft as provided in ORS 164.015 through 164.140 or in sections 5.132 through 5.136 of this code;

(u) Unlawful Entry into a Motor Vehicle as provided in ORS 164.272 or in section 5.142 of this code;

(v) Offenses involving firearms or destructive devices, including Unlawful Possession of a Firearm as provided in ORS 166.250 or in section 5.100 of this code, Possession of a Destructive Device as provided in ORS 166.382, Possession of a Hoax Destructive Device as provided in ORS 166.385, and Discharge of Weapons as provided in section 5.102 of this code;

(w) Unlawful Manufacture, Delivery, or Possession of a Controlled Substance or related offenses as provided in ORS 167.203, ORS 475.005 through 475.285, and ORS 475.940 through 475.995;

(x) Unnecessary Noise as provided in section 5.020 of this code.

(y) Maintenance of a Dangerous Building in violation of sections 8.400 through 8.455 of this code.

(z) Any nuisance condition or activity in violation of sections 5.540, (Nuisances affecting public health), 5.550 (Creating a hazard), 5.552 (Attractive nuisance), 5.556 (Scattering rubbish), 5.562 (Surface waters, Drainage), 5.582 (Junk), 5.584 (Inoperable motor vehicles and recreational vehicles), 5.586 (Exterior lighting), 5.588 (Graffiti).

Permit. To suffer, allow, consent to, acquiesce by failure to prevent, or expressly assent or agree to an act, or failure to act.

5.591. Violation. Any property used or maintained as chronic nuisance property within the city is declared to be a nuisance and shall be enjoined and abated.

5.592. Procedure.

(1) After three occurrences of any nuisance activity, as defined in section 5.590, within a sixty-day period, the City Manager or his or her designee shall notify the

person or persons responsible for the property on which the activity occurred of the incidents which are alleged to violate this ordinance and the remedies available to the City under this ordinance.

(2) Notice under this section is sufficient if it is delivered in person or sent by certified mail, return receipt requested, addressed to person or persons responsible at the address of the property where the incidents occurred, and, if different, to the address for the person or persons responsible as shown on the tax rolls of Polk County or such other place which is reasonably believed to give the person or persons responsible actual notice.

(3) A copy of the notice required under this section shall be served on the person or persons responsible at least ten (10) days prior to the commencement of any action by the city under section 5.594. In addition, a copy of the notice shall be posted at the property if ten (10) days has lapsed from the mailing of the notice to the person or persons responsible, and no contact has been received by the City from them during that period of time.

(4) The failure of any person to receive actual notice as provided in this section shall not invalidate or otherwise affect any proceedings under this chapter.

#### 5.593. Compliance Agreement.

After the giving of the notice required in section 5.592, but prior to commencement of action as provided in section 5.594, the person or persons responsible may enter into a compliance agreement with the city to voluntarily abate the nuisance activities giving rise to the notice. Such a compliance agreement must be in writing and signed by the City Manager or his or her designee, and all responsible persons.

#### 5.594. Commencement of Action; Remedies.

(1) The city may commence legal proceedings in the municipal court to enjoin or abate chronic nuisance property and seek closure of the property as well as the imposition of civil penalties against any or all of the owners or occupants thereof, and such other relief as may be deemed appropriate.

(2) In the event the court determines the property to be chronic nuisance property, the court may:

(a) Order that the property be closed and secured against all use and occupancy for not less than thirty (30) days, but not more than one (1) year;

(b) Impose upon the person or persons responsible a civil penalty in an amount up to \$500 per day for each day the person or persons had actual knowledge that the property was chronic nuisance property and permitted the property to remain as such;

(c) Order any other remedy deemed to be appropriate to abate the nuisance.

(3) In establishing the length of closure of the property, as provided in subsection (2), the court may consider any of the following factors, as may be appropriate:

(a) The actions taken by the person or persons responsible to correct or mitigate the nuisance activities the property;

(b) The cooperativeness of the person or persons responsible with the city;

(c) Whether the activities at the property were repeated or continuous;

(d) The magnitude or gravity of the problem;

(e) The cost to the city of investigating and correcting or attempting to correct the nuisance activities;

(f) Any other factor deemed to be relevant by the court.

#### 5.595. Burdens of Proof; Defenses; Mitigation of Civil Penalty

(1) In an action under section 5.594, the city shall have the initial burden of proof to show by a preponderance of the evidence that the property is chronic nuisance property.

(2) It is a defense to an action brought pursuant to section 5.594 that the person or persons responsible at the time in question could not, in the exercise of reasonable care or diligence, have known or determined that the property was chronic nuisance property, or could not, in the exercise of reasonable care and diligence, control the conduct leading to the finding that the property is chronic nuisance property. It is no defense that the person or persons responsible was not physically present at the property at or during the time of the incidents leading to the chronic nuisance situation.

(3) In establishing the amount of any civil penalty requested, the court may consider any of the following factors, as may be appropriate, and shall cite those found applicable:

- (a) The actions taken by the person or persons responsible to correct or mitigate the nuisance activities the property;
- (b) The cooperativeness of the person or persons responsible with the city;
- (c) Whether the activities at the property were repeated or continuous;
- (d) The magnitude or gravity of the problem;
- (e) The cost to the city of investigating and correcting or attempting to correct the nuisance activities;
- (f) Any other factor deemed to be relevant by the court.

5. 596. Closure During Pendency of Action; Emergency Closures. In addition to any other remedy available to the city under this ordinance, in the event that the City Manager or the City Manager's designee determines that the property is an immediate threat to the public safety and welfare, the city may apply to the court for such interim relief as is deemed by the city to be appropriate. Proceedings to obtain an order of emergency closure shall be governed by the provisions of Oregon Rule of Civil Procedure 79. In such an event the notification procedures set forth in section 5.591 need not be complied with.

5.597. Enforcement of Closure Order; Costs; Attorney Fees.

(1) The court may authorize the city to physically secure the property against the use or occupancy in the event that the person or persons ordered to do so fail to do so within the time specified by the court. In the event that the city is authorized to secure the property, all costs and attorney fees reasonably incurred by the city to effect a closure shall be made a lien upon the property. As used in this subsection, "costs" includes those costs actually incurred by the city for the physical securing of the property, as well as tenant relocation costs given pursuant to subsection (3) of this section.

(2) The city shall prepare a statement of the costs of physically securing the property and attorney fees incurred by the city to effect the closure of the property, and shall thereafter submit that statement to the court. If no objection to the statement is made within the period prescribed by Oregon Rule of Civil Procedure 68, the statement of costs and attorney fees shall be included in the city's money judgment and lien.

(3) The court may award a tenant, as defined by ORS 90.100, reasonable relocation costs as those are determined by the court, if without actual notice the tenant moved into the property after either:

(a) The person or persons responsible, or agent thereof, received notice pursuant to section 5.592; or

(b) The person or persons responsible, or agent thereof, received notice of an action pursuant to section 5.594.

(4) Persons assessed any costs pursuant to this ordinance shall be jointly and severally liable for the payment thereof to the city.

Section 2. The provisions of this ordinance are severable, and if any phrase, clause or part of this ordinance is found by a court of competent jurisdiction to be invalid or unenforceable, each and every remaining phrase, clause and part shall nonetheless remain in full force and effect.

Section 3. This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist and this ordinance shall take effect on its passage.

Read for the first time:	February 4, 2013
Read for the second time:	February 19, 2013
Adopted by the City Council:	February 19, 2013
Approved by the Mayor:	February 19, 2013

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BRIAN W. DALTON, MAYOR

ATTEST:

APPROVED AS TO FORM:

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RONALD W. FOGGIN  
CITY MANAGER

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LANE P. SHETTERLY  
CITY ATTORNEY

Ordinance

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