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**AGENDA**  
**KEIZER CITY COUNCIL**  
**REGULAR SESSION**

Monday, April 17, 2023

7:00 p.m.

Robert L. Simon Council Chambers  
Keizer, Oregon

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **FLAG SALUTE**

4. **SPECIAL ORDERS OF BUSINESS**

a. "If I Were Mayor" Contestant Recognition

5. **COMMITTEE REPORTS**

a. Volunteer Coordinating Committee and Community Diversity Engagement  
Committee Appointments – Councilor Husseman

6. **PUBLIC COMMENTS**

*This time is provided for citizens to address the Council on any matters other than those on the agenda scheduled for public hearing.*

7. **PUBLIC HEARINGS**

a. Keizer Station Area D Master Plan Amendment

8. **ADMINISTRATIVE ACTION**

a. ORDINANCE – Adopting Right of Way Utility Regulations  
RESOLUTION – Establishing Fees for Ordinance No. 2023-\_\_\_\_\_ (Adopting  
Right of Way Utility Regulations)

b. City Council Liaison Means of Attendance

c. Support for HB 3113

- d. RESOLUTION – Adoption Of 2023 And 2024 City Council Goals/Work Plan
- e. RESOLUTION – Authorizing The City Manager And City Attorney To Work With The Lava Dome And For The Love Of The Game To Prepare Letter Of Intent
- f. RESOLUTION – Authorizing City Manager To Initiate Request For Proposal Process To Hire Executive Recruiting Firm For Purpose Of Recruiting A City Attorney
- g. State Capital Funding Request

## 9. CONSENT CALENDAR

- a. Approval of March 16, 2023 City of Keizer/City of Salem/Marion County Commissioner Meeting Minutes
- b. Approval of April 3, 2023 Regular Session Minutes

## 10. OTHER BUSINESS

*This time is provided to allow the Mayor, City Council members, or staff an opportunity to bring new or old matters before the Council that are not on tonight's agenda.*

## 11. STAFF UPDATES

## 12. COUNCIL MEMBER REPORTS

## 13. AGENDA INPUT

May 1, 2023 – 7:00 p.m.  
City Council Regular Session

May 8, 2023 – 6:00 p.m.  
Budget Committee Meeting

May 9, 2023 – 6:00 p.m.  
Budget Committee Meeting

May 15, 2023 – 7:00 p.m.  
City Council Regular Session

## 14. ADJOURNMENT

City of Keizer Mission Statement

*Keep City Government Costs And Services To A Minimum By Providing City Services To The Community In A Coordinated, Efficient, And Least Cost Fashion*



CITY COUNCIL MEETING: APRIL 17, 2023

**To: Mayor Clark and City Council Members**

**THRU: Adam J. Brown, City Manager**

**FROM: TRACY L. DAVIS, MMC – CITY RECORDER**

**SUBJECT: VOLUNTEER COORDINATING COMMITTEE APPOINTMENTS AND  
COMMUNITY DIVERSITY ENGAGEMENT COMMITTEE – COUNCILOR  
HUSSEMAN**

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**PROPOSED MOTION:**

*No Motion is necessary. Councilor Husseman will announce his appointments to the Volunteer Coordinating Committee and Community Diversity Engagement Committee.*

**I. SUMMARY:**

The City Council Rules of Procedure – Section 18.2 states each Council member will make a one-member appointment to the Volunteer Coordinating Committee for a two-year term. Councilor Husseman appointed Shyanne Tovar in January 2023. Ms. Tovar was unable to fulfill the duties of the position, therefore Councilor Husseman will be announcing a new appointee to serve in Council Position #5 on the Volunteer Coordinating Committee. This term will expire in January 2025.

The Community Diversity Engagement Committee membership is comprised of nine voting members. Two members are Keizer City Councilors and the remaining 7 members are each appointed by a member of the City Council. Councilor Husseman appointed LaTonya Gibbs in January 2023. Ms. Gibbs has resigned from the Committee. Councilor Husseman will announce a new appointment to the Community Diversity Engagement Committee. This term will end in November 2024.

**II. BACKGROUND:**

- A. The City Council Rules of Procedure outline the process for appointments to the Volunteer Coordinating Committee.
- B. Resolution R2021-3225 outline the purpose, tasks, and membership guidelines for the

Community Diversity Engagement Committee.

### III. **CURRENT SITUATION:**

- A. There is currently a vacancy in Council Position #5 (Councilor Husseman) on the Volunteer Coordinating Committee. This term ends in January 2025.
- B. There is currently a vacancy in Council Position #5 (Councilor Husseman) on the Community Diversity Engagement Committee. This term ends in November 2024.

### IV. **ANALYSIS:**

- A. **Strategic Impact** – There is no strategic impact for this action.
- B. **Financial** – No financial impact will occur.
- C. **Timing** – Appointments should be announced to fill these vacancies.
- D. **Policy/legal** – Appointment process and voting rights are included in the City Council Rules of Procedure and the Community Diversity Engagement Committee Resolutions.

### V. **ALTERNATIVES:**

- A. Appointments are made to fill the vacancies on the Volunteer Coordinating Committee and Community Diversity Engagement Committee.
- B. If appointments are not made at this meeting, it should be announced at an upcoming City Council meeting.

### VI. **RECOMMENDATION:**

Staff recommends Councilor Husseman announce the recommended member appointments on the Volunteer Coordinating Committee and Community Diversity Engagement Committee.

### **ATTACHMENTS:**

None





CITY COUNCIL MEETING: APRIL 17, 2023

To: Mayor Clark and City Council Members

THRU: Adam J. Brown, City Manager

FROM: Shane Witham, Planning Director

SUBJECT: **KEIZER STATION AREA D MASTER PLAN AMENDMENT**

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**PROPOSED MOTION:**

*"I move the City Council direct staff to prepare an order adopting the proposed Area D Master Plan Amendment Approval with conditions."*

**I. SUMMARY:**

This matter is before the Council for public hearing to consider an amendment to the Area D Master Plan. The property in question is Keizer Station Area D (Commerce Center) and is located at the Chemawa/Interstate 5 interchange. This amendment will modify the previously approved plan by changing the location and number of buildings and uses, overall parking lot layout, and landscaping features in the area south of Ulali Drive. The original approval provided for a total of eight buildings with a gross leasable area of 87,975 square feet to be developed with a mix of retail, office, and flex-industrial uses. The proposed amendment will reduce the gross leasable area to 72,535 square feet and will include six buildings and a drive through coffee kiosk. Most of the proposed uses will involve eating and drinking uses, along with some retail, a car wash, tire sales, and hotel tenant. No changes are proposed to the northern side of Ulali Drive.

**II. BACKGROUND:**

- A. The Area D Master Plan was originally approved by City Council Order on November 1, 2004. A subsequent Master Plan Amendment/Major Variance request was approved by City Council Order on September 8, 2020 which repealed and replaced the original 2004 order. This approval was further amended by Council Order on February 16, 2021. Both of these requests amended the area north of Ulali Drive. The current request will be the 3<sup>rd</sup> overall request for amendment to the original Master Plan approval and second amendment to the September 8, 2020 order. The amendment only affects the area to the south of Ulali Drive, which has previously been referred to as phase 2 of the development area.

- B. The applicant wishes to develop the south side of Ulali Drive and has potential tenants that have expressed serious interest. They have been unable to recruit “flex-office” and “flex-industrial” users to the site and now wish to amend the plan accordingly. This proposal will allow for the development of the site with additional retail, eating and drinking establishments, car wash, tire store, a hotel, and other uses allowed by the underlying zoning district. This is a substantial shift from the original Master Plan which envisioned the majority of this are being developed with flex-office/flex-industrial buildings.
- C. The applicant has submitted materials to support their request including:
  - a. A written narrative addressing the applicable review criteria and purpose for the requested amendment.
  - b. The existing approved site plan
  - c. The proposed site plan (applicant’s proposal)
  - d. A trip generation compliance report
  - e. A letter regarding lack of flex-office or flex-industrial users
  - f. An updated landscaping site plan that aligns with the proposed site plan
  - g. Building façade examples proposed for the development area
- D. Public Notice was provided as outlined in the Keizer Development Code. Notice was: mailed to property owners within 250 feet of Keizer Station Area D; published in the Keizertimes newspaper on April 7, 2023; and posted at the property identifying the time and place for the public hearing. Request for comments were also mailed to affected agencies as required by the Keizer Development Code. The Public Works Department submitted comments which have been incorporated into the proposed conditions of approval. The City of Salem responded they have no comment on the proposal. No other comments were received regarding this application.

### **III. CURRENT SITUATION:**

- A. The property to the north of Ulali Drive has been developed with a Chick-Fil-A restaurant and 7-11 convenience store/gasoline service station. There is an additional pad site approved for the northern portion of Area D which has not been developed at this time. The traffic signal on Ulali Drive has been constructed and is operational at this time. The area south of Ulali Drive is currently vacant and undeveloped.
- B. The applicant is requesting an amendment to the previously approved master plan to change the number and layout of buildings, parking lot area, and mix of uses for this area. Proposed findings are attached that address the applicable review criteria for this request. In addition, proposed conditions are attached which are recommended to apply to the entire Area D Master Plan. The proposed conditions incorporate the requirements submitted by the Public Works Department.

**IV. ANALYSIS:**

- A. **Strategic Impact** – No strategic impact
- B. **Financial** – There are no direct financial impacts to the City. Development of the property will result in additional tax revenue and the creation of employment opportunities.
- C. **Timing** – Notice has been published, posted on the property, and sent to surrounding property owners identifying the time and place for the public hearing.
- D. **Policy/legal** – The Keizer Development Code requires that Master Plan Amendments be heard before the City Council and that adoption of a Master Plan Amendment be accomplished by City Council order.

**V. ALTERNATIVES:**

- A. Direct Staff to prepare an order adopting the proposed Area D Master Plan Amendment Approval. (recommended)
- B. Direct Staff to prepare an order with modified conditions (if deemed necessary by Council) adopting the proposed Area D Master Plan Amendment Approval.
- C. Deny the application on the basis that Council feels the applicant has not met one or more of the applicable review criteria.
- D. Continue the public hearing to a date certain if Council feels more information is needed to make a determination on the matter.

**VI. RECOMMENDATION:**

Staff recommends that the City Council open the public hearing, receive testimony, close the public hearing, deliberate, and: direct staff to prepare an order adopting the proposed Area D Master Plan Amendment Approval.

**ATTACHMENTS:**

- Application/Materials for current proposal (submitted by applicant)
- Proposed draft findings
- Proposed draft conditions
- Public Works Department Requirements (comments submitted)



# CITY OF KEIZER MASTER PLAN APPLICATION

Pd  
\$2100  
2/1/23

RECEIVED  
CITY OF KEIZER  
FEB - 1 2023  
PLANNING DEPARTMENT

If there are any questions about this application,  
who should be contacted (Agent)?

Name: Christopher Lundberg

Address: 2177 SW Broadway, Portland, OR 97201

Daytime Phone Number: 503-225-0777

Fax: 503-225-1257 Email: clundberg@hk-law.com

1. **Applicant Name**

Chemawa Station, LLC

Phone 541-444-8229

**Address**

Confederated Tribes of Siletz Indians

c/o Dan McCue, 201 SE Swan Ave.

P.O. Box 549

Siletz, OR 97380

Complete the following property owner information if the property owner is different from the applicant.

2. **Property Owner Name**

Confederated Tribes of Grande Ronde

Confederated Tribes of Siletz Indians

Phone

**Address**

9615 Grand Ronde Road, Grand Ronde, OR 97347

201 SE Swan Ave, Siletz, OR 97380

3. This application is made for conceptual approval of a proposed Master Plan for: \_\_\_\_\_  
The southern portion of Keizer Station Area D.

4. Acreage effected: Approximately 12.2 acres.

**Please provide a written response to the following Review Criteria as specified in Section 3.113.04 of the Keizer Land Development Code.**

Approval of a Master Plan for an area of the Keizer Station Plan shall require compliance with the following:

- A. The Master Plan shall meet the purpose and objectives identified in the Keizer Station Design Plan.

The proposal contains an equally good or superior way to achieve the intent of the above criterion and guidelines.

**Please attach 15 copies of preliminary plan with required information as noted on attached information sheet.**

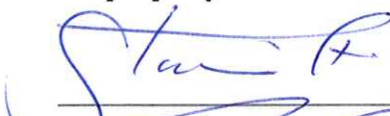

**THE APPLICANT(s) SHALL CERTIFY THAT:**

- (a) The above Master Plan request does not violate any deed restrictions that may be attached to or imposed upon one, both, or all of the subject properties.
- (b) If the application is approved, the applicant(s) will exercise the rights granted in accordance with that approval and will be subject to all conditions and limitations of approval.
- (c) All of the above statements and the statements included on the plot plan and exhibits attached to the plot plan are true to the best of the applicants knowledge; and the applicants acknowledge that any permit issued on the properties may be revoked if it is found that any statements are false.
- (d) The applicant(s) acknowledge that this application and all applicable policies and criteria have been read and understood, and that the requirements and criteria for approving or denying the application are also understood.

**SIGNATURE(s) of APPLICANTS**

**NOTE:**

**All properties within area identified in Master Plan shall be identified by Tax Lot and property owner and shall receive direct notice of application.**

Date

Date

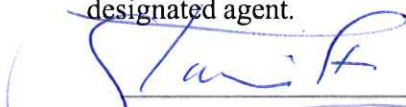

2/1/23

2/1/23

**AGENT AUTHORIZATION**

Fill out and sign this portion of the application if you (the applicant) are going to designate another individual as your agent. By signing this section you authorize the person named to act as your agent and agree to be bound by all representations and agreements made by the designated agent.

We, Dan McCue and Stacie Hernandez, hereby authorize Christopher Lundberg to act as my representative and agent in all matters pertaining to the processing and approval of this land use application, and agree to be bound by all representations and agreements made by the above designated agent.

Date

Date

2/1/23

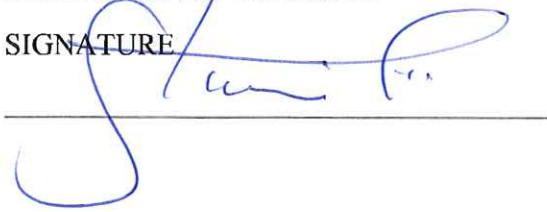
2/1/23



### **AUTHORIZATION BY PROPERTY OWNER(s)**

Property owners and contract purchasers are required to authorize the filing of this application and must sign below. All signatures represent that they have full legal capacity to and do hereby authorize filing of this application and certify that the information and exhibits herewith submitted are true and correct.

SIGNATURE



ADDRESS &amp; PHONE

Confederated Tribes of Grand Ronde

9615 Grand Ronde Road, Grand Ronde, OR 97347

Phone 503-879-2304

SIGNATURE



ADDRESS &amp; PHONE

Confederated Tribes of Siletz Indians

201 SE Swan Ave., Siletz, OR 97380

Phone 541-444-8229

#### **FOR OFFICE USE ONLY**

Township \_\_\_\_ Range \_\_\_\_ Section \_\_\_\_

Tax Lot Number(s) \_\_\_\_

Zone \_\_\_\_

Application elements submitted:

\_\_\_\_ (a) Title transfer

\_\_\_\_ (b) Plot plan (15 copies)

\_\_\_\_ (c) Applicant Statement/questions

\_\_\_\_ (d) Filing fee

Date application determined complete

Application accepted by

BEFORE THE CITY COUNCIL  
FOR THE CITY OF KEIZER, OREGON

In the Matter of a Request for a Master Plan  
Amendment for Keizer Station Master Plan –  
Area D

**NARRATIVE IN SUPPORT OF  
APPLICATION FOR THIRD MASTER PLAN  
AMENDMENT**

**Executive Summary**

The Confederated Tribes of the Grand Ronde Community of Oregon and the Confederated Tribes of Siletz Indians jointly own property designated Area D in the Keizer Station Master Plan. The Tribes formed Chemawa Station, LLC, for the purpose of developing the property and currently have executed a lease with 7-Eleven for the development and operation of a fueling station and a convenience store and with Chick-fil-A for the development and operation of a restaurant with a drive-through option in the northern portion of the Tribes' property, which is known as the jughandle. Currently, 7-Eleven and Chick-fil-A are open and operational.

The Tribes are now focusing on development of the southern portion of Area D. In connection with optimizing that area for development, particularly in the light of several potential tenants that have expressed serious interest in that area, the Tribes propose modifying the building layout and the tenant mix by increasing the retail component. The existing Master Plan contemplated eight buildings with a gross leasable area of 87,975 square feet in the southern portion of Area D. *See Exhibit A – Master Site Plan – Southern Portion 2004.* Applicant intends to reconfigure the building layout to six buildings plus a drive-through coffee kiosk, resulting in a smaller gross leasable area of 72,535 square feet. *See Exhibit B – Revised Master Site Plan – Southern Portion 2022.* The proposed change would not change the traffic impact (thus negating the need for a new traffic impact analysis). *See Exhibit C – Kittelson Report 2022.*

The Tribes' requested amendment to the building layouts in the southern portion of Area D do not impact the Keizer Station– Area D Design Standards, the Transportation System Standards, the Utility Standards, the Parking Standards or the Landscape Standards. In short, the aesthetically pleasing look and feel of the area, and projected impact on transportation and utility systems will remain the same. In short, the requested amendment will continue to support Area D's Purpose and Objectives. The new design presents a vibrant and energetic vision for Area D, further enhancing the northern gateway to Keizer as a strong focal point for commerce and community activities. With the anticipated tenant mix, the new design will operate as a community gathering place, will be a strong source of employment opportunities and will protect traffic operations – and will meet the current mixed-use nature of the current Industrial Business Park (IBP) and Overlay Zones reflected in the Master Plan.

In that regard, most of the anticipated smaller floor plans will involve eating and drinking uses that are permitted within IBP zone (*see Keizer Development Code (KDC) 2.113.02(J)(1)*). The anticipated tenants in the larger buildings of approximately 5,274 square feet (a car wash)

and 11,608 square feet (tire sales and installation) are permissible uses under the Activity Center Overlay Zone. *See* KDC 2.125.05(B)(2). As to the largest building spaces, each of which is approximately 20,000 square feet, the Tribes are in discussions with a hotel tenant, which is an allowable use under the IBP zone (*see* KDC 2.113.02(L)(1)). Given the anticipated tenant mix (all of which are permitted uses under the IBP and Overlay Zones), the Tribes' amended plan will meet the Keizer Station Plan's over-riding goal to create a vibrant commerce center that serves as an impressive northern gateway to the City of Keizer.

To be sure, the anticipated tenant mix will increase the non-office use beyond what was hoped for in 2004 when the initial Area D Master Plan was approved. At that time, the hope was to attract a mix of retail and office tenants. However, almost 20 years later, the reality of the current commercial market is that there is little to no interest in office or flex-industrial users. *See* Exhibit D – HSM Pacific Realty Letter. Notwithstanding the lack of office tenants, the anticipated users will still offer numerous job opportunities from entry-level to managerial positions. Also, the potential car wash and tire store tenants, with which the Tribes have deals pending, meet the spirit of the mixed-use nature of the IBP zoning because neither of those businesses are typical uses in retail shopping centers (witness the Area A tenant mix) and are often found in industrial locations. Moreover, the anticipated tenant mix will blend effectively with the tenants in Area A.

Given that there is simply no interest in office or flex-industrial users for the southern portion of Area D, that the look and feel of the development will stay the same and that the anticipated tenant mix will increase employment opportunities, the Tribes' proposed amendment is consistent with the 2004 Master Plan (and its amendments) and, at the very least, will achieve a result that is consistent with or at least equally desirable to the hoped-for outcome of the 2004 Master Plan for the southern portion of Area D.

Accordingly, the Tribes request a Third Master Plan amendment adopting the Tribes' proposed reconfiguration of the southern portion of Area D. The Tribes request for an amendment is consistent with the Keizer Development Code (KDC) because it allows for amendments to an approved Master Site Plan for changes that "have no increase to overall square footage allowed in the existing Master Plan and cause no increase in the overall vehicle trips generated," and that are "consistent with the adopted Master Plan or achieves an equally desirable result." As explained below, the Tribes' proposed amendment meets those requirements because it only seeks to change the number of buildings and their configuration and location, seeks to add more eating and drinking, and service, tenants (which will lead to increased employment opportunities), and does not affect or change any of the other items set forth in the KDC or the approved Master Plan. Thus, the Tribes respectfully request that their proposed amendment be approved.

### **Keizer Station Master Plan Amendment Process – KDC 3.113.06**

As explained below, the Tribes' application for a third amendment to the approved Master Plan meets the applicability requirements, contains the required submittal requirements, and satisfies the review criteria.



**I. KDC 3.113.06(A) – Applicability.**

KDC 3.113.06 (A) - Applicability provides as follows:

A. Applicability. The amendment process is limited to the following:

1. Site plan changes that have no increase to overall square footage allowed in the existing Master Plan and cause no increase in the overall vehicle trips generated. For example, an amendment could be a change in the number of buildings and their location.
2. Landscaping design changes.
3. Changes to building design.

Any other proposed changes to any adopted Master Plan shall be processed as a new Master Plan application.

**Applicant:** The Tribes' amendment request meets the above criteria because the proposed reconfiguration of the southern site plan results in *no increase* to the overall square footage. In fact, the overall leasable square footage *decreases* by 15,440 square feet. Additionally, as confirmed by the Kittelson Report, the proposed reconfiguration will result in *no increase* in the overall external vehicle trips generated. Also, although the Tribes' proposed reconfiguration will increase the number of internal, pass-by and diverted trip characteristics, the "external trips analyzed on the roadway system for the 2004 TIA are greater than what is currently proposed for the site." See Exhibit C – Kittelson Report 2022, pg. 4. Thus, because the current proposal is expected to generate fewer net new primary trips than were analyzed in 2004, Area D can accommodate the proposed development and maintain consistency with the analysis and assumptions contained within the 2004 Keizer Station Master Plan TIA. Also, the Tribes will provide landscaping that meets zone and Keizer Station Plan requirements. See Exhibit E – the Landscaping Plan. All proposed building designs will meet the height limitations currently in place and will all provide adequate ground-floor windows and building façade variations and treatments to achieve aesthetically pleasing design, and which incorporate human scale elements. See Exhibit F – Façade Design Examples. The Tribes' compliance with these criteria will be confirmed during the building-permit review process.

**II. KDC 3.113.06(B) – Application Submittal Requirements.**

KDC 3.113.06 (B) – Application Submittal Requirement provides as follows:

B. Application Submittal Requirements:

1. All changes to any items identified in Section 3.113.03.
2. A written explanation demonstrating how the proposed amendment is generally consistent with the adopted Master Plan.

3. A transportation analysis demonstrating consistency with the adopted Master Plan Traffic Impact Analysis (TIA).
4. An overall Master Site Plan which includes details for the subject area of change as well as the incorporation of those changes into the entire Master Plan Area.

**Applicant:** The Tribes' amendment application meets all the submittal requirements. First, due to the limited nature of the Tribes' proposed change to the southern site plan, virtually all the previously approved submittal requirements are either inapplicable or will be applied during the Development Review and permitting process. The only two criteria that apply are 3.113.03 (10) (Calculation of gross building, parking and open space), and 3.113.03(11) (traffic impact analysis). As previously explained, the Tribes' have addressed both of those items in the section above and in the attached exhibits.

Next, the Tribes' limited change request is consistent with the adopted Master Plan because the proposed change to the southern site plan modifies the building-pad layout to be more desirable for potential tenants and, despite seeking to increase the "retail" component of the site, the overall goal of increasing employment opportunities is still met. Put differently, maximizing the development of the site is critical to realizing the goal of increased employment opportunities – and the Tribes' proposed third amendment accomplishes both objectives.

The requested third amendment does not alter in any other way the overall development concept that is contained within the approved Master Plan. As such, the proposed limited change naturally maintains the same purpose and objectives of the Plan, while strengthening the viability of developing the land as contemplated by the Plan.

Third, the proposed change does not increase vehicle trips. As mentioned above, the Kittelson Report shows that the traffic impact associated with the proposed change is consistent with the adopted Master Plan Traffic Impact Analysis. In that regard, Kristine Connolly, P.E., concluded that: "[T]he current proposal is expected to generate fewer net new primary trips than were analyzed for the site in 2004 for the approved Area D Master Plan." Hence, the Tribes have met this submittal requirement.

Lastly, with this narrative statement, the Tribes have submitted a revised Master Site Plan as Exhibit B. Therefore, the Tribes have also met this submittal requirement.

### **III. KDC 3.113.06(C) – Review Criteria**

KDC 3.113.06 (C) – Review Criteria provides as follows:

#### **C. Review Criteria:**

1. All applicable review criteria of Section 3.113.04 considering the type and extent of the proposed amendment.

2. The amendment is consistent with the adopted Master Plan or achieves an equally desirable result.
3. The amendment does not result in additional traffic generation and is consistent with the adopted Traffic Impact Analysis.

**Applicant:** As explained above, the Tribes' amendment application seeks a limited change to the site plan of the southern portion of Area D, which notably *decreases* the gross leasable square footage and *does not increase* the overall vehicle trips generated. The proposed reconfiguration improves the attractiveness of the site for other potential tenants, while also maintaining compliance with all the review criteria set forth in Section 3.113.04 and the approved Master Plan. Although the proposed reconfiguration will serve a tenant mix that is higher in retail users, there is simply no interest in the area by office or flex-space users. Hence, to complete the development of Area D, the new configuration is necessary to align with current market realities. Moreover, the new configuration will increase employment opportunities and maintain the same look and feel of the 2004 Master Plan (and its amendments), and ultimately will achieve a result that is consistent with or at least equally desirable to the hoped-for result of the 2004 Master Plan. Hence, the Tribes' request for an amendment should be approved.

#### **IV. KDC 3.113.06(D) – Conditions of Approval**

KDC 3.113.06 (D) – Conditions of Approval provides as follows:

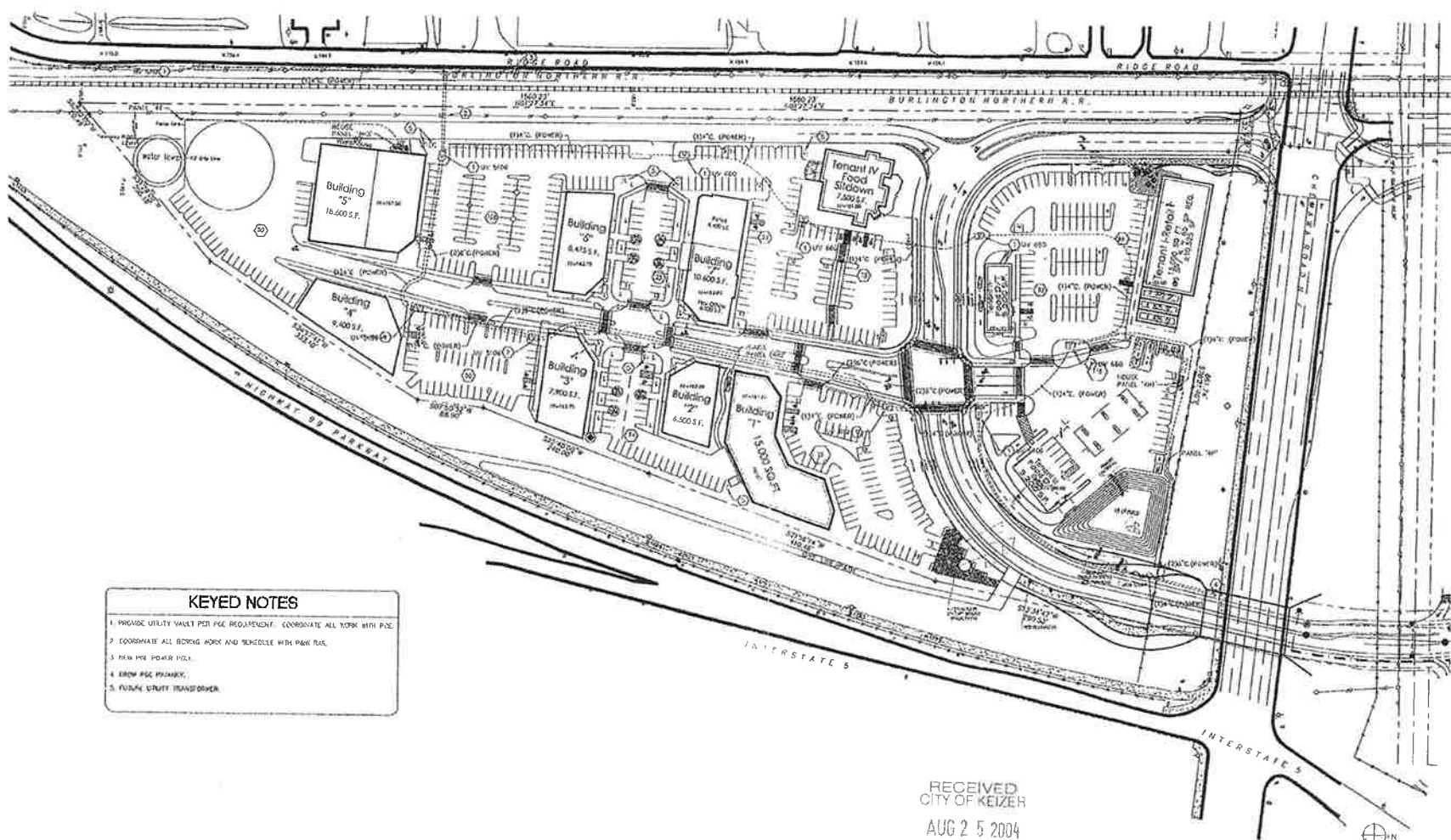
##### **D. Review Criteria:**

1. All original conditions of the adopted Master Plan shall remain in effect unless specifically modified.
2. Additional conditions may be placed for a Master Plan Amendment to assure the objectives in Section 3.113.05 are achieved.

**Applicant:** With this application, the Tribes request a limited amendment to the Master Site Plan for the southern portion of Area D. The Tribes' request and application meets all the KDC requirements authorizing such an amendment and will not affect or change any of the other items set forth in the KDC or the approved Master Plan, all of which shall remain in full effect. Thus, the Tribes respectfully request that their proposed amendment be approved without any additional conditions put in place.

## **EXHIBIT A**

### **Approved Area D Master Plan- Southern Portion**



### KEYED NOTES

1. PROVIDE UTILITY VAULT PER P&E REQUIREMENT. COORDINATE ALL WORK WITH P&E.
2. COORDINATE ALL BOILING WORK AND SCHEDULE WITH P&E R&S.
3. PER P&E POWER HAZ.
4. BROWN P&E PRIMER.
5. FUTURE UTILITY TRANSFORMER.

RECEIVED  
CITY OF KEIZER  
AUG 25 2004

COMMUNITY DEVELOPMENT

# Completion SUBMITTAL

**KJD  
ARCH  
ITEC  
TURE**  
PC

156 SE 17th Ave.  
Portland, OR 97214  
503.255.1111  
www.kjdarchitect.com

**CHEMAWA LLC**  
CHEMAWA KEIZER STATION  
SITE POWER PLAN

DESIGN

DESIGNED FILE NAME

PROJECT NO.

DATE

SCALE

BY

CHECKED

DATE

PROJECT NO.

DATE

SCALE

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## **EXHIBIT B**

### **Proposed Site Plan- Southern Portion**





## **EXHIBIT C**

### **Area D Trip Generation Compliance Report**



March 22, 2023

Shane Witham  
City of Keizer  
Community Development  
PO Box 21000  
Keizer, OR 97307

Project #: 25119



EXPIRES: 12/31/2023

**RE: Keizer Station Area D Trip Generation Compliance**

Mr. Witham,

Kittelison & Associates, Inc. (Kittelison) has performed a trip generation comparison for Keizer Station Area D, for the purposes of determining whether the currently proposed development is consistent with the trip generation assumptions of the original 2004 Keizer Station Master Plan Transportation Impact Analysis (TIA). As documented in the following sections, the trip generation estimates for the proposed site fall within the trips analyzed for the site in 2004 for the approved Area D Master Plan. As such, Area D can accommodate the proposed development without necessitating an updated TIA.

**Existing Keizer Station Area D Trip Generation**

In 2004, Kittelison prepared a detailed TIA for the Keizer Station development. The approved Area D Master Plan is included as Attachment A. Table 1 summarizes the trip generation for Area D analyzed in the 2004 TIA.

**Table 1 –Estimated Trip Generation for Keizer Station Area D (2004 Master Plan)**

Land use	ITE Code	Size	Weekday PM Peak Hour		
			Total Trips	In	Out
Hotel	320	100 rooms	55	30	25
Restaurant	932	8,000 SF	90	55	35
Fuel Station	946	12 fueling positions	160	80	80
Professional Offices	710	42,000 SF	60	10	50
Retail Stores	820	13,000 SF	165	80	85
Fast Food Outlets	934	6,000 SF	210	110	100
Light Manufacturing	110	2 acres	15	5	10
Total Trips			755	370	385
Less Internal Trips			80	40	40
Less Pass-By and Diverted Trips			250	125	125
Net New Primary Trips			425	205	220

## Proposed Development Trip Generation

Trip generation estimates for the proposed site plan were prepared using standard trip rates cited in *Trip Generation, 11<sup>th</sup> Edition* (Reference 1), including pass-by and diverted data. Trip internalization rates were developed based on guidance in *Trip Generation Handbook, 3<sup>rd</sup> Edition* (Reference 2).

Chemawa Station, LLC is proposing to develop the following buildings Area D<sup>1</sup>:

- Three fast-food restaurants with drive-through windows (total of 10,220 SF);
- A coffee/donut shop with drive-through and no indoor seating (with 2 drive-through lanes);
- 6,140 square feet of sit-down restaurant (including a mix of high-turnover and fast casual);
- A brewery with a 4,000 square-foot tasting room and 16,000 square feet of industrial area;
- 3,920 square feet of retail space;
- A quick lubrication vehicle shop (with 2 servicing positions);
- A 3,043 square-foot convenience market and gas station with 12 fueling positions;
- An automated car wash with 1 tunnel;
- An 11,680 square-foot tire store; and,
- A 92-room hotel.

The proposed site plan is included as Attachment B. The estimated trip for the proposed site plan is summarized in Table 2.

**Table 2: Estimated Trip Generation for Keizer Station Area D (Proposed Site Plan)**

Land Use	ITE Code	Size	Weekday PM Peak Hour		
			Total Trips	In	Out
<b>Fast-Food Restaurant with Drive-Through Window</b>	934	10,220 SF	338	176	162
Internal (33%)			111	42	69
Pass-By (55%)			126	63	63
Diverted (19%)			42	21	21
<b>Coffee/Donut Shop with Drive-Through Window and No Indoor Seating</b>	938	2 drive-through lanes	30	15	15
Internal (30%)			9	3	6
Pass-By (98%)			20	10	10
Diverted (0%)			0	0	0
<b>High-Turnover Sit Down Restaurant</b>	932	2,640 SF	24	15	9
Internal (29%)			7	3	4
Pass-By (43%)			6	3	3
Diverted (26%)			4	2	2
<b>Fast Casual Restaurant</b>	930	3,500 SF	44	24	20
Internal (32%)			14	6	8
Pass-By (0%) <sup>1</sup>			0	0	0
Diverted (0%) <sup>1</sup>			0	0	0

<sup>1</sup> ITE does not provide pass-by or diverted trip rates for this land use code. Conservatively, no pass-by or diverted trips were included in this analysis.

<sup>1</sup> Selected land use codes most closely represent the proposed site plan.

**Table 2 Cont'd: Estimated Trip Generation for Keizer Station Area D (Proposed Site Plan)**

Land Use	ITE Land Use Code (LUC)	Size	Weekday PM Peak Hour		
			Total Trips	In	Out
Brewery Tap Room	971	4,000 SF	39	23	16
Internal (31%)			12	5	7
Pass-By (0%) <sup>1</sup>			0	0	0
Diverted (0%) <sup>1</sup>			0	0	0
General Light Industrial	110	16,000 SF	11	2	9
Internal (0%) <sup>2</sup>			0	0	0
Pass-By (0%)			0	0	0
Diverted (0%)			0	0	0
Strip Retail Plaza	822	3,920 SF	40	20	20
Internal (40%)			16	10	6
Pass-By (40%) <sup>3</sup>			10	5	5
Diverted (23%) <sup>3</sup>			6	3	3
Quick Lubrication Vehicle Shop	941	2 servicing positions	10	6	4
Internal (40%)			4	3	1
Pass-By (0%) <sup>1</sup>			0	0	0
Diverted (0%) <sup>1</sup>			0	0	0
Convenience Store/Gas Station	945	3,040 SF	166	83	83
Internal (42%)			70	44	26
Pass-By (75%)			72	36	36
Diverted (0%)			0	0	0
Automated Car Wash	948	1 tunnel	78	39	39
Internal (41%)			32	20	12
Pass-By (0%) <sup>1</sup>			0	0	0
Diverted (0%) <sup>1</sup>			0	0	0
Tire Superstore	849	11,680 SF	25	12	13
Internal (40%)			10	6	4
Pass-By (25%) <sup>4</sup>			4	2	2
Diverted (10%) <sup>4</sup>			2	1	1
Hotel	310	92 Rooms	40	20	20
Internal (83%)			33	17	16
Pass-By (0%)			0	0	0
Diverted (0%)			0	0	0
Total Trips			845	435	410
Less Internal Trips			318	159	159
Less Pass-By Trips			238	119	119
Less Diverted Trips			54	27	27
Net New Primary Trips			235	130	105

<sup>1</sup> ITE does not provide pass-by or diverted trip rates for this land use code. Conservatively, no pass-by or diverted trips were included in this analysis.<sup>2</sup> Although there is likely to be some internal capture associated with this industrial portion of the brewery, it was conservatively omitted from the analysis.<sup>3</sup> ITE does not provide pass-by or diverted trip rates LUC 822 – Strip Retail Plaza. Rates for LUC 821 – Shopping Plaza were used for this analysis.<sup>4</sup> ITE does not provide pass-by or diverted trip rates LUC 849 – Tire Superstore. Rates for LUC 848 – Tire Store were used for this analysis.

As shown in Tables 1 and 2, the current proposal is expected to generate fewer net new primary trips than were analyzed for the site in 2004 for the approved Area D Master Plan. The tables indicate that internal, pass-by and diverted trip characteristics are higher for the current proposal based on the most recent ITE *Trip Generation* data. However, the external trips analyzed on the roadway system for the 2004 TIA are greater than what is currently proposed for the site. Therefore, Area D can accommodate the proposed development and maintain consistency with the analysis and assumptions contained within the 2004 Keizer Station Master Plan TIA.

We trust that this letter adequately addresses the trip generation compliance of the proposed site plan for the for Keizer Station Area D. Please contact us if you have any questions or comments regarding the contents of this report or the analysis completed.

Sincerely,

**KITTELSON & ASSOCIATES, INC.**



Kristine Connolly, PE  
Senior Engineer



Marc Butorac, PE, PTOE, PMP  
Senior Principal Engineer

## REFERENCES

- 1) Institute of Transportation Engineers. *Trip Generation Manual*, 11<sup>th</sup> Edition. 2021.
- 2) Institute of Transportation Engineers. *Trip Generation Manual*, 3<sup>rd</sup> Edition. 2017.

## ATTACHMENTS

Attachment A: Approved Area D Master Plan

Attachment B: Proposed Site Plan

## **EXHIBIT D**

### **Letter Regarding Lack of Flex Officers or Flex Industrials**



Brock Switzer  
4260 Galewood St. • Suite B  
Lake Oswego, OR 97035  
503.245.1400  
brock@hsmpacific.com  
www.hsmpacific.com

September 13, 2022

Chemawa Station, LLC  
9615 Grand Ronde Rd  
Grand Ronde, OR 97347  
Attention: Stacia Hernandez  
Dan McCue

RE: Leasing Efforts- Chemawa Station- Keizer, OR

Dear Stacia and Dan,

This letter shall memorialize that despite our leasing efforts over the last two years, we have not been able to find office users or flex industrial users for the Chemawa Station project.

There seems to be a lack of demand currently for this product type, while retail demand is robust.

Please let me know if you have any questions.

Thanks,

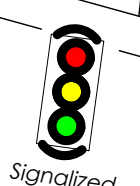
A handwritten signature in blue ink, appearing to read "Brock Switzer".

Brock Switzer  
HSM Pacific Realty  
[brock@hsmpacific.com](mailto:brock@hsmpacific.com)  
503-245-1400


## **EXHIBIT E**

### **Updated Landscaping Design**





BENNER  
STANGE  
ASSOCIATES  
ARCHITECTS, INC.  
THE WATERMAN BUILDING  
80 S.E. MADISON  
SUITE 214 PORTLAND, OR 97214  
(503) 670-0234  
FAX (503) 670-0235  
bsa@bsaarch.com



**BSAA**  
ARCHITECTURE & PLANNING



## **EXHIBIT F**

### **Facade Design Examples**



BENNER  
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## Proposed Findings – Keizer Station Area D - Master Plan Amendment Case 2023-02

### FINDINGS: GENERAL

1. The applicant is Chemawa Station, LLC. The applicant's representative is Christopher Lundberg. The subject property is owned by the Confederated Tribes of the Siletz Indians and the Confederated Tribes of Grand Ronde.
2. The subject property is Area D (Commerce Center) of the Keizer Station Plan which is located at the Chemawa/Interstate 5 interchange. The subject property is identified on Marion County Tax Assessor's Map as Township 6 south Range 3 West; Section 36D, Lot #00400. The property is bisected by Ulali Drive which serves as access to the subject property and provides connectivity to Area A of the Keizer Station. The proposed amendment request affects only the property located south of the jug handle of Ulali Drive.
3. The subject property is designated is designated Campus Light Industrial on the Comprehensive Plan Map and is zoned IBP (Industrial Business Park).
4. The proposal is for an amendment to the previously adopted Master Plan for Area D. This amendment will modify the previously approved site plan by changing the location and number of buildings and uses, overall parking lot layout, and landscaping features and amenities located in the area south of Ulali Drive. The original approval provided for a total of eight buildings with a gross leasable area of 87,975 square feet to be developed with a mix of retail, office, and flex-industrial uses. The proposed amendment will reduce the gross leasable area to 72,535 square feet and will include six buildings and a drive through coffee kiosk. Most of the proposed uses will involve eating and drinking uses, along with some retail, a car wash, tire sales, and hotel tenant. No changes are proposed to the northern side of Ulali Drive.
5. This is the third amendment to the approved Area D master plan. This master plan amendment is subject to a Type II-B procedure (KDC 3.101.02), which includes a public hearing and decision by the City Council.

### FINDINGS: KEIZER STATION MASTER PLAN AMENDMENT

6. The Review Criteria for a Keizer Station Master Plan amendment are listed in Section 3.113.06 of the Keizer Development Code (KDC). The criteria and findings are listed below:

- A. All applicable review criteria of Section 3.113.04 considering the type and extent of the proposed amendment.

**FINDINGS:** The review criteria found in Section 3.113.04 is wide ranging and includes things such as overall master plan objectives and arrangement of uses to

landscaping, site planning, and architectural details. The proposed amendment is to change the number and location of proposed buildings and mix of uses, along with the overall site layout change of the area south of the jug handle. The applicant submitted a site plan showing proposed building locations, overall parking lot layout, along with landscaped areas for the south side of Ulali Drive. The changes do not substantially alter the basis of justification for approval, nor do they significantly alter the recommended conditions of approval. However, some of the original conditions are proposed to be modified and/or replaced to reflect changes proposed by this amendment. The following specific criteria of Section 3.113.04 gives the basis for justification for finding this proposal complies with this review criteria:

3.113.04.A. The master plan shall meet the purpose and objectives identified in the Keizer Station Design Plan:

The identified purpose for Area D is to have a mix of industrial uses. Key issues were identified for consideration including: the location and design of transportation facilities; traffic operations at the Chemawa Interchange; and physical constraints (e.g. power lines, utility easements and rail right-of-way) that will influence the amount of buildable land and building locations. The applicant's proposal addresses the identified key issues and no changes are proposed to the previously approved transportation system or traffic operations. Information was provided by the applicant's traffic engineer which demonstrates the current proposal is consistent with previous approvals for overall traffic generation, and the site plan considers the physical constraints of the site. A mix of uses are proposed for the site. The proposed uses, although different from previous approvals, do provide a mix of uses that are allowed by the Industrial Business Park zoning designation.

The identified objectives for Area D are focused on achieving: a source of employment opportunities; and protect traffic operations. The applicant's proposal represents a fairly substantial shift in proposed uses and employment opportunities provided by the plan. The original 2004 Master Plan and subsequent amendments envisioned the area south of Ulali Drive to be developed with a mix of uses to include a restaurant, some flex retail, and a substantial amount of office and flex-industrial uses. The current proposal eliminates the commercial office and flex-industrial uses, and increases the amount of eating and drinking establishments, proposes a hotel user, along with other retail and industrial uses. The applicant's written statement addresses this shift in proposed uses and employment opportunities that can be realized by this proposal. They have provided documentation regarding the lack of interest in office or flex-industrial users and point out the current proposal will result in a mix of uses that will provide a vibrant commerce center and varied employment opportunities. Traffic operation for the site are controlled through a signalized intersection on Ulali Drive which is currently operational, and the applicant has provided a trip generation comparison prepared by their traffic engineer which shows that less trips will be generated by this proposal than originally approved. Therefore, staff finds this proposal complies with this criterion.

#### 3.113.04.B.1. Design Standards:

The applicant indicates the proposed building will comply with all design standard provisions of the development code and previous master plan approval conditions. Conditions were placed on the original approval and subsequent amendments, that specific building designs would be regulated as a part of the building permit review and approval process to ensure compliance with the standards of the Keizer Development Code (KDC). These conditions will assure that all future buildings governed by this amendment will comply with this criterion. The applicant submitted building façade examples which demonstrate consistency with the architectural design of buildings that are developed throughout the Keizer Station Development. Therefore, staff finds this proposal complies with this criterion.

#### 3.113.04.B.2. Transportation System Standards:

The Public Works Department has reviewed the proposed amendment and provided comments and conditions relating to transportation facilities. The traffic signal required for access and egress to and from Ulali Drive for this section of Area D is constructed and fully functional. Prior to any occupancy permits for the southern portion of Ulali Drive, the design for the signal and signage shall be reviewed by the Public Works Department for adequacy to serve the proposed development. This condition will assure that traffic safety standards can be adhered to and is found to be necessary for compliance with the requirement of the Keizer Station Plan. Therefore, staff finds this proposal complies with this criterion.

#### 3.113.04.B.4. Parking Standards:

The proposed amendment will modify the parking lot layout. Recent changes to state law prevent the City from requiring a specific amount of minimum parking. However, the applicant's site plan provides parking that is designed to serve the proposed uses, with adequate aisle widths, parking space dimensions, and associated landscaping. Staff has reviewed the applicant's site plan and finds the proposal is both adequate and appropriate, as it provides maneuverability, traffic flow, and parking for patrons frequenting the development. As a part the building permit approval process, details on parking and maneuvering areas along with associated landscaping will be reviewed for compliance with applicable provisions of the KDC. Therefore, staff finds this proposal complies with this criterion.

#### 3.113.04.B.5. Landscape Standards:

The proposed amendment modifies the site plan and therefore modifies the associated landscaped areas. The original conditions of approval governing Master Plan/Major Variance Case 2004-38 and subsequent Master Plan Amendment/Major Variance Case 2020-10, and Master Plan Amendment Case 2020-24 contained specific conditions regarding landscaping requirements. A landscaping plan was provided with this amendment application for the portion of the site being modified which generally demonstrates compliance with the established conditions and provisions of the KDC. As a condition of approval, a detailed landscaping plan must be provided to assure that compliance with the provisions of the KDC. This will be reviewed and regulated as part

of the building permit review and approval process. Therefore, staff finds this proposal complies with this criterion.

Staff finds the applicant's proposal demonstrates consistency with the criteria of the original approval of Master Plan/Major Variance Case 2004-38, subsequent Master Plan Amendment/Major Variance Case 2020-10, and Master Plan Amendment Case 2020-24, and thus satisfies this criterion.

B. The amendment is consistent with the adopted Master Plan, or achieves an equally desirable result.

**FINDINGS:** The proposed changes are generally consistent with the overall purpose of the adopted Master Plan. The changes generally achieve an equally desirable, if not superior result of the previous approval. The following changes are proposed:

- Modify the previously approved site plan by changing the location and number of buildings and uses, overall parking lot layout, and landscaping features and amenities located in the area south of Ulali Drive. The original approval provided for a total of eight buildings with a gross leasable area of 87,975 square feet to be developed with a mix of retail, office, and flex-industrial uses. The proposed amendment will reduce the gross leasable area to 72,535 square feet and will include six buildings and a drive through coffee kiosk. Most of the proposed uses will involve eating and drinking uses, along with some retail, a car wash, tire sales, and hotel tenant. No changes are proposed to the northern side of Ulali Drive.
- Modify the parking lot layout and number of spaces provided to serve the proposed development plan. Parking and loading areas provide adequate maneuverability, traffic flow, and parking for patrons frequenting the restaurant. Appropriate parking lot landscaping is shown on the applicants submitted landscape plan.
- Changes to the previously approved building façade examples for the area south of Ulali Drive. The proposal provides example building elevations that are consistent with the City's design standards and are intended to represent the type of construction that is proposed. While exact designs are not yet determined and have not been submitted, the examples demonstrate consistency with the existing buildings developed throughout the Keizer Station Area, and will be reviewed for compliance with City standards through the building permit review and approval process.

All conditions of approval from the original Master Plan /Major Variance Case 2004-38, subsequent Master Plan Amendment/Major Variance Case 2020-10, and Master

Plan Amendment 2020-24 will apply to this amendment. Some minor changes to the existing conditions are proposed to align the new proposal, clarify requirements, and approval timeframes. Staff finds the proposed amendment demonstrates consistency with the criteria of the original approval of the Master Plan/Major Variance and thus satisfies this criterion.

- C. The amendment does not result in additional traffic generation and is consistent with the adopted Traffic Impact Analysis.

**FINDINGS:** The proposal is to decrease the number of overall buildings and gross leasable square footage on the southern side of Ulali Drive. The applicant provided a trip generation memo/analysis prepared by Kittelson & Associates which demonstrates compliance with this criterion. The trip generation comparison provided indicates the proposed amendment will not increase the overall anticipated trip generation of the site, and the development proposal is consistent with the original adopted Traffic Impact Analysis. Therefore, the applicant's proposal satisfies this criterion.

## PROPOSED CONDITIONS

[Note: Many of the conditions listed are from the ~~2004 Master Plan~~ previous Master Plan Approvals and Amendments, and have been completed.]

Unless specifically stated otherwise herein, all conditions must be met prior to the issuance of any building permits (See Condition 63):

### CONDITIONS FOR MASTER PLAN:

1. The construction of all the public improvements and its associated landscaping must be completed within two years of the final date of this initial decision which can be extended upon approval by the Community Development Planning Department. Any request for an extension must be made in writing prior to this date.
2. The applicant shall submit a phasing plan for all improvements for approval by the Community Development Planning Department.
3. The development shall be required to meet all Development Code requirements relating to signs as found in Section 2.308.
4. The landscaping and pathway/pedestrian improvements including water features, plazas and other amenities for the entire Area D shall be provided as shown in the application or as modified by the conditions of approval. The final landscaping and pathway plans, as well as the design of the proposed water feature shall be approved by the Community Development Planning Department prior to installation. The water feature, and all improvements and amenities located on the north side of Ulali Drive including the plaza, landscaping, and pathway improvements shall be completed prior to the issuance of the Certificate of Occupancy for the second building in Area D. The remaining landscaping and improvements shall be constructed prior to issuance of the Certificate of Occupancy for the first building south of Ulali Drive.
5. A landscaping design for the area adjacent to the Interstate 5 freeway and the Salem Parkway shall be submitted to the Community Development Planning Department for review and approval. The design shall demonstrate a coordinated design with Area A.
6. The land area devoted to industrial and commercial uses, as required in KDC 2.113, IBP Zone, shall be met and maintained within Area D. The amount of "Flex Space" use, as defined in Section 2.113.02.N.2 shall be limited to that specified in this section of the KDC.
7. Except as approved in the variance application, all KDC dimensional requirements for building heights, lots, and setbacks shall be met.

8. Street names and numbers shall conform to the established standards and procedures in the City. Street names shall be approved by the City of Keizer. A Street Name Application must be completed and submitted for approval. No building permit shall be issued without approved street names. Due to the significance of this development as a landmark of the City of Keizer, street names must also receive approval of the City Council.

9. Street trees shall be planted at the locations and varieties specified in the submitted landscaping plan. A minimum caliper of 2 inches shall be used for street trees and all other trees in areas near pathways, walkways streets and parking areas. A final street tree planting plan shall be approved by the ~~Community Development Planning~~ Department prior to planting. All other landscaping standards of the KDC shall be met. Evergreen trees may be varied in height as long as the average height of all evergreen trees planted shall be an average height of 6 feet at time of installation.

10. Ground cover and shrubbery shall be planted in conformity with the KDC and industry standards as approved by the ~~Community Development Planning~~ Department, and shall reach full coverage by the third year of growth for ground cover and the fifth year of growth for shrubbery.

11. The amount of area landscaped, and the design thereof, shall conform substantially with the plan submitted as part of the original application (2004-38). A final landscaping plan shall be submitted for approval by the Community Development Director prior to planting. The landscaping plan shall incorporate the site plan modifications identified in Master Plan Amendment/Major Variance Case 2020-10, ~~as well as~~ Master Plan Amendment Case 2020-24, ~~and Master Plan Amendment Case 2023-02~~. Design for the proposed water feature must receive final approval from the ~~Community Development Planning~~ Department and will be required to be provided in conjunction with the development of the interior of the jug handle area north of Ulali Drive. Additional detailed landscaping plans for the area south of Ulali Drive (Phase 2) shall be approved prior to issuance of building permits for that area.

12. Irrigation system plans shall be submitted for approval as part of the review process of building permits and public improvement permit process. Approved irrigation systems shall be installed prior to issuance of an occupancy permit.

13. A tree shall be planted for every eight lineal parking spaces not located adjacent to a building in accordance with KDC standards, and shall substantially conform to the landscaping plan submitted with the application. Additional parking lot trees must be provided within the interior parking lot islands of the Pad "A" site parking area consistent with the requirements of KDC section 2.303.

14. Parking shall be provided as required by KDC 2.303, and shall substantially conform to what is shown on Exhibit "E-1" ~~(as shown in Master Plan Amendment Case 2020-24)~~. Parking driveway aisles shall be a minimum of 24 feet wide. A plan documenting compliance with parking requirements shall be provided for the ~~Community Development Planning~~



Department's Master Plan approval. Verification shall be provided during building permit review.

15. Bicycle parking shall be provided as required by KDC 2.303.08. In addition, the bicycle rack design shall provide secure support for bicycles and the ability to lock bicycles securely. The bicycle rack design, installation, and locations shall be approved by the ~~Community Development~~ Planning Department prior to installation.

16. Sufficient paved areas and designated loading areas shall be provided in accordance with KDC 2.303.10.

17. Pavement shall be provided for all driveways, loading, and parking areas as required by KDC 2.303.11.

18. Electric and mechanical equipment and other service areas such as trash/recycling dumpsters shall be screened with vegetation and/or fencing. The final landscaping plan shall be approved by the ~~Community Development~~ Planning Department prior to planting.

19. Driveway entrances shall be a maximum of 36 feet wide.

20. Pedestrian systems crossing driveways, parking areas and loading areas shall be clearly identified through the use of stamped concrete, pavers or similar methods and shall be indicated on the building permit plans submitted. Additional pedestrian connections will be required to be provided in conjunction with the development of the Pad "A" site (as shown in Master Plan Amendment Case 2020-24). Connections must be provided to connect the public plaza, as well as the area along Ulali drive in the northwest quadrant of the site.

21. Pedestrian walkways must be lighted to a level where the system can be used at night by employees and customers. The lighting plan shall be approved by the ~~Community Development~~ Planning Department.

22. The applicant shall construct connections to the regional multi-use path adjacent to the Salem Parkway. This shall provide connections to the pathway which border the Salem Parkway in both a south and the north direction as shown on the submitted plans.

23. Awnings shall be provided for all walkways adjacent to buildings that comply with Section 2.315 of the Keizer Development Code.

24. The proposed site lighting shall not cast any light or glare toward the residential properties to the west or allow any direct visual access to a direct lighting source from any residential property.

25. Security lighting shall be provided which provides secure illumination of the Chemawa

Road under crossing, while being directed away from the flow of traffic, so as not to cause glare.

26. Building design elements including ground floor windows, facades, awnings and materials shall satisfy KDC 2.315.08.

27. The elevations of all buildings shall be varied in texture and materials and shall create a very human scale in massing and incorporate human scale design elements. Elevations of all buildings shall incorporate no more than fifteen feet between varied vertical elements and shall reflect the original proposal (2004-38) exemplified by that submitted for the Tenant Retail building and the NE Corner of Building Six (6), as well as the elevations submitted for Store 'C' as a part of the 2020-10 application, and the example elevations submitted as part of the 2023-03 application. Different materials, varied at the same frequency as the architectural elements, shall be used and shall conform to the samples in the submitted materials. These materials shall be varied in type, and incorporate such things as cultured stone, a variety of split face Concrete Mortar Units (CMU's), as well as smooth faced CMU walls. The colors used shall be in compliance with the KDC Development Standards section 2.315.08.B.5.

28. Screening of roof-mounted equipment from adjacent public streets shall be required.

29. All accessory structures including trash receptacle and mechanical devices shall be screened from view in compliance with Section 2.315.08.C of the Keizer Development Code.

30. Maintenance of landscaping materials as specified in the Keizer Development Code Section 2.309, space tracts, plazas, and pathways shall be the responsibility applicant.

31. Construction specifications (e.g., base rock, concrete/pavement thickness) for the separate pathways shall be subject to Public Works Department approval in accordance with Keizer City Standards.

32. The development shall conform to the requirements of all federal, state, and local requirements, including but not limited to ADA requirements.

33. During construction, adjoining properties shall be protected from impacts of noise at unreasonable hours, unreasonable dust, and safety concerns, and shall conform to Keizer City requirements regulating such impacts.

34. The applicant shall work with the Transit District to ensure compliance with the requirements found in Section 2.305 of the KDC.

35. In addition to complying with all development standards, all new utility connections and lines shall be located underground.

**PUBLIC WORKS REQUIREMENTS:** The following requirements are the conditions of approval by the Public Works Department.

**MASTER PLAN:**

The Public Works Department has reviewed the applicant's submittals and has compared them with the requirements of the adopted Keizer Station Plan and subsequent submittals. The developer shall submit a detailed phasing plan for all required improvements (including site grading) prior to any construction and grading of the subject property. ~~The following are conditions of approval of the master plan.~~

The traffic signal required for access and egress to Ulali Drive for this section of Area D has been designed, constructed and fully functional for the area between Ulali Drive and Chemawa Road. However, prior to any occupancy permits for any buildings on the south side of Ulali Drive, the design for the signal and signage for the area shall be reviewed for adequacy to serve the proposed development.

**PUBLIC WATER SYSTEM:**

Some of the public water system serving the area will have to be redesigned to make sure that the existing fire hydrants, water mains and valves are placed in acceptable locations to the Keizer Public Works Department and the Keizer Fire District. The existing fire line connection point may also have to be redesigned.

One of the existing water service lines will have to be abandoned since there will only be 3 services required for the new amendment. (Master Plan Amendment Case 2020-24)

The existing public water system from Ulali Drive to the elevated water reservoir will be required to be located and possibly relocated if the existing water main conflicts with the proposed new street and utility system for the area south of Ulali Drive.

A water system layout to provide service to all of the proposed new buildings shall be submitted to the City of Keizer Public Works Department for review and approval and possible new easements.

Adequate access easements to the existing elevated water reservoir shall be provided prior to any new construction on the subject property.

**SANITARY SEWER SERVICES:**

The sanitary sewer service to the previously proposed tire store will have to be abandoned per the City of Salem standards and approved by the Keizer Public Works Department. (Master Plan Amendment Case 2020-24)

A sanitary sewer plan to provide service to the area shall be submitted for approval to the City

of Keizer Department of Public Works and the City of Salem Department of Public Works. Any unpaid acreage fees for the subject property shall be paid prior to connection of any of the area proposed for development to the sanitary sewer system.

### **DETENTION BASIN AND STORM DRAINAGE:**

The currently constructed detention basin and storm drainage system will be required to be redesigned to conform to the revised Master Plan. It is not apparent to the Public Works Department that there will be an overall reduction in impervious areas for the Pad "A" site portion of the property. (Master Plan Amendment Case 2020-24)

The currently constructed detention basin and storm drainage system will be required to be reviewed for adequacy to serve the revised Master Plan.

The storm drainage system for the proposed development shall include green infrastructure for storm water treatment.

### **SANITARY SEWERS:**

The subject property is located outside of the original Keizer Sewer District and therefore an acreage fee is required. The current acreage fee is \$7,460.00 per gross acre. The applicant indicates that the area of Area D is 15.68 acres. The acreage fee applied will be the fee in place at the time of development of the property. At the current acreage charge the acreage fee will be \$116,972.80. The Master Sewer Plan provides for a sewer trunk line to be constructed through Area A to a point on the north property line of the subject property. Connection to the sewer trunk will be the responsibility of the developers of Area D. Development of Area D will require coordination of the construction of the sewer trunk. Additionally, the following requirements shall be applied:

36. Prior to development of the subject property, a master sewer plan for the proposed development shall be submitted to the City of Keizer's Department of Public Works for review and approval. The plan shall include proposed rim and invert elevations, proposed alignment of sewer mains and proposed easements.

37. City of Salem approval for both sewer trunk lines and local sewers is required. Permits from the City of Salem shall be issued prior to construction. Prior to submitting plans to the City of Salem for approval, the developer's engineer shall submit plans to the City of Keizer Public Works Department for review and determination of compliance with the City of Keizer's Master Sewer Plan for the area.

38. Connecting to existing sewers that serve the general area will be the responsibility of the developer of the property.

39. Appropriate easements will be required for any public sewer mains located within the subject property if located outside platted right of ways.

40. It will be the responsibility of the developer's engineer to locate any existing wells (including those on adjacent property) in the vicinity of the proposed new sanitary sewer lines for the subject property. Any conflicts between existing wells and proposed sanitary sewers shall be addressed by the developer prior to issuance of public works construction permits.

### **WATER SYSTEM:**

The developer has submitted a master water system plan showing proposed routes of public water mains and fire hydrants. The master plan is generally acceptable to the Public Works Department, however, prior to submittal of final construction plans the developer's engineer shall arrange for a pre-design conference to discuss water main sizing, meter sizing and locations, fire hydrant locations, fire sprinkler line locations and easement width for all public lines (including fire hydrant lines) located outside of right of ways. Additionally, the developer will be required to coordinate construction activities with the developers of Area A. Final location of all meters is to be approved by the Keizer Department of Public Works. To provide for adequate peak consumption and fire protection requirements it has been determined that additional public facilities will be required including but not limited to elevated storage facilities, wells, connection to existing mains on the west side of the BNRR right of way, and any other off-site construction required to provide required peak flows to the proposed development. It is the Department of Public Works understanding that the developers of Area A in conjunction with developers of Area D are undertaking a study to determine the required water system improvements necessary for the development of the Keizer Station area. No permits for the subject property shall be issued until the Department of Public Works has reviewed and accepted the study. Appropriate easements for all public water mains and fire hydrants will be required if construction is to be outside of public right of ways. Any system development charges for water system improvements will be those in place at the time of individual service connections.

41. Final development plans shall be reviewed by the Keizer Fire District with regard to access and adequate location of fire hydrants prior to any issuance of public works construction permits by the City of Keizer.

42. It will be the responsibility of the developer to abandon all existing wells prior to site grading. All abandonment shall be in accordance with the rules of the Oregon State Water Resources Department.

### **STORM DRAINAGE IMPROVEMENTS:**

43. The developer has submitted plans indicating the present drainage patterns and runoff characteristics. The property is within a critical drainage basin and strict compliance with city



ordinances will be necessary. No increase in runoff will be allowed as development occurs. Prior to any development of the subject property an overall storm water master plan including invert elevations, pipe sizes and alignment, easements, detention calculations, water quality measures and an approved point of discharge shall be submitted to the Department of Public Works for approval. A point of discharge has been identified on the ODOT system in Interstate 5. ODOT approval shall be required for water quality, conveyance systems and points of discharge. It is the understanding of the Department of Public Works that the engineers for the developers of Area A and Area D are studying the two areas and the storm drainage from Area D will be connected to a system constructed in Area A. The location for the proposed connection will be on the north property line of the subject property.

44. Storm water detention will be required for this site. All storm water including roof drains are to be connected to an approved system designed to provide adequate drainage for proposed new driveways, parking lots and other impervious surfaces.

45. A grading and drainage plan shall be developed for the subject property. Details shall include adequate conveyance of storm water from adjacent property across the subject property.

46. It is anticipated that the property will develop in phases, prior to any development, a phasing plan shall be submitted to indicate how the storm water management will be developed to provide service to each area.

47. The developer shall submit to the Department of Public Works a master plan for erosion control for the entire site. The master plan shall be approved by the Department of Public Works. Prior to any development, including site grading, the applicant shall obtain an NPDES permit from the Oregon Department of Environmental Quality.

### **TRANSPORTATION:**

48. The proposed development requires construction of an underpass under the BNRR between Areas A and B as well as an underpass of Chemawa Road between Areas A and D. Additionally, other off-site improvements have been identified in the Transportation Plan developed for the Keizer Station Plan. These improvements include but are not limited to, construction of an extension of Radiant Drive to Lockhaven Drive and continuing to Chemawa Road to a point south of the intersection of Chemawa Road and McLeod Lane, construction of a pedestrian under-crossing of the BNRR at Tepper Lane, and other improvements necessary to provide compliance with the adopted Keizer Station Plan adopted Feb. 3, 2003. Additionally, a regional multi-use pathway has been identified on the Keizer Station Village Center Master Plan. The path location shall be coordinated with the Area A development, ODOT and the Keizer Community Development Department. The path shall be of P.C.C. and constructed to a width of 12 feet or as approved by the City. Coordination of the above improvements with the developers of Area A will be required to insure all elements of the required road improvements are in place prior to issuance of any building permits for the

subject property.

49. All new streets shall be constructed to the requirements of the City of Keizer Department of Public Works Design and Construction Standards and in conformance with the final Transportation Impact Analysis adopted for the Keizer Station Plan. The loop street shall be designed to arterial standards in terms of structural section and geometrical configuration or engineered alternative as approved by the Department of Public Works. Preliminary construction specifications and plans for all transportation mitigation measures necessary to satisfy the improvements identified in the "Transportation Impact Analysis, Keizer Station Plan" for all street construction, including retaining walls, fencing, landscaping, sidewalks, signing, etc. shall be submitted to the Department of Public Works for review prior to submitting final plans for approval. The Department of Public Works will review the proposed plans and make recommendations for any additional work and coordination with other development in the area as needed. Prior to approval of any development on the subject property or issuance of any construction permits, the developer shall submit an access and utility easement document suitable for recording for review and approval by the Department of Public Works.

50. The developer's engineer shall submit detailed traffic signal plans indicating phasing, recommended interties, materials to be used, etc. to the City of Keizer Department of Public Works for approval prior to construction. All traffic signal plans shall be designed to City of Salem/ODOT Standards where appropriate.

The traffic signal required for access and egress to and from Ulali Drive shall be designed, constructed and fully functional prior to any occupancy permits for any building.

### **GENERAL:**

51. A street lighting master plan shall be developed. A street lighting district or other approved method of providing for adequate illumination of the proposed loop street shall be submitted to the Department of Public Works for review and approval. Decorative lighting approved by the Department of Public Works shall be used and shall be installed and maintained by the applicant if a street lighting district is not formed.

52. Construction permits are required by the Department of Public Works prior to any public facility construction. Contact the City Engineer's office at (503) 390-7402 for the necessary permit information that is required. The development shall be constructed substantially as set forth in the attached final site plan and by this reference incorporated herein.

53. A Pre-design meeting with the City of Keizer Department of Public Works will be required prior to the Developer's Engineer submitting plans to either the city of Keizer or the City of Salem for review.

54. Street opening permits are required for any work within the City Right of Way that is not covered by a Construction Permit.

55. Facility phasing plans and arrangements for reimbursing developers for providing additional capacity to serve future development shall be approved by the Keizer Department of Public Works and the City Council prior to any construction.

56. All easements to be located in the appropriate locations based on actual approved plans.

57. An improvement agreement or other acceptable form of guarantee for all required construction shall be in place and appropriate easements recorded prior to construction permits being issued.

58. Unless otherwise specifically modified by this decision, development of all structures and parking areas shall comply with remaining requirements of the Keizer Development Code.

59. The City of Keizer employs Marion County Building Department for the processing of building permits. Therefore, the applicant shall meet all requirements of the Marion County Building Division pertaining to building code issues.

60. In certain circumstances, findings of fact in ~~both~~ the September 2020 Order, February 2021 Order, –and this order may contain conditions or clarifications of conditions set forth in this Exhibit. In such cases, the conditions or clarifications of conditions in those findings of fact are incorporated herein as if fully set forth.

In order for the Master Plan to receive final approval the applicant will be required to submit documentation demonstrating compliance with all applicable federal, state and local requirements. This shall include all conditions adopted by the City Council which apply to this Master Plan. These shall be submitted to the ~~Community Development~~Planning Department for verification and final approval.

#### **VARIANCE:**

61. The applicant shall locate the proposed structures and parking areas as indicated on the submitted site plan and shall maintain a minimum setback of ten (10) feet from the inner edge of the sidewalk on the north side of Ulali Drive or any adjacent property lines.

62. This variance was revised based upon amenities and landscaping shown in the plans submitted. These amenities provided mitigate any visual impact this variance may create. Therefore all improvements such as landscaping, pathways and amenities shown on the proposal must be implemented.

63. Unless expressly stated otherwise with these conditions, no building permits shall be issued until all conditions have been met or the applicant has demonstrated with certainty in the City's discretion the ability to meet such conditions. For example, no building permit

shall be issued until contracts have been let for all infrastructure. Building permits may also be held until sufficient infrastructure is completed to support the requested development.

DATE: MARCH 27, 2023

TO: DINA HORNER, ASSISTANT PLANNER  
KEIZER COMMUNITY DEVELOPMENT DEPARTMENT

SUBJECT: PUBLIC WORKS DEPARTMENT REQUIREMENTS FOR  
MASTER PLAN AMENDMENT CASE NO. 2023-02  
KEIZER STATION – AREA D

### **MASTER PLAN**

The Public Works Department has reviewed the applicant's submittals and has compared them with the requirements of the adopted Keizer Station Plan and subsequent submittals. All conditions of the earlier approved Master Plan remain in effect.

The traffic signal required for access and egress to and from Ulali Drive for this section of Area D has been designed, constructed and fully functional for the area between Ulali Drive and Chemawa Road. However, prior to any occupancy permits for any buildings within the proposed Master Plan Amendment area, the design for the signal and signage for the area shall be reviewed for adequacy to serve the proposed new development.

### **PUBLIC WATER SYSTEM**

The existing public water system from Ulali Drive to the elevated water reservoir will be required to be located and possibly relocated if the existing water main conflicts with the proposed new street and utility system for this portion of Area D. Modifications to the existing water system will be required to assure fire hydrants and valves are placed in acceptable locations to the Keizer Public Works Department and the Keizer Fire District.

A water system layout to provide service to all of the proposed new buildings shall be submitted to the City of Keizer Public Works Department for review and approval and possible new easements.

Adequate access easements to the existing elevated water reservoir shall be provided prior to any new construction on the subject property.

### **SANITARY SEWER SERVICES**

A sanitary sewer plan to provide service to the area shall be submitted for approval to the City of Keizer Department of Public Works and the City of Salem Department of Public Works. Any unpaid acreage fees for the subject property shall be paid prior to connection of any of the area proposed for development to the sanitary sewer system.

### **DETENTION BASIN AND STORM DRAINAGE**

The currently constructed detention basin and storm drainage system will be required to be reviewed for adequacy to serve the revised Master Plan.

The storm drainage system for the proposed development shall include green infrastructure for storm water treatment.





CITY COUNCIL MEETING: APRIL 17, 2023

To: Mayor Clark and City Council Members

THRU: Adam J. Brown, City Manager

FROM: E. Shannon Johnson, City Attorney

SUBJECT: **UTILITY SERVICE UTILIZING THE PUBLIC RIGHTS-OF-WAY AND COMMUNICATIONS LICENSE LAW**

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**PROPOSED MOTIONS:**

I move that the Keizer City Council adopt Ordinance No. 2023-\_\_\_\_ Adopting Right-of-Way Utility Regulations.

AND

I move that the Keizer City Council adopt Resolution R2023-\_\_\_\_ Establishing Fees for Ordinance No. 2023-\_\_\_\_ (Adopting Right-of-Way Utility Regulations).

**I. SUMMARY:**

This matter is before the City Council to consider an Ordinance Adopting Right-of-Way Utility Regulations and the associated Resolution Establishing Fees for Ordinance No. 2023-\_\_\_\_ (Adopting Right-of-Way Utility Regulations).

**II. BACKGROUND:**

- A. Council held a work session on the issue of right-of-way regulation (ROW) in December 2021. At that time, special counsel Spencer Parsons reviewed the pros and cons of the “franchise” model which Keizer currently uses and the “code” model. Under the franchise model, each provider enters into a separate franchise agreement. The code model provides one set of regulations with some variations depending on the utility. Essentially, the code model allows the City to place providers on a level playing field. Mr. Parsons indicated that their firm recommended the code model to their municipal clients.

- B. The City Council considered the matter and directed staff to move forward with the code model.
- C. In April 2022 Council approved a contract with ROW Consultants, LLC (Reba Crocker) to prepare draft Ordinance and Resolutions.
- D. Over the past several months, Reba Crocker and I have reviewed and revised the drafts. At that time we had an Ordinance and Resolution for communication providers, as well as a separate Ordinance and Resolution for all other utilities. In January, we sent drafts to the utility providers for comments. Ms. Crocker held meetings with providers to go over their concerns.
- E. Because Mr. Parsons had changed positions and was not available, I engaged Nancy Werner as special counsel to assist. Ms. Werner, Ms. Crocker and I spent considerable effort to address providers' concerns. Ms. Werner has indicated that the Ordinance is legally defensible.
- F. We have made significant changes to the Ordinance. Of importance, we clarified that there is no requirement to place existing power lines underground. This was a concern expressed by Salem Electric.
- G. Council held a public hearing on March 20, 2023. Council then closed the hearing and continued discussion and deliberation to tonight's meeting.

### III. **CURRENT SITUATION:**

- A. The matter is before Council for discussion and final action.
- B. The code model is designed to provide a level playing field for providers.
- C. Additionally, the code model avoids having to negotiate individual franchise agreements. This avoids the time and expense involved in that exercise. It also avoids the possibility of having unequal treatment of the providers.
- D. The concern expressed by some providers was that they would have to pay even if they did not own facilities in the right-of-way. Although this is true, such providers get a benefit by such use. If the Ordinance did not apply to them, then they would pay nothing, but the other providers with facilities in the right-of-way would have to pay.
- E. Please note that reference to design or public works standards mean standards adopted by the Public Works Director under authority granted in the Ordinance.

### IV. **ANALYSIS:**

- A. **Strategic Impact** – No impact.

- B. **Financial** – There should be a positive impact financially in that providers that have not paid to use the right-of-way would be paying the fees. The amount increased is difficult to estimate, but could be \$200,000 to \$500,000 annually.
- C. **Timing** – Adopting the Ordinance and Resolution at this time will allow for a transition period and the beginning of the new process by July 1.
- D. **Policy/legal** – Federal law requires municipalities to provide a “level playing field” for providers. The Ordinance provides that and is recommended by legal counsel.

**V. ALTERNATIVES:**

- A. Adopt the attached Ordinance and Resolution.
- B. Decline to adopt the Ordinance and Resolution and retain the current franchise model of ROW regulation.
- C. Direct staff to make changes to the Ordinance and/or Resolution.

**VI. RECOMMENDATION:**

Staff recommends the Council discuss and deliberate the Ordinance and Resolution. If you have no further questions, adopt the attached Ordinance and Resolution by separate motions. Please let me know if you have any questions. Thank you.

**ATTACHMENTS:**

- Ordinance Adopting Right-of-Way Utility Regulations.
- Resolution Establishing Fees for Ordinance No. 2023-\_\_\_\_ (Adopting Right-of-Way Utility Regulations).

A BILL

ORDINANCE NO.  
2023-\_\_\_\_\_

FOR

AN ORDINANCE

ADOPTING RIGHT-OF-WAY UTILITY REGULATIONS

The City of Keizer ordains as follows:

Section 1. TITLE. This Ordinance shall be known and may be referenced as the "Right-of-Way Utility Regulations Ordinance."

Section 2. PURPOSE AND INTENT. The purpose of this Ordinance is to:

A. Permit and manage reasonable access to and utilization of the public rights-of-way of the City for utility services purposes and conserve the limited physical capacity, integrity, and longevity of those public rights-of-way held in trust by the City consistent with applicable state and federal law;

B. Secure fair and reasonable compensation to the City and its residents, who have invested substantial public funds to acquire, build, and maintain the public rights-of-way and City-owned structures and improvements therein, from utilities that benefit from use of this public asset;

C. Ensure that all persons owning or operating utility facilities or providing utility services within the City register and comply with the ordinances, rules, policies, and other regulations of the City, as well as with applicable provisions of state and federal law;

1 D. Ensure that the City can continue to fairly and responsibly protect the  
2 public health, safety, and welfare of its residents;

3 E. Encourage the provision of advanced and competitive utility services on  
4 the widest possible basis to the residents, businesses and visitors within the City's  
5 territorial and jurisdictional boundaries;

6 F. Allow the City to enter into other or additional agreements with person(s),  
7 if the public interest is served, and to amend the requirements of this Ordinance and the  
8 City regulations, as new technology is developed and deployed;

9 G. Allow the City to be resilient and adaptive to changes in technology; and

10 H. Comply with applicable provisions of state and federal law.

11 Section 3. JURISDICTION AND MANAGEMENT OF THE PUBLIC  
12 RIGHTS-OF-WAY.

13 A. The City has jurisdiction and exercises regulatory management over all  
14 public rights-of-way within the City under authority of the Oregon Constitution, the City  
15 Charter, and state law.

16 B. The City has jurisdiction and exercises regulatory management over each  
17 public right-of-way, whether the City has a fee, easement, or any other legal interest in  
18 such public right-of-way, and whether the legal interest in the public right-of-way was  
19 obtained by grant, dedication, prescription, reservation, condemnation, annexation,  
20 foreclosure, or any other means.



1 C. The exercise of jurisdiction and regulatory management over a public  
 2 right-of-way by the City is not official acceptance of such public right-of-way, and does  
 3 not obligate the City to maintain or repair any part of such right-of-way.

4 D. The provisions of this Ordinance are subject to and shall be applied  
 5 consistently with applicable state and federal laws, rules, and regulations, and, to the  
 6 extent possible, shall be interpreted to be consistent with such laws, rules, and  
 7 regulations. Nothing in this Ordinance shall be interpreted, deemed, or applied in a  
 8 manner that authorizes or requires the City, its Council, Commissions, Boards, officials,  
 9 directors, managers, employees, agents, contractors, or volunteers to violate applicable  
 10 state or federal laws, rules, or regulations.

11 Section 4. REGULATORY FEES AND COMPENSATION NOT A TAX.

12 A. The fees and costs provided for in this Ordinance, and any compensation  
 13 charged and paid as prescribed in this Ordinance, are separate from, and in addition to,  
 14 any and all other federal, state, county, or city charges, including without limitation, any  
 15 permit fee or any other generally applicable fee, tax, or charge on the business,  
 16 occupation, property, or income, as may be levied, imposed, or due from any person, its  
 17 customers, or subscribers, on account of the lease, sale, delivery, or transmission of  
 18 utility services.

19 B. The City has determined that any fee, cost, or other charge provided for by  
 20 this Ordinance is not subject to the property tax limitations of Article XI, Sections 11

1 and 11b of the Oregon Constitution. These fees or taxes are not imposed on property or  
 2 property owners.

3 C. The fees, costs, and other charges provided for in this Ordinance are  
 4 subject to applicable federal and state laws.

5 Section 5. DEFINITIONS. For the purpose of this Ordinance, the following  
 6 words, terms, phrases, and their derivations shall have the meanings given below unless  
 7 the context indicates otherwise. When not inconsistent with the context, words used in  
 8 the present tense include the future tense, words in the plural number include the  
 9 singular number, and words in the singular include the plural number. The word "shall"  
 10 is always mandatory and not merely directory.

11 A. “Cable service” is to be defined consistent with of 47 U.S.C. Section  
 12 522(6), as may be amended or superseded, and means the one-way transmission to  
 13 subscribers of (a) video programming, or (b) other programming service; and subscriber  
 14 interaction, if any, which is required for the selection or use of such video programming  
 15 or other programming service.

16 B. “Calendar year” means January 1 to December 31, unless otherwise noted.

17 C. “City” means the City of Keizer, Oregon, a municipal corporation, and its  
 18 governing authority, and/or its duly appointed and authorized agents. In addition, the  
 19 City may refer to all the territory within its corporate boundaries and as such may  
 20 change from time to time.

1           D.     “City Council” means the City Council of the City of Keizer.

2           E.     “City facilities” means City owned or publicly owned structures or  
3 equipment located within the public rights-of-way used for governmental purposes  
4 including, but not limited to, fiber-optic cable, streetlights, traffic signals, sanitary sewer,  
5 storm sewer, or water infrastructure such as related pipes, manholes, catch basins, wires,  
6 conduit, valves, vaults, and appurtenances.

7           F.     “City Standards” means all the ordinances, codes, regulations, and rules of  
8 the City of Keizer, heretofore or as may be subsequently amended.

9           G.     “Communication services” means any service provided for the purpose of  
10 transmission of information including, but not limited to, voice, video, or data, without  
11 regard to the transmission protocol employed, and whether or not the transmission  
12 medium is owned by the provider itself. Communications services includes all forms of  
13 telephone services and voice, video, data, or information transport, but does not include:  
14 (a) cable service; (b) open video system service, as defined in 47 CFR Section 76; (c)  
15 over-the-air radio or television broadcasting to the public-at-large from facilities licensed  
16 by the Federal Communications Commission or any successor thereto; (d)  
17 communications provided over a private communications system or a public  
18 communications system; and (e) direct-to-home satellite service within the meaning of  
19 Section 602 of the Telecommunications Act.

20

1           H.     “Construction” means any activity in the public right-of-way resulting in  
2 physical change thereto, including excavation or placement of structures.

3           I.     “Days” mean calendar days, unless otherwise noted.

4           J.     “Emergency” means a circumstance, as determined by the City, in its sole  
5 discretion, in which immediate work to facilities is necessary to restore lost service or  
6 prevent immediate harm to persons or property.

7           K.     “Federal Communications Commission” or “FCC” means the federal  
8 administrative agency, or its lawful successor, authorized to regulate and oversee  
9 telecommunication carriers, services, and provider, on a national level.

10          L.     “Gross Revenue” means any and all amounts, of any kind, nature, or form,  
11 without deduction for expense, less net write-off of uncollectable accounts within the  
12 City, earned or derived from the operation of utility facilities (including revenue derived  
13 from any use, rental and/or lease of the facilities to other person(s)), and/or the provision  
14 of utility service(s) in the City, subject to all applicable limitations in federal and state  
15 law.

16          M.     “License” or “ROW License” means the authorization granted by the City  
17 to a person(s) pursuant to this Ordinance.

18          N.     “Licensee” means any person that is subject to the ROW License  
19 requirement of this Ordinance or has a valid ROW License issued by the City.

20

1           O.     “Person” means and includes any individual, firm, sole proprietorship,  
 2     corporation, company, partnership, co-partnership, joint-stock company, trust, limited  
 3     liability company, association, local service district, governmental entity, or other  
 4     organization, including any natural person or any other legal entity.

5           P.     “Private communications system” means a communications system owned  
 6     by a utility operator for the operator’s exclusive use for internal communications and not  
 7     for sale or resale, including trade, barter, or other exchange of value, directly or  
 8     indirectly, to any person.

9           Q.     “Public communications system” means any system owned or operated by  
 10    a government entity or entities that are primarily for use for internal communications or  
 11    communications with other government entities, and includes services provided by the  
 12    state of Oregon pursuant to ORS Sections 190.240 and 283.140. A public  
 13    communications system does not include any system used for sale or resale, including  
 14    trade, barter, or other exchange of value, of communications services or capacity on the  
 15    system, directly or indirectly, to any person.

16          R.     “Registrant” means those persons that have a valid, active registration  
 17    pursuant to Section 8 of this Ordinance.

18          S.     “Public rights-of-way”, or “Right-of-Way”, or “ROW” means and  
 19    includes, but is not limited to, the space in, upon, above, along, across, over, or under the  
 20    public streets, roads, highways, lanes, courts, ways, alleys, boulevards, bridges, trails,



1 paths, sidewalks, bicycle lanes, public utility easements, and all other public ways or  
 2 areas, including the subsurface under and air space over these areas, but does not include  
 3 parks, parkland, open space tracts, water quality tracts, or other City-owned property.  
 4 This definition applies only to the extent of the City’s right, title, interest, and authority  
 5 to grant a license or other authorization to occupy and use such areas for utility facilities  
 6 or provision of utility services.

7 T. “Public utility easement” means the space in, upon, above, along, across,  
 8 over, or under an easement for the construction, reconstruction, operation, maintenance,  
 9 inspection, and repair of utility facilities. A public utility easement does not include an  
 10 easement solely for the construction, reconstruction, operation, maintenance, inspection,  
 11 and/or repair of City facilities, or where the proposed use by the licensee is inconsistent  
 12 with the terms of any easement, right-of-way, or other legal right for use or occupancy  
 13 granted to the City.

14 U. “Small wireless facility” means antenna facilities that are used for the  
 15 provision of personal wireless service that meets each of the following conditions:

16 a. The facilities (i) are mounted on structures fifty (50) feet or less in  
 17 height including the antennas, or (ii) are mounted on structures no more than ten  
 18 percent (10%) taller than other adjacent structures, or (iii) do not extend existing  
 19 structures on which they are located to a height of more than fifty (50) feet or by  
 20 more than ten percent, (10%) whichever is greater;

b. Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three (3) cubic feet in volume;

c. All other wireless equipment associated with the structure, including wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than twenty-eight (28) cubic feet in volume; and,

d. The facilities do not result in human exposure to radio frequency in excess of the applicable safety standards specified in 47 C.F.R. § 1.1307(b).

“Small wireless facility” does not include fiber, coaxial cable or similar equipment located within the right-of-way, other than wireless equipment associated with the structure that meets the criteria set forth in subsection U(c),

V. “State” means the state of Oregon.

W. “Structure” means any facility that is placed in the ROW, including but not limited to poles, vaults or manholes, hand holds, junction boxes, conduit, direct bury cable, wires, pedestals, aerial cables or wires, and transformers.

X. “Telecommunications Act” means the Communications Policy Act of 1934, as amended by subsequent enactments including the Telecommunications Act of 1996 (47 U.S.C., 151 et seq.) and as hereafter amended.

Y. “Utility facility” or “facility” means any physical component of a system, including but not limited to the poles, pipes, mainlines, conduits, ducts, cables, wires,

transmitters, plants, equipment, and other facilities, including strand-mounted equipment, located within, on, along, under, or above the public rights-of-way, any portion or component of which is used or designed to be used to deliver, transmit, or otherwise provide utility service.

Z. “Utility service” means the provision, by means of utility facilities located in the public rights-of-way, whether or not such facilities are owned by the utility service provider, of cable services, communication services, electric energy, natural gas, or wireless communications, to or from customers within the corporate boundaries of the City, or the transmission of any of these services through the City whether or not customers within the City are served by those transmissions.

AA. “Utility service operator” or “Operator” means any person who owns, places, operates, or maintains a utility facility within the City, whether or not the person provides utility service to customers within the City.

BB. “Utility service provider” or “Provider” means any person who provides utility service to customers within the City limits, whether or not any facilities in the ROW are owned by such provider.

CC. “Wireless communication services” means any wireless service using Federal Communications Commission-licensed or unlicensed spectrum including without limitation any personal wireless services, as defined in 47 U.S.C. § 332(c)(7)(C).

1 DD. “Work” means the construction, demolition, installation, replacement,  
 2 repair, maintenance, or relocation of any utility facility, including but not limited to any  
 3 excavation and restoration required in association with such construction, demolition,  
 4 installation, replacement, repair, maintenance, or relocation.

5 Section 6. OTHER CITY LAWS. Every utility services operator and every  
 6 person that provides utility services within the City, whether such person owns facilities  
 7 or not, shall comply with all applicable City codes, rules, or requirements of the City of  
 8 Keizer.

9 Section 7. ADMINISTRATION.

10 A. This Ordinance shall be administered by the City, its staff or duly  
 11 appointed representative.

12 B. If a conflict exists between two City ordinance provisions, one of them a  
 13 general requirement and the other a specific requirement, the more specific requirement  
 14 shall operate as an exception to the general requirement regardless of the priority of  
 15 enactment.

16 Section 8. REGISTRATION.

17 A. Registration Required. Every person who desires to provide utility services  
 18 to customers within the City shall register with the City prior to providing any utility  
 19 services to any customer in the City. Every person providing utility services to  
 20 customers within the City as of the effective date of this Ordinance shall register within

1 forty-five (45) calendar days of the effective date of this Ordinance. Persons with a  
2 valid ROW license or franchise in good standing are not required to register.

3 B. Registration Term. The registration granted pursuant to this Ordinance  
4 shall be effective the earlier of the date it is issued by the City or the date services were  
5 first provided within the City, and shall have a term of five (5) calendar years beginning:  
6 (1) January 1st of the year in which the registration took effect for registrations that took  
7 effect between January 1st and June 30th; or (2) January 1st of the year after the  
8 registration took effect for registrations that become effective between July 1st and  
9 December 31st.

10 C. Registration Application. The registration shall be on a form provided by  
11 the City and shall be accompanied by any additional documents required by the City, in  
12 the City's sole discretion and at no cost to the City, to identify the registrant and its legal  
13 status, describe the type of utility services provided or to be provided by the registrant  
14 and list the facilities over which the utility services shall be provided. Failure to receive  
15 or secure a form shall not relieve any person from the obligation to register and pay the  
16 associated fees or comply with this Ordinance.

17 D. Registration Application and Renewal Fee. Each application for new and  
18 renewal registration shall be accompanied by a nonrefundable fee in an amount to be  
19 determined by Resolution of the City Council.

20



E. Changes to Information Contained on the Registration Application.

Within thirty (30) days of a change to the information contained in the application, the applicant shall notify the City in writing of such change(s).

F. Renewal. At least thirty (30), but no more than one hundred twenty (120),

calendar days before the expiration of a registration granted under this Section, a provider seeking renewal of its registration shall submit a renewal registration application to the City, including all information and fees required in this Ordinance. If the City determines that the applicant is in violation of the terms of this Ordinance or any other City codes, rules, or regulations at the time it submits its application, the City may require, by a written notice, that the applicant cure the violation before the City will consider the application or grant the registration.

Section 9. ROW LICENSES.

A. Who Must Apply. Every utility services operator must at all times have a

valid ROW License from the City unless the utility services operator has a valid franchise agreement from the City that is in effect and in good standing.

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1           B.     When Must Apply. Every person shall obtain a ROW license prior to  
2 placing any utility facilities in the public rights-of-way. Every utility services operator  
3 as of the effective date of this Ordinance shall apply for a ROW license from the City  
4 within forty-five (45) days of the later of (a) the effective date of this Ordinance, or (b)  
5 the expiration of a valid franchise from the City, unless a new agreement is granted by  
6 the City.

7           C.     ROW License Application. The ROW license application shall be on a  
8 form provided by the City, and shall be accompanied by any additional documents  
9 required by the City, in the City's sole discretion and at no cost to the City, that allows  
10 the City to easily identify the applicant, its legal status, including its authorization to do  
11 business in the state of Oregon, a description of the applicant's utility facilities, the  
12 specific service(s) to be provided, if any, and other information that the City determines,  
13 in its sole discretion at no cost to the City, is necessary to determine the applicant's  
14 ability to comply with the terms of this Ordinance.

15           D.     ROW License Application Fee and Renewal Fee. The application and  
16 renewal application shall be accompanied by a nonrefundable application fee set by  
17 Resolution of the City Council.

18           E.     Determination by City. The City shall issue, within a reasonable time after  
19 having received a duly filed application, a written determination granting or denying the  
20 license in whole or in part. If the license is denied, the written determination shall

1 include the reasons for denial. The application shall be evaluated based upon the  
 2 provisions of this Ordinance, the continuing capacity of the public rights-of-way to  
 3 accommodate the applicant's proposed utility facilities, and the applicable federal, state  
 4 and local laws, rules, regulations, and policies.

5 F. Changes to Information Contained on the ROW License Application.

6 Within thirty (30) days of a change to the information contained in the license  
 7 application, the licensee shall notify the City in writing of such change(s).

8 G. Authorization Granted.

9 a. A ROW license granted under this Ordinance authorizes the  
 10 licensee to construct, place, maintain, and operate utility facilities in the public  
 11 rights-of-way, subject to the provisions of City code, rules, regulations, policies,  
 12 and other applicable provisions of state and federal law.

13 b. Each ROW license granted under this Ordinance authorizes only  
 14 those utility facilities applied for by the applicant and approved by the City. The  
 15 City may approve in one license utility facilities designed to provide more than  
 16 one type of utility service.

17 c. A ROW license granted under this Ordinance shall be personal to  
 18 the licensee and may not be assigned, sublicensed, or transferred, in whole or in  
 19 part, except as permitted by this Ordinance.

20

1           d.     A ROW license granted under this Ordinance does not grant,  
2           convey, create, or vest in a licensee any real property interest in land, including  
3           any fee, leasehold interest, or easement, and does not convey equitable or legal  
4           title in the public rights-of-way. The license is subject to all recorded deeds,  
5           easements, dedications, conditions, covenants, restrictions, encumbrances, and  
6           claims of title of record that may affect the public rights-of-way. A ROW license  
7           granted under this Ordinance is not a warranty of title. Licensee expressly  
8           acknowledges and agrees to enter on to and use public rights-of-way in its "as-is  
9           and with all faults" condition. The City makes no representations or warranties  
10          whatsoever, whether express or implied, as to the public rights-of-way's  
11          condition or suitability for the intended or proposed utilization. By its acceptance  
12          of the ROW license, the licensee expressly acknowledges and agrees that neither  
13          the City nor its agents have made, and the City expressly disclaims, any  
14          representations or warranties whatsoever, whether express or implied, with  
15          respect to the physical, structural, or environmental condition of the public rights-  
16          of-way, and the present or future suitability of the public rights-of-way.

17          e.     The issuance of a ROW license does not constitute a waiver or bar  
18          to the City's exercise of any governmental right or power, including without  
19          limitation the City's police powers and regulatory powers, regardless of whether  
20          such powers existed before or after the license is issued.

1           H.     Term of ROW License. Subject to the termination provisions in Subsection  
 2     N of this Section 9, the ROW license granted pursuant to this Ordinance shall be  
 3     effective the earlier of the date it is issued by the City or the date services were first  
 4     provided within the City, and shall have a term of five (5) calendar years beginning: (1)  
 5     January 1st of the year in which the license took effect for licenses that took effect  
 6     between January 1st and June 30th; or (2) January 1st of the year after the license took  
 7     effect for licenses that become effective between July 1st and December 31st.

8           I.     ROW License Nonexclusive. No ROW license granted pursuant to this  
 9     Section shall confer any exclusive right, privilege, license, or franchise to occupy or use  
 10    the public rights-of-way for delivery of utility services or any other purpose. The City  
 11    expressly reserves the right to grant licenses, franchises, or other authorizations to other  
 12    persons, as well as the City's right to use the public rights-of-way, for similar or  
 13    different purposes.

14          J.     Reservation of City Rights. The City reserves all rights, title, and interest  
 15    in its public rights-of-way. A license granted under this Ordinance does not prevent the  
 16    City from exercising any of its rights, including without limitation grading, paving,  
 17    repairing, or altering any public rights-of-way, constructing, laying down, repairing,  
 18    relocating, or removing City facilities, or establishing any other public work, utility, or  
 19    improvement of any kind, including repairs, replacement, or removal of any City  
 20    facilities.



1           K.     Multiple Services.

2                 a.     A licensee that provides or transmits, or allows the provision or  
3                 transmission, of utility services and other services over its facilities is subject to  
4                 the ROW license and fee requirements of this Ordinance for the portion of the  
5                 facilities and extent of utility services delivered over those facilities.

6                 b.     A licensee that provides or transmits more than one utility service  
7                 over its facilities is not required to obtain a separate ROW license or franchise  
8                 agreement for each utility service; provided, that it gives notice to the City of  
9                 each utility service provided or transmitted and pays the applicable fee for each  
10                utility service.

11           L.     Transfer or Assignment. A licensee shall obtain the written consent of the  
12           City prior to the transfer, sublicense, or assignment of a license unless the licensee  
13           demonstrates to the City that state or federal law specifically prohibits the City from  
14           requiring its prior written consent. A transfer, sublicense, or assignment shall only be  
15           authorized by the City if the proposed transferee or assignee is authorized under all  
16           applicable federal, state, and local laws to own or operate the utility system and the  
17           transfer or assignment is approved by all agencies or organizations required or  
18           authorized under federal, state, and local to approve such transfer, sublicense, or  
19           assignment.

20

1           a.       Without limiting any other rights the City may have to condition its  
2 consent, the City may condition its consent to any such transfer, sublicense, or  
3 assignment on the transferee, sublicensee, or assignee's written agreement to  
4 assume all obligations under the license, this Ordinance and other City codes and  
5 regulations.

6           b.       If a ROW license is transferred, sublicensed, or assigned, whether  
7 pursuant to the City's approval or in the event approval is not required by this  
8 Section, the transferee, sublicensee, or assignee shall become responsible for  
9 fulfilling all the obligations under the license with respect to obligations of the  
10 licensee at the time of transfer, sublicensee, or assignment. A transfer, sublicense,  
11 or assignment of a license does not extend the term of the license. No transfer,  
12 sublicense, or assignment may occur until the successor transferee or assignee  
13 has provided proof of insurance, additional insured endorsement, and a bond  
14 pursuant to Section 18. In the event approval is not required by this Section, the  
15 licensee shall provide the City at least thirty (30) days prior written notice of the  
16 transfer, sublicense, or assignment.

17       M.       Renewal. At least thirty (30), but no more than one hundred twenty (120),  
18 calendar days before the expiration of a license granted under this Section, a licensee  
19 seeking renewal of its license shall submit a renewal application to the City, including  
20 all information and fees required in this Ordinance. The City shall review the application

1 and grant or deny the license within a reasonable time period after the application is duly  
 2 filed. If the City determines that the licensee is in violation of the terms of this  
 3 Ordinance or any other City codes, rules, or regulations at the time it submits its  
 4 application, the City may require, by a written notice, that the licensee cure the violation  
 5 or submit a detailed plan to cure the violation within a reasonable period of time, as  
 6 determined by the City, before the City will consider the application or grant the license.

7 N. Termination.

8 a. Revocation or Termination of a License. The City may terminate or  
 9 revoke the license granted pursuant to this Ordinance for any of the following  
 10 reasons:

- 11 1. Violation of any of the provisions of this Ordinance;
- 12 2. Violation of any provision of the license;
- 13 3. Misrepresentation in a license application;
- 14 4. Failure to pay taxes, compensation, fees, or costs due the City  
 15 after final determination by the City of the taxes, compensation,  
 16 fees, or costs;
- 17 5. Failure to restore the public rights-of-way after construction as  
 18 required by this Ordinance or other applicable state and local laws,  
 19 ordinances, rules, and regulations;
- 20

6. Failure to comply with technical, safety, and engineering standards related to work in the public rights-of-way;

7. Failure to obtain or maintain any and all licenses, permits, certifications, and other authorizations required by state or federal law for the placement, maintenance, or operation of the utility facilities; or

8. Is in violation of any City code, rule, regulation, or other City requirements.

b. Standards for Revocation or Termination. In determining whether termination, revocation, or some other sanction is appropriate, the following factors shall be considered:

1. Whether the violation was intentional;

2. The egregiousness of the violation;

3. The harm that resulted;

4. The licensee's history of compliance; and

5. The licensee's cooperation in discovering, admitting, and curing the violation.

c. If a license is terminated by the City, within thirty (30) days the licensee shall file a final remittance form with the City stating, "final remittance" and shall remit any funds due.

O. Notice and Cure. The City shall give the licensee written notice of any apparent violations before revoking or terminating a license. The notice shall include a statement of the nature and general facts of the violation or noncompliance and provide a reasonable time period not to exceed thirty (30) days for the licensee to demonstrate that the licensee has remained in compliance, that the licensee has cured or is in the process of curing any violation or noncompliance, or that it would be in the public interest to impose a penalty or sanction less than termination or revocation. If the licensee is in the process of curing a violation or noncompliance, the licensee must demonstrate that it acted promptly and continues to actively work toward compliance. If the licensee does not respond within the reasonable time stated in the notice, or if the City determines in its sole discretion that the licensee is not, or is no longer, actively working toward compliance, the City shall determine whether the license shall be terminated or revoked.

P. Termination by Licensee. If a licensee ceases to be required to have a license, as defined under this Ordinance, the licensee may terminate or surrender its license with a thirty (30) day notice to the City. Licensee may reapply for a license at any time. No refunds or credits shall be given for licenses terminated by the licensee or the City.

a. Within thirty (30) days of surrendering a license, the licensee shall file a final remittance form with the City stating, "final remittance" and shall remit any funds due.



1           b.     Upon surrendering a license, unless otherwise agreed to by the  
2           City, the licensee shall file a written statement that it has removed, or shall  
3           remove within sixty (60) days, any and all facilities from the City, according to  
4           Section 10, and no longer is subject to the provisions of this Ordinance.

5           Q.   Franchise Agreements.

6           a.     If the public interest warrants, as determined by the City in its sole  
7           and absolute discretion, the City and a person may enter into a written franchise  
8           agreement that may include terms that clarify, enhance, expand, waive, or vary  
9           the provisions of this Ordinance, consistent with applicable state and federal law.  
10          The franchise agreement may conflict with the terms of this Ordinance, with the  
11          review and approval of the City Council. The franchise agreement shall be  
12          subject to the provisions of this Ordinance to the extent such provisions are not in  
13          conflict with any such franchise agreement. In the event of a conflict between the  
14          express provisions of a franchise agreement and this Ordinance, the franchise  
15          agreement shall control.

16          b.     If approved by the City, the licensee requesting a franchise  
17          agreement shall deposit a non-refundable fee, as set by Resolution of City  
18          Council, before negotiations occur.

1           Section 10.   CONSTRUCTION AND RESTORATION.

2           A.   Public Works Director Policies, Standards, Specifications, and Other  
3 Guidelines. The City Council authorizes the Public Works Director to develop, amend,  
4 and publish or otherwise make publicly available any policies, standards, specifications,  
5 and other guidelines for the location, design, management and operation of facilities in  
6 public rights-of-way subject to this Ordinance. All such policies, standards,  
7 specifications, and other guidelines (a) must be consistent, and not in conflict with, the  
8 applicable provisions of state, federal, and local law, which includes this Ordinance; and  
9 (b) shall be effective upon their publication; provided, however, that any permit  
10 applications submitted prior to publication shall be subject to the policies, standards,  
11 specifications, and other guidelines in effect when the submittal occurred.

12           B.   Construction Permits. No person shall perform any work in the public  
13 right-of-way, or on utility facilities within the public rights-of-way, without first  
14 obtaining a permit from the City. The City shall not issue a permit for the construction,  
15 installation, maintenance, or repair of utility facilities unless the licensee has the proper  
16 authorizations required by and is in compliance with this Ordinance and all other City  
17 codes and regulations, and all applicable fees have been paid.

18           C.   Applications for Permits. Applications for permits to construct utility  
19 facilities shall be submitted upon forms to be provided by the City and shall comply with  
20 all City codes and regulations, including all public works regulations and standards at

the time the work commences. All permit applications shall be accompanied by drawings, plans, and specifications in sufficient detail to demonstrate:

a. That the facilities shall be constructed in accordance with all applicable laws, codes, rules, and regulations;

b. The location and route of all utility facilities to be installed above ground or on existing utility poles;

c. The location and route of all utility facilities on or in the public rights-of-way to be located under the surface of the ground, including the line and grade proposed for the burial at all points along the route that are within the public rights-of-way. Applicant's existing utility facilities shall be differentiated on the plans from new construction. A cross section shall be provided showing new or existing utility facilities in relation to the street, curb, sidewalk, or other public rights-of-way; and

d. The construction methods to be employed for protection of existing structures, fixtures, and facilities within or adjacent to the public rights-of-way, and description of any structures, fixtures, or facilities that applicant proposes to temporarily or permanently remove or relocate.

D. All permit applications shall be accompanied by the verification of a qualified and duly authorized representative of the applicant that the drawings, plans, and specifications submitted with the application comply with applicable technical

1 codes, rules, and regulations. Permit applications shall be accompanied by a written  
2 construction schedule, which shall include an estimated start date and a deadline for  
3 completion of construction. The construction schedule is subject to approval by the City.  
4 Subject to any restrictions in state or federal law, the City may from time to time publish  
5 or otherwise make publicly available any additional or different application requirements  
6 as the City finds necessary or appropriate for processing applications, which shall be  
7 effective immediately upon publication.

8 E. Prior to issuance of a permit, the applicant shall pay a permit fee in the  
9 amount determined by Resolution of the City Council.

10 F. If satisfied that the application, plans, and documents submitted comply  
11 with all requirements of the City, the City shall issue a permit authorizing construction  
12 of the utility facilities, subject to such further conditions, restrictions, or regulations  
13 affecting the time, place, and manner of performing the work as the City may deem  
14 necessary or appropriate, to the extent not prohibited by applicable state and federal law.

15 G. Except in the case of an emergency that poses an imminent threat to public  
16 health or safety and/or injury to persons or property, the permittee shall notify the City  
17 not less than seventy-two (72) hours in advance (excluding weekends) of any work in  
18 the public rights-of-way.

19 H. All construction practices and activities shall be in accordance with the  
20 permit, approved final plans, and specifications for the facilities. The City and its

representatives shall be provided access to the work site and such further information as it may require, in the City's sole discretions and at no cost to the City, to ensure compliance with such plans, specifications, and other City codes and regulations.

I. All work that does not comply with the permit, the approved or corrected plans and specifications for the work, or the requirements of this Ordinance (including any policies, standards, specifications, or other guidelines adopted by the City), shall be removed within thirty (30) days, or corrected at the sole expense of the permittee. The City is authorized to issue stop work orders in order to ensure compliance.

J. The permittee shall promptly complete all construction activities in compliance with the permit and all applicable laws and, in a manner designed to avoid unnecessary disruption, and shall minimize unavoidable disruption of the City public rights-of-way and other public and private property. All construction work within the public rights-of-way, including without limitation any restoration work, must be completed within one hundred twenty (120) days of the date the construction permit is issued unless the City has given written approval of an extension or an alternate schedule.

K. Injury to Persons or Property. All licensees shall preserve and protect from injury or damage other facilities in the public rights-of-way, the public using the public rights-of-way, and any adjoining property, and take other necessary measures to protect persons and property, including but not limited to buildings, walls, fences, trees, and

1 other facilities that may be subject to damage from the permitted work. A licensee shall  
 2 (a) use suitable barricades, flags, flagging attendants, lights, flares, and other measures  
 3 as required for the safety of all members of the general public; (b) comply with all  
 4 applicable Americans with Disabilities Act requirements; and (c) comply with all the  
 5 requirements of the Manual on Uniform Traffic Control Devices (MUTCD).

6 L. Restoration. A licensee shall be responsible for all injury to persons or  
 7 damage to public or private property resulting from its failure to properly protect people  
 8 or property and to carry out the work regardless of whether the work is performed by a  
 9 licensee or by other person(s) performing the work on behalf of the licensee.

10 a. When a licensee, or any person acting on its behalf, does any work  
 11 in or affecting any public rights-of-way, it shall, at its own expense, promptly  
 12 restore such rights-of-way or property to the current City standards, in  
 13 accordance with applicable federal, state, and local laws, codes, ordinances, rules,  
 14 and regulations, unless otherwise directed by the City.

15 b. If weather or other conditions beyond the licensee's control do not  
 16 permit the complete restoration required by the City, the licensee shall  
 17 temporarily restore the affected public rights-of-way or property. Such temporary  
 18 restoration shall be at the licensee's sole expense and the licensee shall promptly  
 19 undertake and complete the required permanent restoration when the weather or  
 20



1 other conditions no longer prevent such permanent restoration. Any  
 2 corresponding modification to the construction schedule shall be subject to  
 3 approval by the City.

4 c. If the licensee fails to restore public rights-of-way or property as  
 5 required in this Ordinance, the City shall give the licensee written notice and  
 6 provide a period of not less than ten (10) days and not exceeding thirty (30) days  
 7 to restore the public rights-of-way or property. If, after said notice, the licensee  
 8 fails to restore the public rights-of-way or property as required in this Ordinance,  
 9 the City may cause such restoration to be made at the sole expense of the  
 10 licensee. In cases where the City believes that an emergency or threat to public  
 11 safety exists, it may act without notice to, and at the sole expense of, the licensee.  
 12 Upon receipt of an invoice from the City, the licensee shall reimburse the City  
 13 within thirty (30) days for all costs incurred by the City.

14 M. Inspection. Every facility shall be subject to the right of periodic  
 15 inspection by the City or its agents to determine compliance with the provisions of this  
 16 Ordinance and all other applicable state and City laws, codes, ordinances, rules, and  
 17 regulations. Every licensee shall cooperate with the City in permitting the inspection of  
 18 utility facilities in a timely manner after request by the City. The licensee shall perform  
 19 all testing or permit the City or its agents to perform any testing at the licensee expense,  
 20 required by the City to determine that the installation of the licensee's facilities and the

1 restoration of the public rights-of-way comply with the terms of the permit, this  
 2 Ordinance, and applicable state and City laws, codes, ordinances, rules, and regulations,  
 3 in effect at the time of the work.

4 N. Coordination of Construction. All licensees shall make a good faith effort  
 5 to both cooperate with and coordinate their construction schedules with those of the City  
 6 and other users of the public rights-of-way.

7 a. Prior to January 1 of each year, licensees shall provide the City  
 8 with a schedule of known proposed construction activities for that year that are  
 9 in, around, or that may affect the public rights-of-way and any City facilities.

10 b. At the City's request, licensees shall meet with the City annually, or  
 11 as determined by the City, to schedule and coordinate construction in the public  
 12 rights-of-way.

13 c. All construction locations, activities, and schedules within the  
 14 public rights-of-way shall be coordinated as ordered by the City to minimize  
 15 public inconvenience, disruption, and damage to persons and property.

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1           Section 11.   LOCATION OF FACILITIES.

2           A.    Location of Facilities. Unless otherwise agreed to in writing by the City,  
3 whenever any existing electric utilities, cable facilities, or wireline communication  
4 facilities are located underground within a public right-of-way of the City, a licensee  
5 with permission to occupy the same public right-of-way shall locate all new facilities  
6 underground at its own expense. The requirements in this Section do not apply to  
7 antennas, pedestals, cabinets, small wireless facilities, or similar above-ground  
8 equipment of any utility provider, or facilities used for transmission of electric energy at  
9 nominal voltages in excess of thirty-five thousand (35,000) volts. The City reserves the  
10 right to require written approval of the location of any such above-ground equipment of  
11 any licensee.

12          B.    Interference with the Public Rights-of-Way. No licensee or other person  
13 may locate or maintain facilities so as to interfere with the use of the public rights-of-  
14 way by the City, by the general public, or by other persons duly authorized to use or be  
15 present in or on the public rights-of-way. Facilities shall not be located in areas of  
16 restricted sight distance or interfere with the proper function of traffic control signs,  
17 signals, lighting, or other devices that affect traffic operation. All use of the public  
18 rights-of-way shall be consistent with City codes, ordinances, rules, and regulations, in  
19 effect and as may be subsequently amended.

20

1           C.     Relocation of Utility Facilities.

2                   a.       When requested to do so in writing by the City, a licensee shall, at  
3                   no cost to the City, temporarily or permanently remove, relocate, change, or alter  
4                   the position of any utility facility within a public right-of-way, including  
5                   relocation of aerial facilities underground, except as such facilities are not  
6                   required to be located underground pursuant to subsection 11(A) of this Section.

7                   b.       Nothing herein shall be deemed to preclude the licensee from  
8                   requesting reimbursement or compensation from a third party, pursuant to  
9                   applicable laws, regulations, tariffs, or agreements. However, the licensee shall  
10                  timely comply with the requirements of this Section regardless of whether it has  
11                  requested or received such reimbursement or compensation.

12                  c.       The City shall coordinate the schedule for relocation of utility  
13                  facilities and based on such effort, shall provide written notice of the time by  
14                  which the licensee must remove, relocate, change, alter, or underground its  
15                  facilities. If a licensee fails to remove, relocate, change, alter or underground any  
16                  utility facility as requested by the City by the date established by the City, the  
17                  licensee shall pay all costs incurred by the City due to such failure, including but  
18                  not limited to costs related to project delays, and the City may cause, using  
19                  qualified personnel or contractors consistent with applicable law and regulations,  
20                  the facilities to be remove, relocated, altered, or undergrounded, at the licensee's

1       sole expense. Upon receipt of an invoice from the City, the licensee shall  
2       reimburse the City for all costs incurred within thirty (30) days.

3               d.       The City shall cooperate with the licensee in securing alternate  
4       locations. However, the City shall bear no responsibility to obtain, compensate,  
5       or otherwise assist the licensee in relocation of the facilities to a location not in  
6       control of the City.

7       D.       Removal of Unauthorized Facilities.

8               a.       Unless otherwise agreed to in writing by the City, within thirty (30)  
9       days following written notice from the City or such other time agreed to in  
10      writing, a licensee and any other person that owns, controls, or maintains any  
11      abandoned or unauthorized utility facility within a public right-of-way shall, at its  
12      own expense, remove the facility and restore the public right-of-way to City  
13      standards in effect at the time the work is performed.

14              b.       A utility system or facility is unauthorized under any of the  
15      following circumstances:

- 16                      1. The utility facility is outside the scope of authority granted by  
17                      the City. This includes facilities that were never authorized and  
18                      facilities that were once authorized but for which the authorization  
19                      has expired or been terminated. This does not include any facility  
20

for which the City has provided written authorization for abandonment in place.

2. The facility has been abandoned and the City has not provided written authorization for abandonment in place. A facility is abandoned if it is not in use and is not planned for further use. A facility shall be presumed abandoned if it is not used for a period of one (1) year. A licensee may attempt to overcome this presumption by presenting plans for future use of the facility to the City, which will determine application of the presumption in its sole discretion.

3. The utility facility is improperly constructed or installed or is in a location not permitted, licensed, franchised, or otherwise authorized by the City.

4. The licensee is in violation of a material provision of this Ordinance and fails to cure such violation within thirty (30) days of the City sending written notice of such violation, unless the City, in its sole discretion, extends such time period in writing.

E. Removal by City.

a. The City retains the right and privilege to cut or move any facility located within the public rights-of-way of the City, without notice, as the City



1 may determine, in its sole discretion, to be necessary, appropriate, or useful in  
2 response to a public health or safety emergency. The City shall use qualified  
3 personnel or contractors consistent with applicable state and federal safety laws  
4 and regulations to the extent reasonably practicable without impeding the City's  
5 response to the emergency.

6 b. If the licensee fails to remove any facility when required to do so  
7 under this Ordinance, the City may remove the facility using qualified personnel  
8 or contractors consistent with applicable state and federal safety laws and  
9 regulations, and the licensee shall be responsible for paying any and all costs  
10 incurred by the City, including any administrative or collection costs. Upon  
11 receipt of an invoice from the City, the licensee shall reimburse the City for all  
12 the costs within thirty (30) days. The obligation to remove shall survive the  
13 termination of any authorizations granted by the City.

14 c. The City is not liable to any person(s) for any damage to utility  
15 facilities, or for any consequential losses resulting directly or indirectly from any  
16 damage caused by the City's actions, or its contractor, in removing, relocating,  
17 altering, or undergrounding the facilities, unless such damage arises directly from  
18 the City's sole active negligence or willful misconduct.

1           F.     Engineering Designs and Plans. The licensee shall provide the City with  
 2 as-built plans or system maps of their facilities, upon request, for the purpose of design  
 3 of other City infrastructure or to confirm existing conditions.

4           G.     Maps. Licensee shall provide, at no cost to the City, a comprehensive map  
 5 showing the location of all facilities in the rights-of-way. Such map shall be provided at  
 6 no cost to the City and in a format acceptable to the City, with accompanying data  
 7 sufficient to enable for the City to determine the exact location of facilities. The licensee  
 8 shall provide such map yearly by February 1, if any changes occurred during the prior  
 9 year, and at any time upon request by the City. The City may only request such map  
 10 once per calendar year.

11           Section 12. LEASED CAPACITY. A licensee may lease or otherwise provide  
 12 capacity on or in its facilities to others ("lessees"); provided, that (1) the licensee  
 13 provides the City with the name and business address of any lessee, within 60 (sixty)  
 14 days of the effective date of the lease or other agreement to provide capacity; (2) the use  
 15 of the licensee facilities does not require or involve any additional equipment owned or  
 16 operated by the lessee to be installed on the facility unless the lessee has obtained a  
 17 ROW license or franchise from the City; and (3) the licensee maintains control over and  
 18 responsibility for the facility at all times.

19

20

1           Section 13.   MAINTENANCE.

2           A.     Every licensee shall install and maintain all facilities in a manner that  
3     complies with applicable federal, state, and local laws, rules, regulations, and policies.  
4     The licensee shall, at its own expense, repair and maintain facilities from time to time as  
5     may be necessary to accomplish this purpose.

6           B.     If, after written notice from the City of the need for repair or maintenance,  
7     the licensee fails to repair or maintain facilities as requested by the City and by the date  
8     established by the City, the City may perform such repair or maintenance using qualified  
9     personnel or contractors at the licensee's sole expense. Upon receipt of an invoice from  
10    the City, the licensee shall reimburse the City for any and all costs within thirty (30)  
11    days.

12           Section 14.   VACATION OF PUBLIC RIGHTS-OF-WAY.

13           A.     If the City vacates any public rights-of-way, or portion thereof, that a  
14    licensee uses, the licensee shall, within thirty (30) days following written notice from the  
15    City or such other time directed or agreed to in writing by the City, and at licensee's own  
16    expense, remove its facilities from the public rights-of-way unless: (a) the City reserves  
17    a public utility easement, which the City shall make a reasonable effort to do; provided,  
18    that it is practicable to do so and there is no expense to the City; or (b) the licensee  
19    obtains an easement for its facilities.

20

1           B. If the licensee fails to remove its facilities within thirty (30) days after a  
 2 public right-of-way is vacated, or as otherwise directed or agreed to in writing by the  
 3 City, the City may remove the facilities using qualified workers in accordance with state  
 4 and federal laws and regulations at the licensee's sole expense. Upon receipt of an  
 5 invoice from the City, the licensee shall reimburse the City for any and all costs within  
 6 thirty (30) days.

7           Section 15. RIGHTS-OF-WAY USE AND ACCESS FEES.

8           A. Every person that owns utility facilities in the City shall pay the rights-of-  
 9 way use fee in the amount determined by Resolution of the City Council.

10          B. Every person that provides utility service in the City shall pay the rights-  
 11 of-way access fee in the amount determined by Resolution of the City Council for every  
 12 utility service provided in the City.

13          C. A person subject to the both the rights-of-way use fee in subsection A and  
 14 the rights-of-way access fee in subsection B of this Section shall deduct from the total  
 15 amount due the lower of the fees due under subsection A and subsection B or, in the  
 16 event the fees due under subsection A and subsection B are the same, deduct from the  
 17 total amount due the full amount of one of the fees.

18          D. Fees required by this Section shall be reduced by any franchise fees, but in  
 19 no case shall be less than zero dollars (\$0).

20

1           E.     No acceptance of any payment shall be construed as accord that the  
2     amount paid is in fact the correct amount, nor shall such acceptance of payment be  
3     construed as a release of any claim the City may have for further or additional sums  
4     payable.

5           F.     Unless otherwise agreed to in writing by the City, the fees set forth under  
6     this Section shall be paid quarterly, in arrears, within forty-five (45) days after the end of  
7     each calendar quarter. Each payment shall be accompanied by an accounting of gross  
8     revenues, if applicable, and a calculation of the amount payable (a remittance form shall  
9     be provided by the City). The City may request and shall be provided, at no cost to the  
10    City, any additional reports or information it deems necessary, in its sole discretion, to  
11    ensure compliance with this Section. Such information may include, but is not limited  
12    to: chart of accounts, total revenues by categories and dates, list of products and  
13    services, narrative documenting calculation, details on number of customers within the  
14    City limits, or any other information needed for the City to easily verify compliance.

15          G.     The calculation of the fees required by this Section shall be subject to all  
16    applicable limitations imposed by federal or state law in effect and as may be  
17    subsequently amended.

18          H.     The City reserves the right to enact other fees and taxes applicable to  
19    person(s) subject to this Ordinance. Unless expressly permitted by the City in enacting  
20    such fee or tax, or required by applicable state or federal law, no person may deduct,

offset, or otherwise reduce or avoid the obligation to pay any lawfully enacted fees or taxes based on the payment of the fees required under this Ordinance.

Section 16. PENALTIES AND INTEREST ON FEES. Penalties and interest imposed by this Section are in addition to any penalties that may be assessed under other ordinances or regulations of the City.

A. Any person who has not submitted the required remittance forms or remitted the correct fees when due as provided under this Ordinance shall pay a penalty listed below in addition to the amount due:

a. First occurrence during any one calendar year; ten percent (10%) of the amount owed, or twenty-five dollars (\$25.00), whichever is greater.

b. Second occurrence during any one calendar year; fifteen percent (15%) of the amount owed, or fifty dollars (\$50.00), whichever is greater.

c. Third occurrence during any one calendar year; twenty percent (20%) of the amount owed, or seventy-five dollars (\$75.00), whichever is greater.

d. Fourth occurrence during any one calendar year; twenty-five percent (25%) of the amount owed, or one hundred dollars (\$100.00), whichever is greater.

B. If the City determines that the nonpayment of any fees due as required by this Ordinance is due to fraud or intent to evade the provisions hereof, an additional penalty of twenty-five percent (25%) of the amount owed, or five hundred dollars

1 (\$500.00), whichever is greater, shall be added thereto in addition to other penalties  
2 stated in the Ordinance or as allowed by law.

3 C. In addition to the penalties imposed, any person who fails to remit any fees  
4 when due shall pay interest at the rate of one and one-half percent (1.5%) per month or  
5 fractions thereof, without proration for portions of a month, on the total amount due  
6 (including penalties), from the date on which the remittance first became delinquent,  
7 until received by the City. The City reserves the right to impose interest at the  
8 maximum amount allowed by law.

9 D. Every penalty imposed, and such interest as accrues under the provision of  
10 this Section, shall be merged with, and become part of, the fees required to be paid.

11 E. The City or its designee, in their sole discretion, shall have the authority to  
12 reduce or waive the penalties and interest due under this Section.

13 Section 17. AUDITS (FORMAL OR INFORMAL) AND RECORDS  
14 REQUESTS.

15 A. The City may audit and/or request information from any person at any  
16 time to verify compliance with this Ordinance. The City shall make a written request for  
17 information and the person shall comply with the request within thirty (30) days of  
18 receipt of the City's written request, or such other time as agreed to in writing. All  
19 information shall be provided to the City, at no cost to the City.

20



1           B.       Every person shall furnish the City with information sufficient to  
2 demonstrate that the person is in compliance with all the requirements of this Ordinance,  
3 all other City regulations, and its franchise agreement, if any, including but not limited  
4 to payment of any applicable fees.

5           C.       Every licensee shall make available for inspection by the City at reasonable  
6 times and intervals, upon request by the City, any maps, records, books, diagrams, plans,  
7 and other documents maintained by the licensee with respect to its facilities within the  
8 public rights-of-way. Access shall be provided within the City unless prior arrangement  
9 for access elsewhere has been made with the City.

10          D.       If the City's audit, or review of the books, records, and other documents or  
11 information of the person demonstrates that the person has underpaid any fees required  
12 by this Ordinance by two percent (2%) or more in any one year, the person shall  
13 reimburse the City for all costs incurred by the City in conducting the audit or review, in  
14 addition to any interest owed or other fees imposed by this Ordinance or as specified in a  
15 franchise agreement.

16          E.       Any underpayment, including any and all costs incurred by the City in  
17 conducting the audit or review, shall be paid within thirty (30) days of the City's notice  
18 to the person of such underpayment.

1           Section 18.   INSURANCE AND INDEMNIFICATION.

2           A.   Insurance.

3                   a.       All Utility Service Operators shall maintain in full force and effect  
4                   the following liability insurance policies that protect the licensee and the City, as  
5                   well as the City's officers, agents, and employees, with limits not less than the  
6                   amounts set by the City Manager:

7                           1.       Comprehensive general liability insurance.

8                           2.       Motor vehicle liability insurance for owned, non-owned and  
9                           hired vehicles.

10                          3.       Worker's compensation insurance.

11                   b.       The limits of the insurance shall be set by the City Manager but  
12                   shall not be less than the maximum limits of liability imposed on municipalities  
13                   of the state of Oregon. The insurance shall be without prejudice to coverage  
14                   otherwise existing and shall name as additional insureds the City and its officers,  
15                   agents, and employees. The coverage must apply as to claims between insureds  
16                   on the policy. The licensee shall provide the City thirty (30) days prior written  
17                   notice of any cancellation or material alteration of said insurance. If the insurance  
18                   is canceled or materially altered, the licensee shall maintain continuous  
19                   uninterrupted coverage in the terms and amounts required.

20

1           c.     The licensee shall at all times maintain on file with the City a  
2           current certificate of insurance and additional insured endorsement, or proof of  
3           self-insurance acceptable to the City, certifying the coverage required above.

4           d.     Self-Insurance. At the request of a licensee, the City shall  
5           determine, in its sole discretion, whether a licensee may self-insure. A licensee  
6           whose request has been granted shall provide the City proof of insurance through  
7           a letter of self-insurance or insurance certificate, listing the City as an additional  
8           insured.

9           e.     Performance Bond

10           1.     In addition to any other generally applicable bond or  
11           security fund obligations required by local ordinance, upon the  
12           Effective Date of this Ordinance, or the issuance of a new license  
13           or renewal of a license, the licensee shall furnish proof of the  
14           posting of a faithful performance bond running to the City  
15           collectively with good and sufficient surety approved by the City,  
16           in the penal sum of One Hundred Fifty Thousand Dollars  
17           (\$150,000.00), conditioned that Grantee shall well and truly  
18           observe, fulfill, and perform all provisions of this Ordinance. Such  
19           bond shall be issued by a bonding company licensed to do business

1 in the state of Oregon and shall be maintained by the license for the  
2 time period it owns facilities within the City's rights-of-way.

3 2. The bond shall contain a provision that it shall not be  
4 terminated or otherwise allowed to expire without thirty (30) days  
5 prior written notice first being given to the City. The bond shall be  
6 subject to the approval of the City as to its adequacy under the  
7 requirements of this Section. During the term of the bond, licensee  
8 shall file with the City a duplicate copy of the bond along with  
9 written evidence of payment of the required premiums unless the  
10 bond otherwise provides that the bond shall not expire or be  
11 terminated without thirty (30) days prior written notice to the City.

12 B. Indemnification.

13 a. To the fullest extent permitted by law, each licensee shall defend,  
14 indemnify, and hold harmless the City and its officers, employees, agents and  
15 representatives from and against any and all liability, causes of action, claims,  
16 damages, losses, judgments, and other costs and expenses, including attorney fees  
17 and costs of suit or defense (at both the trial and appeal level, whether or not a  
18 trial or appeal ever takes place), that may be asserted by any person or entity in  
19 any way arising out of, resulting from, during, or in connection with, or alleged to  
20 arise out of or result from the negligence, careless or wrongful acts, omissions,

1 failure to act, or other misconduct of the licensee or its affiliates, officers,  
 2 employees, agents, contractors, subcontractors, or lessees in the construction,  
 3 operation, maintenance, repair, or removal of its facilities, and in providing or  
 4 offering utility services over the facilities, whether such acts or omissions are  
 5 authorized, allowed, or prohibited by this Ordinance or by a franchise agreement.

6 The acceptance of a license under this Ordinance shall constitute such an  
 7 agreement by the applicant whether the same is expressed or not.

8 b. Every licensee shall also indemnify the City for any damages,  
 9 claims, additional costs, or expenses assessed against or payable by the City  
 10 arising out of or resulting, directly or indirectly, from the licensee's failure to  
 11 remove or relocate any of its facilities in the public rights-of-way or in a timely  
 12 manner as required by this Ordinance, except to the extent the licensee's failure  
 13 arises directly from the City's negligence or willful misconduct.

14 Section 19. COMPLIANCE. Every person subject to this Ordinance shall  
 15 comply with all applicable federal and state laws and regulations, including regulations  
 16 of any administrative agency thereof, as well as all applicable ordinances, resolutions,  
 17 rules, and regulations of the City, heretofore or hereafter adopted or established during  
 18 the term of any license or registration granted under this Ordinance.

19 Section 20. CONFIDENTIAL/PROPRIETARY INFORMATION. If any  
 20 person is required by this Ordinance to provide books, records, maps, or information to

1 the City that the person reasonably believes to be confidential or proprietary, and such  
 2 books, records, maps or information are clearly marked as confidential at the time of  
 3 disclosure to the City (“confidential information”), the City shall take reasonable steps to  
 4 protect the confidential information to the extent permitted by Oregon Public Records  
 5 Laws. In the event the City receives a public records request to inspect any confidential  
 6 information and the City determines that it shall be necessary to reveal the confidential  
 7 information, to the extent reasonably possible the City shall notify the person that  
 8 submitted the confidential information of the records request prior to releasing the  
 9 confidential information. The City shall not be required to incur any costs to protect any  
 10 confidential information, other than the City’s routine internal procedures for complying  
 11 with the Oregon Public Records Law.

12 Section 21. CITY PERMISSION REQUIRED. No person may occupy or  
 13 encroach on a public right-of-way without the express written permission of the City.

14 Section 22. VIOLATIONS AND PENALTIES.

15 A. In addition to any other remedy provided in this Ordinance, a violation of  
 16 any provision of this Ordinance or any other City regulations, codes, ordinances, or  
 17 standards, is a civil violation and shall be enforced under the provisions of this  
 18 Ordinance. Each day that the violation exists or continues shall constitute a separate  
 19 violation. Each civil violation shall be punishable by a fine of not less than one hundred  
 20 dollars (\$100.00) and not more than one thousand dollars (\$1,000).

1           B. Before issuing the first citation for a violation, the City shall mail written  
 2 notice of the violation(s) via United States Postal Service (USPS) to the address as listed  
 3 on the person's application, providing a reasonable time (no less than twenty (20) and no  
 4 more than forty (40) days from the date of the notice) for the person to remedy the  
 5 violation to the City's satisfaction. The notice may also be delivered by other means in  
 6 addition to USPS.

7           C. The rights, remedies, and penalties provided in this Ordinance are  
 8 cumulative, are not mutually exclusive, and are in addition to any other rights, remedies,  
 9 and penalties available to the City under any other provision of law, including without  
 10 limitation any judicial or other remedy at law or in equity for enforcement of this  
 11 Ordinance.

12           Section 23. SEVERABILITY AND PREEMPTION.

13           A. The provisions of this Ordinance shall be interpreted to be consistent with  
 14 applicable federal and state law, and shall be interpreted, to the extent possible, to cover  
 15 only matters not preempted by federal or state law.

16           B. If any article, section, subsection, sentence, clause, phrase, term, provision,  
 17 condition, covenant, or portion of this Ordinance is for any reason declared or held to be  
 18 invalid or unenforceable by any court of competent jurisdiction or superseded by state or  
 19 federal legislation, rules, regulations, or decision, the remainder of this Ordinance shall  
 20 not be affected thereby but shall be deemed as a separate, distinct, and independent



provision, and such holding shall not affect the validity of the remaining portions hereof, and each remaining section, subsection, sentence, clause, phrase, term, provision, condition, covenant, or portion of this Ordinance shall be valid and enforceable to the fullest extent permitted by law. In the event any provision is preempted by federal or state laws, rules, or regulations, the provision shall be preempted only to the extent required by law and any portion not preempted shall survive. If any federal or state law resulting in preemption is later repealed, rescinded, amended, or otherwise changed to end the preemption, such provision shall thereupon return to full force and effect and shall thereafter be binding without further action by the City.

Section 24. APPLICATION TO EXISTING AGREEMENTS. To the extent that this Ordinance is not in conflict with and can be implemented consistent with existing franchise agreements, this Ordinance shall apply to all existing franchise agreements granted by the City.

Section 25. EFFECTIVE DATE. This Ordinance shall take effect on July 1, 2023.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Recorder

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2023-\_\_\_\_\_

ESTABLISHING FEES FOR ORDINANCE NO. 2023-\_\_\_\_\_  
(ADOPTING RIGHT-OF-WAY UTILITY REGULATIONS)

WHEREAS, the City has constitutional and charter authority to manage its rights-of-way and establish fees;

WHEREAS, on \_\_\_\_\_, 2023, the Keizer City Council adopted Ordinance No. 2023-\_\_\_\_\_ which regulates utility services utilizing the public right-of-way;

WHEREAS, Ordinance No. 2023-\_\_\_\_\_ provides that the City Council shall by Resolution establish applicable fees;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Keizer that:

Section 1. The right-of-way license application fee shall be Three Hundred Dollars (\$300.00) and shall include an initial five-year license (if approved).

Section 2. The right-of-way license renewal fee shall be Two Hundred and Fifty Dollars (\$250.00) for a five-year license (if approved).

Section 3. The registration fee shall be Three Hundred Dollars (\$300.00) and shall include an initial five-year term.

1           Section 4.    The registration renewal fee shall be Two Hundred and Fifty  
2   Dollars (\$250.00) for a five-year term.

3           Section 5.    The fee for franchise negotiations shall be Five Thousand Dollars  
4   (\$5,000.00).

5           Section 6.    The fees established by Ordinance No. 2023-\_\_\_\_ shall be as  
6   follows, and effective as of July 1, 2023, to the extent permitted by applicable law and  
7   subject to any applicable limitations imposed by applicable law:

Utility Service *	Annual Rights-of-Way Use Fee	Annual Rights-of-Way Access Fee
Electric Utility Service/Facility	5% of gross revenue, or a minimum of \$5,000.00*, whichever is greater	5% of gross revenue
Natural Gas Utility Service/Facility	5% of gross revenue, or a minimum of \$5,000.00*, whichever is greater	5% of gross revenue
Communication Utility Service/ Facility	Non-Wireless: 7% of gross revenue, or a minimum of \$5,000.00*, whichever is greater.  Wireless (non-Small Wireless): Five Thousand Dollars (\$5,000.00) per attachment  Small Wireless Facility: Two Hundred and Seventy Dollars (\$270.00) per attachment	7% of gross revenue
Utility Service Operator that owns facilities but does not provide services within the City or earn gross revenue within the City.	Based on total linear footage of facilities in the Right-of-Way; \$3.50* per linear foot, or a minimum of \$5,000.00*, whichever is greater.	

8   \*Minimum fees and linear feet fees, shall increase three percent (3%) annually on January 1st of  
9   each year, beginning on January 1, 2025.

10

11

1       Section 7. Gross Revenue.

2           A.     Gross revenues shall include, by way of illustration and not  
3           limitation: Fees for installation, disconnection, reconnection, maintenance and  
4           services calls, repair, charges for equipment sales, rental, or lease, late fees, non-  
5           sufficient funds (NSF) charges, and administrative fees.

6           B.     Gross revenues shall not include: Charges imposed by a utility  
7           service provider selling electrical energy or gas for public purpose charges  
8           (energy efficiency programs, market transformation programs, low-income  
9           energy efficiency programs and carbon offset programs); residential exchange  
10          program (Bonneville Power Administration credits); revenues associated with  
11          Universal Service funding requirements under 47 U.S.C. § 254 and ORS  
12          759.425; revenues associated with taxes for emergency communications under  
13          ORS Chapter 403; telecommunication revenues, tariffed or non-tariffed charges  
14          or service applicable to any connection, circuit or equipment which brings an E9-  
15          1-1 call to the appropriate responding Public Safety Answering Point, regardless  
16          of where the E9-1-1 call is originated; and sales of bonds, mortgages, or other  
17          evidence of indebtedness, securities, or stocks.

18          Section 8.   Terms used in this Resolution shall have the meaning defined in  
19          Ordinance No. 2023-\_\_\_\_\_.

20          Section 9.   The annual attachment shall be paid quarterly in arrears.

1 Section 10. The attachment fee shall be assessed as follows:

2 Installation before the 15th of the month will be assessed the full month.

3 Installations after the 15th of the month will be assessed beginning the next  
4 month.

5 Section 11. The removal of an attachment will be assessed as follows:

6 If removed and the area is restored per Ordinance No. 2023-\_\_\_\_, before  
7 the 15th of the month, there will be no charge for that month. If removed and the  
8 area is restored per Ordinance No. 2023-\_\_\_\_ after the 15th of the month, the full  
9 month will be assessed.

10 Section 12. This Resolution shall take effect on July 1, 2023.

11 PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

12

13 SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

14

15

16

\_\_\_\_\_  
Mayor

17

18

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\_\_\_\_\_  
City Recorder



CITY COUNCIL MEETING: APRIL 17, 2023

To: Mayor Clark and City Council Members

FROM: Adam Brown, City Manager

SUBJECT: **COUNCIL LIAISON MEANS OF ATTENDANCE**

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**PROPOSED MOTION:**

*I move that the Council direct staff to bring back an amendment to the council rules requiring that council liaisons to committees, boards, and commissions attend meetings in person.*

*Or*

*Take No Action*

**I. SUMMARY:**

Council members have directed staff to review the council's policy on in-person and virtual attendance of council liaisons to committees, boards, and commissions.

**II. BACKGROUND:**

- A. Section 2.1 of the Council Rules states that "Pursuant to state law, in any meeting of the Council or any other public body, telephonic or other virtual access and attendance shall be provided to the extent reasonably possible.
- B. Section 3.10 (Attendance Duty) reads, specifically addresses Council Meetings.
  - 1. "It is the duty of each member of the City Council to attend all meetings of the Council. The Charter provides in Section 7.8 that a Council office will be vacated upon their absence from meetings of the Council for 60 days without like consent." It further reads "Telephonic, video, or internet ("electronic") attendance does not ensure that all comments, testimony, discussion, staff information and deliberations are available fully and equally. Therefore unless allowed as set forth in these rules, methods of attendance other than personal onsite attendance shall not be considered "in attendance" and a Council member may not vote unless physically present at the meeting."

2. There is an exception provided under 3.10 that reads "...this provision is waived if two-thirds of the Council members present deem it important that a council member appear electronically. A quorum must be physically present. A motion to suspend the rules is not required."
3. It is clear from the council rules that attendance for council meetings is intended to be in person and virtual attendance is only done under exceptional circumstances.

C. City Committees, Boards and Committee Liaisons

1. Section 18.2 of the Council Rules (City Committees/Council Member Liaisons) says that council members assigned as liaisons to committees, boards, commissions, and task forces shall generally provide avenues of communication between their committee and the City Council and that they shall update the Council on the general status of such committee.
2. Virtual or in-person attendance is not addressed under this part of the council rules.

D. Section 18.4, (Electronic Meetings Limited)

1. This section reads "Except as stated below, no Board, Commission, Committee, Work Group, Task Force or other Council-created group may meet electronically, except if the meeting is scheduled for a time when a federal, state or local emergency declaration affecting all or a part of the City is in effect. At the chair's discretion and without objection from the committee, committees may hold a meeting partially or totally electronically upon a showing of a particular need."
2. This section could be interpreted several ways, but it is certainly not clear that it would apply to the attendance of a liaison who would like to participate virtually in the meeting.

### III. **CURRENT SITUATION:**

- A. Several council members asked to discuss whether it should be included in the council rules to require in-person attendance by council liaisons. Virtual attendance is not uncommon in Oregon. State law allows attendance and voting through telephonic or video meetings.
- B. Personal and virtual attendance happens for a variety of reasons including health or occupational demands. This decision and policy direction are at the discretion

of the City Council. Staff will prepare amendments to the council rules as directed by the City Council.

#### IV. **ANALYSIS:**

- A. **Strategic Impact** – No strategic impact.
- B. **Financial** – No financial impact.
- C. **Timing** – There is not a pressing time constraint.
- D. **Policy/legal** – This is a policy decision of the City Council. The current policy allows for a substitute council member to attend meetings in proxy for a council member who cannot make a meeting. This happens frequently.

#### V. **ALTERNATIVES:**

- A. Direct staff to revise the council rules to require in-person attendance for council liaison unless the meeting is totally electronic.
- B. Direct staff to revise the council rules to allow electronic liaison attendance in certain circumstances as directed by council.
- C. Take No Action – The council rules do not currently require in-person attendance for council liaison positions. Council members have participated in meetings by phone for committees, boards, and commissions without issue. This has certainly been more common since the COVID-19 pandemic.

#### VI. **RECOMMENDATION:**

Staff does not have a recommendation on this issue. Facilitating electronic meetings has not been an issue from a staff perspective. Staff is willing to follow the policy-decision of the council.

#### **Attachment**

- Council Rules of Procedure



**CITY OF KEIZER**



# **CITY COUNCIL RULES OF PROCEDURE**

*Adopted by Council Resolution R2022-3269 on April 4, 2022*



# CITY OF KEIZER COUNCIL RULES OF PROCEDURE

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## **SECTION 1 - AUTHORITY**

**1.1 Authority** - The Charter of the City of Keizer 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 until they are amended or new rules are adopted. These rules shall be presented to all 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 Council member shall sign that they have reviewed and received a copy of these rules. The City Recorder shall retain the signature copy. As used herein, the term "Council" includes the Councilors and the Mayor. The term "Council members" shall include the Mayor.

## **SECTION 2 - GENERAL RULES**

**2.1 Open Meetings** – All meetings will be held in accordance with the Oregon public meeting requirements of Oregon law. No final action by 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. Pursuant to state law, in any public meeting of the Council or any other public body, telephonic or other virtual access and attendance shall be provided to the extent reasonably possible. If oral and/or written comments or testimony is allowed, virtual or electronic oral or written testimony shall be provided to the extent reasonably possible.

**2.2 Ethics** – All members of the Council shall review and observe the requirements of state ethics law. In addition to complying with state ethics law, all members of the Council shall refrain from:

- A. Disclosing confidential information.
- B. Taking action which benefits special interest groups or persons at the expense of the City as a whole.

**2.3 Quorum** – A majority of the members currently serving on the Council, excluding vacant seats, shall constitute a quorum, but no less than three Council members may meet and compel attendance of absent members as prescribed by Council rules.

**2.4 Rules of Order** – Robert's Rules of Order Newly Revised, 12th Edition shall govern all Council proceedings unless they conflict with these rules. The Council President will act as parliamentarian with support from the City Attorney when present.

**2.5 Suspension of Rules** – The vote to suspend the Rules of Procedure (including Robert's Rules of Order Newly Revised, 12th Edition) requires a two-thirds majority vote of those members of the Council who are present, except as set forth in Section 6.1(j). If the motion is carried by a two-thirds vote, then the rules are suspended for that item only.

**2.6 Address by Council Members** – Every Council member desiring to speak to an issue will address the Presiding Officer and upon recognition, will confine remarks to the issue under debate. Council members questioning, seeking clarification, or soliciting a recommendation from staff will direct the concern to the City Manager. The City Manager may respond as requested or redirect the inquiry to a member of the staff.

**2.7 Seating Capacity and Safety Requirements** – The safe occupancy and seating capacity of the Council chambers as determined by the fire marshal shall be posted within the Council chambers. The limitations on occupancy and seating shall be complied with at all times. Aisles and emergency exits shall be kept clear at all times.

**2.8 Building Access** – For building security purposes, Council members shall abide by applicable employee building access policies, including, but not limited to the allowance of visitors in the employee-only sections of City Hall.

**2.9 Personnel Policies and Other Regulations** – As approved by Council, certain personnel policies are applicable to Council members. Copies of the personnel policies and other rules or policies that apply to Council members will be provided to Council members prior to taking office and when amended.

## ***SECTION 3 – COUNCIL MEETINGS***

### **3.1 Regular Meeting** –

A. The Keizer City Council will meet in regular session on the first and third Mondays of each month at 7:00 p.m. in the Robert L. Simon Council Chambers or at another place in the City which the City Council designates. If such date falls on a legal holiday (per state statute), the meeting shall be held at the usual hour and place on the following day.

B. Training sessions may be held outside of the City's jurisdictional limits, provided no deliberations toward a decision are made.

C. Interjurisdictional meetings may be held outside of the City's jurisdictional limits, but should be held as close as practical to the City, and such meetings shall be located within the jurisdictional boundaries of the other government entity.

D. No Council meeting shall be held at any place where discrimination on the basis of an individuals' race, religion, color, sex, national origin, ethnicity, marital status, familial status, age, sexual orientation, source of income or disability is practiced.

**3.2 Work Session** – The Keizer City Council may hold a work session on the second Monday of each month in the Robert L. Simon Council Chambers or at another time or place in the City in which the City Council designates. Such sessions shall allow the City Council an opportunity 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, provided that all discussions thereon shall be informal with no vote or formal action taken. Work sessions shall be open to the public; however, an opportunity for public comment will only be allowed at the discretion of the Presiding Officer or by a majority vote of the Council members present.

**3.3 Special Meeting** – The Mayor may call a special Council meeting at Mayor’s own discretion, and shall call a special meeting at the request of three Council members. Any special meeting shall occur as provided under state law. Special meetings of the Council may also be held at any time by the common consent of all the members of the Council.

**3.4 Electronic Meetings** - Normally, all Council meetings or work sessions shall be held in-person. However, upon Council motion, Council may schedule a future meeting or work session partially or totally electronically upon a showing of a particular need.

**3.5 Emergency Meeting** - An emergency meeting of the City Council may be called by the Presiding Officer, at the request of three Council members, or by the City Manager on less than 24 hours’ notice provided that an actual emergency exists. The minutes of the meeting must describe the emergency justifying less than 24 hours notice and why the meeting could not be delayed. Attempts will be made to contact the media. The emergency meeting may be held partially or totally electronically if necessary as determined by the Presiding Officer, or if the Presiding Officer is not available, by the City Manager.

**3.6 Executive Session** – Executive sessions shall be held in accordance with Oregon law. Matters discussed in executive session shall be exempt from public disclosure pursuant to state statutes. Executive sessions shall be closed to all persons except the City Council; persons reporting to Council on the subject of the executive session; the City Manager unless directed otherwise by the Council; City staff persons as allowed by the City Council to attend; news media representatives, unless excluded by the Public Meeting Law (e.g.; media representatives may be excluded for discussions regarding labor negotiations); and other persons authorized by the City Council to attend. 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.

Prior to opening an executive session the Presiding Officer or City Attorney shall:

- announce the purpose of the executive session,
- the state statute authorizing the executive session,
- and a notification to all present, including the media, that matters discussed in executive session are not to be disclosed or reported to the public.

An executive session may be held during any open meeting for which proper notice has been given or outside of any regular meeting when properly noticed. No formal or final action may be taken during an executive session, but an opinion or consensus of the Council may be gathered.



**3.7 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 at City Hall, on the City's web site and social media sites, distributed to members of the media, and to citizens requesting notice.

**3.8 Notice of Meeting** – The City Recorder shall provide:

- notice of the time,
- place, and
- agenda items for any gathering of the Keizer City Council.

Notice shall be posted on the City's web site, City's social media site, delivered by email, mail or otherwise to members of the media, and other interested persons upon written request. Notice shall be given at least 24 hours prior to the meeting to members of the governing body, the public and media for any special meeting, unless the meeting is considered an emergency as defined by law. Notice of executive sessions shall cite the specific law that authorizes the executive session.

**3.9 – Americans With Disabilities Act** – All meetings of the Council shall be held in compliance with the Americans With Disabilities Act.

**3.10 – Attendance Duty** - It is the duty of each member of the City Council to attend all meetings of the Council. The Charter provides in Section 7.8 that a Council office will be deemed vacant upon their 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:

- Illness;
- Family obligations;
- Employment requirements;
- Scheduled vacations; or
- Other City business

Telephonic, video or internet ("electronic") attendance does not ensure that all comments, testimony, discussions, staff information and deliberations are available fully and equally. Therefore, unless allowed as set forth in these rules, methods of attendance other than personal onsite attendance shall not be considered "in attendance" and a Council member may not vote unless physically present at the meeting.

This provision is automatically waived at any time a federal, state or local emergency declaration affecting all or a part of the City is in effect. Council members shall notify the

City Recorder if they will appear in person or electronically. In such case, no quorum is required to be physically present so long as the required quorum is physically and/or virtually present.

In the event of a virtual meeting as allowed under Sections 3.4 or 3.5, no quorum is required to be physically present so long as the required quorum is physically and/or virtually present.

In addition, this provision is waived if two-thirds of the Council members present deem it important that a Council member appear electronically. A quorum must be physically present. A motion to suspend the rules is not required.

**3.11 – Excused Absence** – When any Council member cannot attend a meeting of the Council, the member shall notify the Presiding Officer prior to the meeting. If there are no objections from other Council members, the Presiding Officer may announce the absence is for good cause and the absence shall be listed in the minutes as excused. If the City Council determines the absence is not for good cause, the absence shall be listed in the minutes as unexcused.

## ***SECTION 4 – THE PRESIDING OFFICER***

**4.1 Mayor** – The Mayor shall preside at all regular, work sessions, special meetings and executive sessions of the City Council and shall be the recognized head of the City for all ceremonial purposes. The Mayor shall have all duties and privileges of any Council member, and shall not be denied any right or privilege by reason of their position as Presiding Officer. In the absence of the Mayor, the Council President shall serve as the Presiding Officer. If both the Mayor and the Council President are absent from the meeting, the following procedure shall be utilized to determine who is the Presiding Officer for that meeting:

1. The City Recorder shall call the Council to order and call the roll of the members.
2. Those members of Council present shall elect, by majority vote, a temporary Presiding Officer for the meeting.
3. Should either the Mayor or the Council President arrive, the temporary Presiding Officer shall relinquish control of the meeting immediately upon the conclusion of the item presently being discussed.
4. The Presiding Officer shall retain all rights and privileges of a member of Council when acting in this capacity.

**4.2 Council President** – The Council shall elect a Council President from its members by a vote of not less than four (4) Council members. This shall occur at the first meeting of the Council in each odd-numbered year or before the position has been vacant for sixty (60) days. Any Councilor may be nominated, including the current Council President. In the event that no candidate receives a majority vote, a second vote will be conducted. The first place candidates shall be nominated. If there is only one first place candidate, such candidate and all second place candidates shall be nominated. If no candidate receives a majority vote, the candidates in the second vote will draw lots to determine the Council President.

When the Mayor is unable to perform the functions of the office, the Council President shall act as Mayor. The Mayor may assign other duties to the Council President. If the Council President wishes to do so, they may initiate a motion for all prepared resolutions, orders and ordinances and the consent calendar unless another Councilor has requested to do so or initiates the action. The Council President shall retain all rights and privileges of a member of Council when acting in this capacity.

## ***SECTION 5 – DECORUM AND ORDER***

**5.1 Presiding Officer** – During Council meetings, 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 appeal to the Council. The Presiding Officer shall enforce order and the rules set forth herein.

### **5.2 Council Members** –

A. During Council meetings, Council members shall preserve order and decorum, confine themselves to questions or issues then under discussion, and shall not by conversation or other action, delay or interrupt the proceedings or refuse to obey the orders of the Presiding Officer or these Rules.

B. Council members shall not engage in personal attacks and shall not impugn the motives of any speaker at any time.

C. Council members shall at all times when dealing with members of the public, other Council members or staff conduct themselves in a manner appropriate to the dignity of their office.

D. Council may determine by simple majority the appropriateness of a particular event or action. However, no Council member will be required to take part in an event or action that they believe inappropriate or undignified.

E. The Mayor is the official spokesperson for the Council. Unless specifically authorized by the Mayor or the Council, Councilors shall not make any representations on behalf of the City. However, nothing shall prevent the Mayor or a Councilor from

expressing their own individual thoughts and opinions when specifically identified as not a representation of the City or the Council's position.

**5.3 Staff and Public** – Members of the administrative staff, employees of the City and other persons attending Council meetings shall observe the same rules of procedure, decorum and good conduct applicable to the members of the Council. This shall include written communications.

**5.4 Removal of Any Person** - Any persons making disruptive or threatening remarks or acting in a disruptive or threatening manner during a meeting will forthwith be barred from further audience at that meeting pursuant to City Ordinance or Resolution.

## **SECTION 6 – ORDER OF BUSINESS AND AGENDA**

**6.1 Order of Business** - The general rule to the order of 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 Council member and note each Council member's attendance or absence in the record, under the guidelines as set forth in Section 3.10 and 3.11 to establish a quorum is present to conduct business.
- c) **Flag Salute** – The Presiding Officer or designee may lead the Council and audience in the Pledge of Allegiance.
- d) **Special Orders of Business** – Oaths of office, awards, proclamations, and agenda items that are of special importance to the Council may be treated as Special Orders of Business. Special Orders of Business agenda items take precedence over all other items except Flag Salute, at the discretion of the Presiding Officer.
- e) **Committee Reports** – Scheduled presentations, presentations by City committee members, and appointments to City committees.
- f) **Public Comments** – 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. Written comments or communications will be acknowledged for the record by the writer's name, city of residence, and topic/subject line.
- g) **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. (Procedures for public hearings are addressed in Section 10 of these procedures.)
- h) **Administrative Action** – Items that require formal action or Council direction.
- i) **Consent Calendar** – 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. Council members who wish to remove an item from the consent calendar shall do so prior to the motion to approve the items. Any item removed from the consent calendar shall be discussed and acted upon following approval of other consent agenda items.

- j) **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 will be deferred until a subsequent Council meeting. This rule may be suspended ONLY if the matter is deemed urgent by two-thirds majority vote of the Council members present and cannot wait until the next special or regular City Council meeting. A motion to reconsider a previous motion may be acted upon without suspension of the rules, as outlined in Section 11.6.
- k) **Staff Updates** - Time provided for City staff to briefly report on new or current projects.
- l) **Council Member Reports** - Time provided for members of the Council to **briefly** present items related to the City. Each Council member is encouraged to limit remarks to 3 minutes or less.
- m) **Agenda Input** – Issues for upcoming Council meetings shall be announced by the Presiding Officer.
- n) **Adjournment** – Following completion of all matters listed on the agenda, the Presiding Officer shall declare the meeting adjourned.

The Presiding Officer may adjust the Order of Business.

**6.2 Recess** – If there are no objections from the Council members, the Presiding Officer may recess any meeting of the Council. The Presiding Officer shall announce the time in which the meeting shall reconvene.

**6.3 Agenda Distribution** – General practice will be copies of agendas and packets for regular meetings shall be distributed not later than five (5) calendar days prior to the meeting to members of the Council, staff, news media, neighborhood associations and interested citizens who have requested the agenda. Council members with questions, concerns or suggestions are encouraged to communicate those to Department Directors no later than three (3) days before the meeting.

**6.4 Placing an Item on the Agenda** – The City Manager may place items on an agenda. A Council member wishing to place an item on the agenda will advise the City Manager no later than seven (7) days prior to the regular meeting at which the item is to be considered. Such request to add an item for Council consideration shall require consent from two or more additional Council members to add the item. In addition, in a public meeting, Council may place items on a future agenda.

**6.5 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 Recorder 48 hours prior to the meeting time to request the necessary accommodations. Such notice shall provide the telephone number and email address at which the City Recorder may be contacted.

## **SECTION 7 – WRITTEN COMMUNICATIONS**

### **7.1 Written Communications** –

- a) Anonymous and unsigned written communication shall not be introduced in Council meetings.
- b) Written testimony concerning any public hearing on the agenda will be included in the agenda packet or placed on the dais.
- c) Written comments or communications to the Mayor and/or Council shall be forwarded to the Mayor and/or Council members but shall not be included in the agenda packet. However, such communication shall be made available on the City’s website and shall be summarized at the meeting by the Presiding Officer pursuant to Section 6.1(f).
- d) Written communications to the Mayor and/or Council concerning matters that are not related to issues of the City of Keizer shall be forwarded to the Council members. These communications will not be acknowledged for the record under Public Comments for inclusion in the meeting records nor posted on the website.
- e) The City Manager may, in the City Manager’s discretion, bring any matter raised by any communication to the attention of the Council as an agenda item, provided that such communication is accompanied by a staff report setting forth the reason the matter should be considered by the Council, and making a recommendation for Council action.
- f) The City Council may direct staff to address an issue raised in written communications and may, as appropriate, request a staff report to Council setting forth recommendations for addressing the issue raised.

## **SECTION 8 – CONFLICT OF INTEREST OR OTHER DISQUALIFICATIONS**

**8.1 Conflict of Interest** – In every case in which a Council member is faced with a potential conflict of interest or an actual conflict of interest as defined in state law, the nature of the conflict must be disclosed during the public meeting and recorded in the minutes. If an actual conflict of interest exists, the Council member, after disclosing the conflict, shall remove themselves from the Council Chambers and refrain from both

participation in the discussion and the vote on the issue. However, if the Council member is a direct party on the issue, they will be allowed to remain in the Council Chambers.

**8.2 Bias** – In quasi-judicial cases, Council members should recuse themselves from any decision or discussions if they have a prejudice or prejudgment of the facts to such a degree that the Council member is incapable of rendering an objective decision on the merits. Members of the Council should avoid voicing an opinion prior to the testimony.

**8.3 Ex Parte Contact** – Ex Parte communications only apply in a quasi-judicial case. Members of the Council should avoid any communication outside of the public hearing with any party, including other Council members. A site visit is not considered an ex parte contact unless there is communication with an outside party or if information is gained from the visit that could be a factor in Council's decisions. Any ex parte contact, including the nature of the contact and the information obtained, should be disclosed at the beginning of the public hearing, and again at each continued public hearing.

## ***SECTION 9 – PUBLIC COMMENT***

### **9.1 Public Comment Generally** –

A. Any member of the general public wishing to address the Council on a matter of public concern may do so at the time set for public comment during each regular session of the Council.

B. If physically present, participants must use a microphone and state their name and city of residence for the record prior to addressing Council.

C. Comments will be limited to five minutes. No yielding or ceding of time is allowed.

D. The Council may request further information be presented to the Council on such date and in such manner as it deems appropriate.

E. Council members may, after obtaining the floor, address the speaker during public comment. Council members shall use restraint when exercising this option. The speaker shall be limited to three (3) minutes to answer questions. The Council may extend the time at their discretion. The Presiding Officer may intervene if a Council member or the speaker is violating the spirit of this rule.

F. Speakers may present electronic audio or visual material during the time permitted for their comment. Speakers may utilize City-provided audio or visual equipment located in the Council Chambers as a part of their comment, but must provide the materials in a readable format to City staff prior to the meeting so that it may be installed on the City's equipment to avoid a delay or disruption of the meeting.

G. Items brought before the Council from the public during public comment may be referred to the staff for appropriate action and a report returned to the Council, if requested. Such procedure should not prevent the staff, Mayor, or City Council from answering directly to a citizen inquiry at the time it is brought before the Council.

H. If a member of the public wishes to speak on an item that is scheduled for a public hearing at that same meeting, the speaker shall wait until that public hearing. Public comment shall not be used to testify about a quasi-judicial land use matter, to testify on an item that is not a public matter, to testify on a matter which has been or is scheduled to be heard by a hearings official, or to provide or gather additional testimony or information on any matter after the official record has been closed on any matter which has been the subject of a public hearing.

**9.2 Roster** - All persons or groups wishing to address the Council during the time set for public comments shall, prior to the convening of the meeting, sign the roster provided by the City Recorder, indicating the name of the person, the address of the person, and the subject of public concern on which the person or group wishes to address the Council. Those who have not signed the roster may address the Council at the discretion of the Presiding Officer.

**9.3 Complaints and Suggestions to the Council** - When any citizen brings a complaint before or makes a suggestion to the Council, other than for items already on the agenda, the Presiding Officer shall first determine whether the issue is legislative or administrative in nature and then:

(1) If the issue is legislative, and if the Council finds such complaint or suggestion may indicate the need for a change to an ordinance or resolution of the City or the adoption of a new ordinance or resolution, the Council may refer the matter to the City Attorney, the City Manager or an advisory body for study and recommendation.

(2) If administrative, and the complaint or suggestion involves administrative staff performance, administrative execution or interpretation of legislative policy, or administrative policy within the authority of the City Manager, the Presiding Officer shall then refer the complaint directly to the City Manager for their review if the complaint has not already been reviewed. The Council may direct the City Manager to report to the Council when their review has been made.

**9.4 Council Shall Carefully Consider All Comments** – All Council members should give those presenting comments their undivided attention. Sidebar conversations should be kept to a minimum.

## **SECTION 10 – PUBLIC HEARINGS**

**10.1 Public Hearings** - A public hearing shall be held on each matter required by state law, City policy or as directed by the City Council. The Presiding Officer shall preside over the hearing and announce the type of hearing and the guidelines for the hearing.



The Presiding Officer shall declare the hearing to be open and invite the City Manager or member of the staff to present the staff report together with any petitions, letters, or written comments on the matter.

**10.2 Testimony for Non-Land Use Hearings** – Members of the audience may present oral testimony on the matters scheduled for public hearing. The Presiding Officer will call forth members of the audience who have signed up to present testimony under the guidelines specified at the opening of the hearing. If appropriate, the Presiding Officer may first ask those persons in favor of the matter to come forward, with those speaking in opposition coming after.

Except as stated otherwise, all testimony will be limited to five minutes per person. The Presiding Officer may further limit testimony if a speaker persists in being threatening and disorderly, or abusive, following a warning to that effect from the Presiding Officer. Upon being recognized by the Presiding Officer, any member of the Council or the City staff may ask questions of any speaker, subject to the same provisions set forth in Section 9.1(E). Upon closure of the hearing, no further testimony will be allowed unless the Council allows written testimony to be submitted by a date certain.

**10.3 Quasi-Judicial Land-Use Proceedings** –

A. Scope of Review. All quasi-judicial land use proceedings shall be new (de novo).

B. Conflicts of Interest.

1. A member of the Council shall not participate in a discussion or vote in a quasi-judicial land use proceeding if:

a. The member has an actual conflict of interest as defined by the Oregon Revised Statutes or the City Charter.

b. The member was not present during the public hearing; provided however, the member may participate and vote if they have reviewed the evidence, including recordings of the hearing, and declared such fact for the record.

C. Ex Parte Contacts/Bias

1. Members of the Council shall reveal the nature of any ex parte contacts or bias with regard to the proceeding at the commencement of any quasi-judicial land use proceeding.

If such contact/bias impairs the member's impartiality, the member shall state this fact and abstain from participation and voting in the matter.

D. Burden of Proof. The proponent has the burden of proof on all elements of the proposal, and the proposal must be supported by proof that it conforms to all applicable standards and criteria.

1. The decision of the Council shall be based on the applicable standards and criteria as set forth in the City's Development Code, the City's Comprehensive Plan, and, if applicable, any other land use standards and criteria imposed by state law or administrative rule.

2. The proponent, any opponents, and/or City staff may submit to the Council a set of proposed written findings or statements of factual information which are intended to demonstrate the proposal complies or fails to comply with any or all applicable standards and criteria.

E. Hearing Procedures. The order of hearings in quasi-judicial land use matters shall be:

1. Land Use Hearing Disclosure Statement. The City Attorney shall read the land use hearing disclosure statement, which shall include:

- a. A list of the applicable criteria;

- b. A statement that testimony, arguments and evidence must be directed toward the applicable criteria or other criteria in the plan or land use regulation which the person believes to apply to the decision;

- c. A statement that failure to raise an issue accompanied by statements or evidence sufficient to afford the Council and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue; and

- d. If applicable, a statement that a failure to raise constitutional issues relating to proposed conditions of approval precludes an action for damages in circuit court.

2. Call for ex parte contacts/bias/conflict of interest. The City Attorney shall inquire whether any member of the Council has had ex parte contacts, has bias, or has an actual or potential conflict of interest. Any member of the Council announcing an ex parte contact or conflict shall state for the record the nature of the contact or conflict. See Section 10.3(B) and (C).

3. Staff summary. Planning staff shall present a summary and recommendation concerning the proposal.

4. Presentation of the Case.

- a. Applicant's case. Twenty minutes total.
- b. Persons in favor. Five minutes per person.
- c. Persons opposed. Five minutes per person.
- d. Other interested persons. Five minutes per person.
- e. Rebuttal. Ten minutes total. Rebuttal may be presented by the applicant. The scope of rebuttal is limited to matters which were introduced during the hearing by parties other than the applicant.

5. Close of hearing. Subject to state law, the Presiding Officer shall close the hearing if there are no further questions from Council. The Record may be left open pursuant to state law. The timeframe for submittals to the Record shall be clearly announced prior to close of the hearing.

6. Deliberations. Deliberations shall immediately follow the hearing. The Council may delay deliberations to a subsequent time certain.

7. Findings and Order/Ordinance. The Council shall approve or deny the application.

- a. The Council shall adopt findings to support its decision.
- b. The Council may incorporate findings proposed by the applicant, the opponent or staff in its decision.

F. Continuances. Council shall grant continuances as required by state law. However, nothing in this section shall restrict the Council, in its discretion, from granting additional continuances. Any continuance requested by the applicant shall result in a corresponding extension of the 120-day time limitations imposed by the Oregon Revised Statutes.

#### **10.4 Legislative Land Use Matters –**

A. Hearings Procedures. The order of procedures for hearings on legislative land use matters shall be:

- 1. Call for abstentions. Inquire whether any member of the Council wishes to abstain from participation in the hearing. Any member announcing an abstention shall identify the reason therefor and shall not participate in the proceedings.

2. Staff summary. Staff shall present a statement of the applicable criteria, and a summary and recommendation concerning the proposal.

3. Presentation of the Case.

a. Persons in favor. Five minutes per person.

b. Persons opposed. Five minutes per person.

c. Other interested persons. Five minutes per person.

4. Close of hearing. No further information shall be received after the close of the hearing, except for written materials allowed by Council to be submitted prior to the close of the Record.

5. Deliberations. Deliberations shall immediately follow the hearing. The Council may delay deliberations to a subsequent time certain.

6. Reopening hearing. Prior to adoption of an Ordinance relating to a legislative land use matter, and upon majority vote of the Council, a hearing may be reopened to receive additional testimony, evidence or argument. The same notice requirements shall be met for the reopened hearing as were required for the original hearing.

**10.5 Attorney Representation** – Any person attending a hearing has the right to be represented by an attorney.

**10.6 Appeal Fee** – An appeal fee established by the City Council shall be required to defray costs incidental to the proceedings and shall be paid at the time of filing an appeal. The appeal fee shall be determined by the City Council.

## ***SECTION 11 – ORDINANCES, ORDERS, RESOLUTIONS, AND MOTIONS***

**11.1 Form** – All Ordinances, Orders, and Resolutions shall be presented to the Council.

**11.2 Signing Of Official Documents** - The Mayor shall sign all records of proceedings approved by the Council. The Mayor shall have no veto power and shall sign all ordinances passed by the Council within three days after their passage. After the Council approves a bond of a City officer or a bond for a license, contract, or proposal, the Mayor shall endorse the bond. The Council President shall perform these functions whenever the Mayor is unable to perform the functions herein.

**11.3 Enactment of Ordinances** – All ordinances will be enacted pursuant to Section 4 of the Keizer City Charter except that if the Mayor is unable to perform the functions of the

office, the Council President shall act as Mayor pursuant to Section 3.3 of the Keizer City Charter, including, but not limited to, signing of ordinances, resolutions and other documents.

**11.4 Motion** – Any Council member making a motion to be considered by the Council shall state the motion with clarity, specificity, and brevity so the matter is clearly understood.

**11.5 Procedures In Handling Parliamentary Motions –**

- a) To make a motion, a Council member must be recognized by the Presiding Officer at a time when there is no other business on the floor. The Council member then may state the motion by saying, "I move" and stating the action to be taken.
- b) Another Council member seconds the motion. This can be done without being recognized by the Presiding Officer. If no member seconds the motion, it does not come before the meeting; it "dies" for lack of a second and the Presiding Officer calls for the next item of business. There is no discussion allowed prior to the second, except that any member may request clarification of the motion. A second does not necessarily mean that the member favors the motion. It can be that the member simply wants the motion brought on the floor for discussion.
- c) The Presiding Officer states the question on the motion. This procedure is necessary for the motion to come before the Council. No debate can take place until the Presiding Officer states the motion is on the floor. Mover may withdraw the motion at any time up to the vote. It is unnecessary for the Presiding Officer to ask the member who seconded the original motion to withdraw the second. Withdrawal of the motion by general consent takes precedence to the second.
- d) Any Council member may request a friendly amendment to the motion. If the mover and the second accept and there is no objection by any Council member, the motion goes forward as amended. If there is an objection, or the friendly amendment is not accepted by both the mover and the second, a formal motion to amend may be made.
- e) Debate then takes place on the motion. The original mover is entitled to the floor first. **Each member has the right to speak and to rebut any other speakers, but should not have the floor the second time until all who wish have spoken once.** Unless it is decided otherwise, each speaker is limited to five (5) minutes each time.
- f) The Presiding Officer then puts the question to a vote. When the debate appears to have closed, the Presiding Officer asks "are you ready for the question?" If no one claims the floor, the Presiding Officer restates the motion and calls for a vote.

**11.6 Motion for Reconsideration** - Unless specifically governed by other provisions of the codes, ordinances, or other regulations of the City, any Council member who voted with the majority or who was not present at the time of the vote, may move for reconsideration of an action at the same or at the next regular meeting of the Council. A vote of reconsideration requires a majority vote of those Council members present. A vote for reconsideration shall

take place at the same meeting when there is no other business on the floor or at the next regular meeting of the Council under the Other Business portion of the meeting. A motion for suspension of the rules is not required. After a matter has been reconsidered, it shall not preclude the issue from being raised in the future, but not before the next regular meeting.

## **SECTION 12 – VOTING**

**12.1 Voting** - Unless a different voting requirement applies, the concurrence of a majority of the members of the Council in attendance, voting when a quorum of the Council is present shall decide any question before the Council. The Presiding Officer will have a vote on all questions before the Council. It is considered inappropriate for members to explain their action during the voting.

**12.2 Abstentions** – Any Council member abstaining should state the reason for the abstention. Abstentions should not be used if the member does not believe enough information is available. An abstention does not count as either an affirmative or negative vote and shall not be counted toward the number of votes required to pass or reject a motion.

**12.3 Methods of Voting** - The standard is the voice vote, however the Presiding Officer may decide the type of vote unless directed otherwise by a majority of the Council.

- **Voice Vote**: This is the standard method when no more than a majority vote is required. The ayes are called for first and then the nays.
- **Show of Hands**: This can be used as an alternative to a voice vote, in verifying an inconclusive voice vote or when a two-thirds vote is required for adoption.
- **Vote by Written Ballot**: This is another method that is normally used only in cases of elections or a matter where initial confidentiality is needed. Each Council member shall place their signature on the ballot and the results (including each Council member's specific vote) must be made public immediately following the vote.
- **Roll Call**: In this method, the City Recorder calls the name of each Council member and the Council member responds with their vote on the matter. Council members will be called by position number, with the Mayor being called last.

**12.4 Unanimous Consent** - For minor matters, the Presiding Officer may use unanimous consent as a voting method if it appears that all of the Council members present agree. If any Council member objects, a formal vote shall be taken.

**12.5 Voting Required** - Every member of the Council that is present when a question is addressed shall vote for or against the question, unless they abstain for just cause (conflict of interest, bias, etc.).

**12.6 Voting Results** - The Presiding Officer announces the voting result. This step is always included to ensure Council understanding of the outcome and so that the

Recorder will be able to accurately reflect the outcome in the minutes. If a motion ends in a tie, the motion will be considered lost.

**12.7 Changing Vote** - A Council member has the right to change their vote up to the time the vote is finally announced. After that, they can make the change only by permission of the Council, which may be given by unanimous concurrence of Council. If an objection is made, a motion may be made to grant the permission. The motion is undebatable.

## **SECTION 13 – MINUTES**

**13.1 Recording of Minutes** - Minutes are the official record of the City Council meetings. They record the substance of a meeting and are 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, and the meeting does not have to be sound recorded unless otherwise required by law. For practical purposes, however, it is general practice to sound record the meetings of the City Council for back-up reference. Reporting actions taken is the single most important segment of the final minutes. The minutes are to include, at a minimum:

- a) Kind of meeting (regular, special, work session, etc.)
- b) The name of the body meeting (City Council, Urban Renewal Agency, Budget Committee, etc.)
- c) Date of the meeting and place where it is held.
- d) Name and title of Presiding Officer (usually the Mayor).
- e) All motions (main, amendments, withdrawals, etc.), with dispositions, with the name of the mover and, if applicable, the name of the Council member who seconded the motion.
- f) Members present.
- g) Proposals, resolutions, orders, ordinances, and measures proposed and their disposition.
- h) Results of all votes and the vote of each member by name, including abstentions.
- i) The substance of any discussion on any matter.
- j) The name and city of residence, if available, on any person appearing before the City Council to offer testimony, and the substance of such testimony.
- k) Exhibits or written testimony subject to ORS 192.311 to 192.338.

- l) Reference to the appropriate ORS section under which an executive session was held.
- m) The signature of the individual taking the minutes.
- n) Signature lines for the Mayor and the Councilors.

**13.2 Distribution of Minutes** - : Draft minutes are distributed to the City Council with the agenda on which those minutes appear as an item for approval. However, because they are generally completed in draft form prior to distribution of the agenda packets, the draft minutes are available for earlier review should the need arise.

**13.3 Correction and Approval of Minutes** - Approval of the minutes usually take place at the next regular meeting following the date of the minutes under approval. Generally, minutes appear on the agenda under the Consent Calendar. If minor changes are made to the minutes, a Council member may offer such amendment prior to the Consent Calendar being approved. For extensive amendments, the minutes should be pulled off the Consent Calendar for consideration. All corrections that appear will appear in the minutes of the meeting when the changes took place. If a member of the Council is absent from the meeting, such member can pull the minutes from the Consent Calendar for consideration and announce their absence and abstain from voting for approval of the minutes or they can read the minutes prior to the meeting and vote for approval as part of the Consent Calendar. When a Council member is absent and pulls the minutes from the Consent Calendar to abstain from voting for approval of the minutes, the word "absent" shall be printed in place of a signature.

If a Council member has a concern over the reporting of minutes, it is that Council member's responsibility to review the recording of the meeting and bring corrections forward to the City Council at the next regular meeting with the recording 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.

**13.4 Reading of Minutes** - Unless the reading of the minutes of the previous Council meeting is requested by a majority of the Council, such minutes may be approved without reading if copies thereof have been previously furnished to each Council member.

**13.5 Executive Session Minutes** - Minutes from Executive Sessions held pursuant to state statute will be kept in the form of a tape recording. No transcription or no written minutes of the Executive Session will be made unless otherwise required by law.

## ***SECTION 14 – PROCLAMATIONS***

**14.1 Request for Proclamations** - Organizations or citizens requesting proclamations that proclaim a specified date or dates to recognize the efforts of various community groups and individuals on certain projects, shall be filed with the City Recorder. Upon receipt, the City Recorder will notify the Mayor of the request. If the Mayor approves the



request, the City Recorder will prepare the proclamation for the Mayor's signature. The Mayor may also make proclamations at the Mayor's own discretion without a request.

**14.2 Reading of Proclamations** - It will be at the discretion of the Mayor if a proclamation will be read at a City Council meeting or presented to the organization or group. It is preferred that a representative of the requesting organization be present to receive the proclamation.

## **SECTION 15 – INTERACTIONS WITH STAFF AND MUNICIPAL JUDGE**

**15.1 Staff** - All members of the Council shall respect the separation between the Council's role and the City Manager's responsibility by:

- a) Not interfering with the day-to-day administration of City business, which is the responsibility of the City Manager.
- b) Refraining from actions that would undermine the authority of the City Manager or a Department Director.
- c) Limiting individual inquiries and requests for information from staff to those questions that may be answered readily as part of staff's day-to-day responsibilities. Questions of a more complex nature shall be directed to the City Manager.
  - 1. Questions from individual members of the Council requiring significant time or resources (two hours or more) shall normally require approval of the Council.
  - 2. Members of the Council shall normally share any information obtained from staff with the entire Council. This section is not intended to apply to questions by members of the Council acting in their individual capacities rather than as members of the Council, nor to questions regarding conflict of interest or similar issues particular to a member of the Council.

**15.2 Interaction with Municipal Judge** - The Council may meet with the judge, but in no instance shall the Council be permitted to interfere with the judge's exercise of judicial authority or discretion.

## **SECTION 16 – INTERNAL OVERSIGHT**

**16.1 Internal Oversight** - The Council has the right to make and enforce its own rules and to ensure compliance with those laws generally applicable to public bodies. Should any Council member act in any manner constituting a substantial violation of these rules, City Ordinance or Charter, or other general laws, the remaining Council members may issue a censure or memorandum of concern pursuant to the following procedure:

- a) The process is initiated by a written statement by a Council member explaining the alleged misconduct of a Council member and if true, why disciplinary action is needed. Two Council members must date and sign the statement and deliver the original to the City Manager. The City Manager shall then place the matter before the Council at the next regular Council meeting if the written statement is submitted to the City Manager not later than five (5) calendar days prior to such meeting; otherwise, the matter shall be placed on the agenda for the following Council meeting.
- b) An affirmative vote by five (5) or more members of the Council shall initiate an investigation. An affirmative vote by a Council member shall not indicate that such member believes the truth of the statement and/or the reasoning behind a proposed sanction, but merely that further investigation is warranted under the criteria set forth in subsection c) below. The Council member in question shall not take part in the discussion or the vote.
- c) If initiated, an investigation shall be conducted by a committee consisting of three Council members appointed by the Council. Two additional Keizer residents shall be included if the Council member being investigated makes such request. Such residents shall be selected by the Council. The investigation shall be completed within 30 days of being initiated by the Council. The Committee shall review whether the alleged misconduct occurred, and if so whether the alleged misconduct occurred while acting in their official capacity as a Council member, including, but not limited to the following instances:
  - 1. During a City meeting or while representing the City of Keizer;
  - 2. Council member announced that they were a Council member (and therefore infers that conduct is as a Council member);
  - 3. Conduct occurred in writing available to the public (social media, newspaper) as identified as a Council member.

Whether the Council member committed the alleged misconduct while in their official capacity is only a factor to be considered. In compliance with this Section, the Council may investigate and impose sanctions where the Council member in question was not acting in their official capacity.

- d) If misconduct is found unanimously by the members of the City Council Committee, the Committee would present the investigation conclusion to the Council with a recommendation of any sanctions. Sanctions could include
  - 1. A memo of concern from the full City Council, or
  - 2. Censure.

- e) The Council shall vote on the Committee recommendation. A memorandum of concern would require a four (4) member vote of the Council; a censure would require at least a five (5) member vote. The Council member in question shall not take part in the discussion or the vote.
- f) If misconduct is not found unanimously by the City Council Committee, a public report of the Committee findings will be presented to the City Council during a Council meeting. A copy of that report will be given to the Council member who was investigated.

## ***SECTION 17 – COUNCIL VACANCIES/APPOINTMENTS***

**17.1 Vacancy of Council Position** – Section 7.8 of the Keizer City Charter outlines circumstances in which a Council position may become vacant. Vacant elective offices shall be filled by appointment. A majority vote of the remaining members of the Council shall be required to validate the appointment. Upon validation, the appointee's term of office shall begin and continue throughout the unexpired term of the predecessor.

**17.2 Vacancy of Mayor Position** – In the event the office of the Mayor becomes vacant, the Council President shall become Mayor. A new Council President shall be nominated accordingly from the remaining members of the Council. The Council then shall appoint a Councilor to fill the vacancy as set forth below.

**17.3 Declaration of Vacancy** – If required by the Charter, the vacant position shall be declared vacant by Resolution.

**17.4 Process for Appointment** – The Council shall adopt a timeline for the appointment process. A press release will be issued inviting members of the community, who meet the qualifications as outlined in the Charter, to submit a letter of interest and resume, as well as a completed form certifying the candidate's qualifications for the office. Only candidates who have submitted the certification form, letter and resume by the deadline determined by the Council may be considered. Within 45 days of vacancy, the Council shall appoint the replacement Councilor as set forth in this Section.

**17.5 Presentation Process** – The candidates shall be invited to make a presentation before the City Council. The presentation process is as follows:

- a) Presentation length: Five minutes. There is to be no discussion or questions by the Council whatsoever, except for the written questions noted below.
- b) Order of the presentations: Drawn from the official bucket.

- c) Candidates will be requested to sequester themselves outside the Council Chambers until time for their presentation so they will not gain advantage by listening to the other candidates. They may remain in the audience after their presentation.
- d) Each of the six current Council members may submit a written question to be given the candidates. The candidates may choose to address the questions in their presentations. The deadline for submittal of the questions shall be one week before the presentation.
- e) Following close of the presentation, all candidates who have submitted a letter of interest and resume shall be considered and formal nominations shall not be made.

**17.6 Appointment Vote** – The Presiding Officer or City Attorney shall review the appointment process with members of the audience prior to any votes being taken. Written ballots shall be prepared containing the names of all of the candidates. The following voting process will be followed:

- a) Each of the remaining members of the Council shall select one candidate and mark their ballot accordingly. If one candidate receives the majority of the votes of the remaining members of the Council, such candidate shall be appointed to fill the vacant position.
- b) If no candidate receives a majority vote of all remaining members of the Council on the first ballot, a second ballot shall be distributed. The second ballot shall contain the names of the two candidates receiving the most votes from the first ballot, unless a tie resulted from the first ballot. In a first place tie situation, all first place candidates will be placed on the second ballot. If there is one first place candidate and tied second place candidates, then all first and second place candidates will be placed on the second ballot. Each remaining member of the Council shall select one candidate and mark their ballot accordingly. The candidate receiving a majority of the votes of the remaining members of the Council shall then be appointed to the vacant position.
- c) If no candidate receives a majority vote of all remaining members of the Council on the second ballot, a third and final ballot shall be distributed. The third and final ballot shall contain the names of the two candidates receiving the most votes from the second ballot, unless a tie resulted from the second ballot. In a first place tie situation, all first place candidates will be placed on the third and final ballot. If there is one first place candidate and tied second place candidates then all first and second place candidates will be placed on a third and final ballot. Each remaining member of the Council shall select one candidate and mark their ballot accordingly. The candidate receiving the majority of the votes of the remaining members of the Council shall be appointed to the vacant position. In case of a tie vote on this third and final vote, the Council will select the replacement Councilor

according to the procedure outlined in Section 17.7 – Tie Votes – Appointment Process.

d) By Resolution, the Council shall validate the appointment.

**17.7 Tie Votes- Appointment Process** – If no candidate receives a majority vote of all remaining members of the Council on the third and final vote, the names of the two candidates receiving the most votes from the third and final ballot will be placed in an official City bucket, unless a tie resulted from the third and final ballot. In a first place tie situation, all first place candidates will be placed in the official City bucket. If there is a one first place candidate and tied second place candidates, then all first and second placed candidates' names will be placed in the official City bucket. The City Recorder will draw the successful name.

**17.8 Tie Votes – Council Election** – When two or more candidates running for the same Council position, have an equal and the highest number of votes, the successful candidate will be determined by a drawing of lots. Upon confirmation of a recount by the Marion County Elections Division, this determination shall take place at the first regularly scheduled meeting after such recount confirmation. The Council will use the same process to determine the successful candidate as outlined in Section 17.7 – Tie Votes – Appointment Process.

***SECTION 18 – CREATION OF CITY COMMITTEES, BOARDS AND COMMISSIONS, COUNCIL COMMITTEES, AD-HOC TASK FORCES AND WORK GROUPS***

**18.1 Citizen Committees, Boards and Commissions** – At any time, the Council may by resolution establish any City Board, Commission or Committee deemed necessary and in the best interests of the City. Any committee so created may contain one or more Council members as members. Unless otherwise provided, all City Boards, Commissions, and Committees so created shall sunset at the end of their mission. As part of the Council Goal and Work Plan process, in January of odd numbered years, the Council shall review the purpose, need, and objectives of all boards, commissions and committees that are not statutorily required.

**18.2 Membership Appointment** –Each Council member will make a one-member appointment to the Volunteer Coordinating Committee as allowed in Council resolution for a two-year term. If a Council member leaves office prior to the end of the Council member's scheduled term, the replacement Council member shall appoint a member to the Volunteer Coordinating Committee. Except for Council members, all other applicants for City Boards, Commissions, Committees or any group (other than Council Work Groups, Task Forces, or Outside Committees) will be recommended by the members of the Volunteer Coordinating Committee who will receive, review, and process written applications and forward recommendations to the Council for appointment consideration, unless the Resolution, Ordinance, or State Statute defines the appointment process differently. The Community Diversity Engagement Committee members shall be directly

appointed by Council members as called for in the Resolution creating such committee. The Mayor shall make the Council member appointments for all Committees, Task Forces, Boards, Outside Committees or any other groups at the first meeting in January every odd numbered year or when necessary.

**18.3 Qualifications** – No appointee may serve on more than two City Boards, Commissions or Committees at any one time, without Council approval. Budget Committee members are required to be appointed from the electorate. All of other City Boards, Commissions, Committee or Task Force members shall be appointed pursuant to Council Resolution, Ordinance, or applicable statute.

**18.4 Removal of Members of Committees, Boards, and Commissions** – The Council may remove any member of any committee, board, commission, task force or any other group by a vote of at least a two-thirds majority of the Council. All members of City Boards, Commissions or Committees serve at the pleasure of the Council except as otherwise provided by law. All Council seats on City Boards, Commissions or Committees are reserved for sitting Council members; upon expiration of any Council member's term, or upon resignation, removal or death, the Council member's seat on any City Board, Commission, Committee, Outside Committee, or any other position as City representative occupied by that person shall be immediately declared vacant, and a sitting Council member appointed by the Mayor as a replacement.

**18.5 Council Task Forces** – Council Ad-Hoc Task Forces may be created at any time by resolution. All Council Ad-Hoc Task Forces shall have a Council member as Chair who shall be either appointed by the Mayor, or by a majority vote of the members of the committee in the absence of such appointment. Appointment of the members to Task Forces shall be by majority vote of the Council members present. Such Task Force shall report to the Council without unnecessary delay upon matters referred to them. All Council Ad-Hoc Task Forces so created shall sunset at the end of their mission, but in all events shall be reviewed in January of odd numbered years prior to Council member liaison appointment.

**18.6 Council Work Groups** – Council Work Groups shall consist of three Council members who shall be appointed by the Mayor at a regularly scheduled Council meeting. Such Work Group shall report to the Council without unnecessary delay upon matters referred to them. All Council Work Groups so created shall sunset at the end of their mission and final report/recommendation to the Council.

**18.7 Meetings Subject to Oregon Open Meetings Law** – All meetings of any City Boards, Commissions, Lay-Committees, Council Committee, Task Force, or Work Group shall be subject to and comply with the Oregon Public Meetings law.

**18.8 Registry** – The City Recorder shall prepare, keep current and retain on file in the Office of the City Recorder a list of all appointees to all City Boards, Commissions, Committees, Council Ad-Hoc Task Forces, and any other group, the date of their appointment, the length of their unexpired term, and their addresses and phone numbers.

**18.9 Youth Councilor** – Each school year one Youth Councilor may be appointed as a non-voting member of the Council. The Youth Councilor shall not attend executive sessions. To receive this appointment, the candidates must be Keizer residents who are either attending high school or registered home schooled students. The appointments shall be by majority vote of the Council members present, following recommendations from the Volunteer Coordinating Committee. The Youth Councilor may be assigned roles and positions by Council.

**18.10 Youth Liaison** – Each school year one Youth Liaison may be appointed as a non-voting member to any City Board, Committee, or Commission. To receive this appointment the candidate must be either attending high school or a registered home schooled student. The appointment shall be by majority vote of the Council members present, following a recommendation from the Volunteer Coordinating Committee.

**18.11 Outside Committees** – Outside Committees are those committees, boards, commissions and other types of groups not created by the City Council. They include both governmental entities, as well as non-profit organizations; e.g., Keizer Rotary, Keizer Chamber of Commerce, Salem-Keizer Area Transportation Study, Mid-Willamette Valley Council of Governments, etc. For non-Councilor appointments, the Council shall determine the appointment, following recommendation by the Volunteer Coordinating Committee. The Mayor shall appoint Council members to liaison and non-liaison positions for outside committees the first meeting in January every odd numbered year or when necessary. Each Council member shall keep the Mayor and Councilors informed of their involvement in all outside committees. The particular outside committee shall determine any attendance requirements and other matters concerning membership, voting, and procedure, subject to Council approval. Non-liaison (voting) Councilor positions may not be substituted by another Council member, unless such outside committee's rules specifically allow for such substitution.

Nothing contained herein shall prevent a Council member from being a member of any type of committee outside of these provisions. However, such membership shall be as a private citizen and not as a representative of the City of Keizer.

**18.12 City Committees/Council Member Liaisons** – Council member liaison positions on City committees, boards, commissions, and task forces are non-voting. Council member liaisons shall generally provide avenues of communication between their committee and the Council and shall update the Council on the general status of such committee. Generally speaking, Council members in liaison positions should refrain from expressing opinion on specific policy issues under consideration by the committee unless it is to relay known City Council positions on a particular matter. This subsection only applies to liaison positions and does not apply to Councilors appointed as voting members.

**18.13 Additional Groups** – No Board, Commission, Committee, Work Group, Task Force or any public body (other than the Council) may create another public body,

except for subcommittees consisting only of its members. Upon recommendation by an entity, the Council may create another Group.

**18.14 Electronic Meetings Limited** – Except as stated below, no Board, Commission, Committee, Work Group, Task Force or other Council-created group may meet electronically, except if the meeting is scheduled for a time when a federal, state or local emergency declaration affecting all or a part of the City is in effect. At the chair's discretion and without objection from the committee, committees may hold a meeting partially or totally electronically upon a showing of a particular need.

## **SECTION 19 – ELECTRONIC MAIL/SOCIAL MEDIA**

**19.1 Electronic Mail/Social Media** – The Council will observe the following guidelines when using any electronic method for correspondence or social media in their elected roles:

- a) All e-mail/social media used by the Mayor and Councilors will comply with the requirements of the Oregon Public Records Law.
- b) E-mail may be used for correspondence, to schedule meetings, send informative messages, or request information from other members of the Council, the City Manager, or Department Directors. Council members shall use and keep their email accounts updated. The City shall provide sufficient equipment and software for Council members.
- c) E-Mail/social media may not be used to discuss policy issues with a quorum of the Council at one time or a quorum of any other governing body in any manner which would be in violation of the Oregon Public Meeting Laws.
- d) All e-mail/social media used by Council members shall use City accounts only when acting in Council's elected roles. No discussions or issues involving City business shall take place on non-City e-mail/social media accounts. This is required to be able to accurately archive these communications for public records purposes.

## **SECTION 20 – CITY COUNCIL GOAL/WORK PLAN SETTING**

**20.1 Council Goal/Work Plan Setting** –

- a) Goal Setting/Work Plan Parameters. The Council shall set goals at a minimum of every two years to coincide with mayoral terms of office. The goals shall include Short Term Goals that the Council plans on completing within the next 24 months and Long Term Goals that the Council plans to work on during the next two years, but will take longer to complete than 24 months. In addition, the Council may also



set a work plan for projects that Council has determined to be priorities for the short or long term.

- b) Creation of initial list. Following the election in November of even numbered years, the newly elected Council members are strongly encouraged to meet with the current Council members in a work session meeting to establish an initial list of potential Council goals/Work plan. This initial “brainstorming” session shall be completed by December 31 of the election year.
- c) Work Session. During the first calendar quarter of the year following an election, a work session shall be dedicated to Council Goal/Work Plan Setting. During this work session the initial list of potential Council goals and Work plan will be refined and amended to reflect the needs, and goals of the community. The goals shall reflect, but not be limited to, the goals established in the City’s Strategic Plan; Master Plans, community input, City staff, City committees and Council members. The Work plan shall include items of importance to the community.
- d) Adoption. Council Goals/Work Plan shall be adopted at a regular meeting of the Keizer City Council no later than the second regular session in April of the year following an election.
- e) Reporting. The City Manager shall provide a report of progress of Council Goals and Mayor shall provide a report of progress of Council Work Plan in the first quarter of the second year of the biennium. The Council may update and amend the Goals and Work Plan for the remainder of the biennium.

## **SECTION 21 – CITY COUNCIL TRAINING/AFFILIATION MEETINGS**

**21.1 Council Member Training** – All Council members are encouraged to attend at least one City affiliated training seminar/conference per calendar year. Such trainings might include:

- League of Oregon Cities Annual Conference
- League of Oregon Cities Elected Officials Training Sessions
- Mid-Willamette Valley Council of Governments New City Councilor Training
- Mid-Willamette Valley Council of Governments State Wide Planning Seminar
- State of Oregon Emergency Management

**21.2 Mayor’s Training** – In addition to the above expectation, the Mayor is expected to represent the City at the annual conferences of the Oregon Mayor’s Association.

**21.3 Reimbursement Allowance** – Within budget constraints, training costs directly connected with the above conferences or the Council members' City committees are reimburseable. Any reimbursement allowance must comply with City of Keizer Personnel Policies.

**21.4 Council Approval** – Any other Council member training or affiliation meetings that exceed a total cost of One Hundred Dollars (\$100.00), including the registration costs, require Council approval prior to registering for the event.

## ***SECTION 22 – MISCELLANEOUS***

**22.1 Amendments to Council Rules** - Amendments to these rules shall be made by resolution.

**22.2 Captions** - All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of these Council Rules of Procedures.

**Signature Page**

The foregoing Council Rules were adopted by the City Council on April 4, 2022 by Resolution R2022-3269. By signing below the Council members affirm they have read and received a copy of these rules.

**City Council:**

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Mayor

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Council President

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Councilor

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Councilor

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Councilor

---

Councilor

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Councilor



CITY COUNCIL MEETING: APRIL 17, 2023

To: Mayor Clark and City Council Members

FROM: Adam Brown, City Manager

SUBJECT: **SUPPORT FOR HB 3113**

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**PROPOSED MOTION:**

*I move to authorize the Mayor to sign a letter of support on behalf of the Keizer City Council for House Bill 3113 a bill with edits recommended by the League of Oregon Cities to extend it to local main streets that are not state highways.*

**I. SUMMARY:**

The League of Oregon Cities and other Cities across Oregon are requesting support for HB 3113, which would appropriate money from the General Fund to the Department of Transportation beginning July 1, 2023, for improving safety and increasing access to walking, biking, and transit on state highways that serve as community main streets.

**II. BACKGROUND:**

- A. Oregon Department of Transportation (ODOT) implemented the Great Streets program with \$50 million in flexible transportation funds in 2021. The purpose of the program is to improve walking, bicycling, and transit access on main streets and urban arterials through a number of different types of projects, including intersection improvements, bicycle facilities, sidewalks, corridor refinement and planning, street trees and furnishings, lighting, lane reductions and reconfigurations, and traffic calming and speed reduction features. The first phase of funding was a proof of concept for the program.

**III. CURRENT SITUATION:**

- A. Keizer does not have a state highway that serves as a community main street so this bill does not directly impact Keizer. The League of Oregon Cities supported this bill and asked for its benefits to be extended to local roads. Support from the Keizer City Council would merely be neighborly if only seeking to pass it under its current form. Under revisions suggested by ODOT some Keizer Streets may be eligible.

**IV. ANALYSIS:**

- A. **Strategic Impact** – No Strategic Impact.
- B. **Financial** – If the bill is expanded to cover non-state route main streets the City of Keizer could see potential funding for non-vehicular amenities for our roads.
- C. **Timing** – The bill is currently assigned to the Joint Committee on Transportation. A public hearing was held on April 7, 2023. If approved by the Joint Committee on Transportation the bill will be forward to the Ways and Means Committee.
- D. **Policy/legal** – Legislative agendas are the prerogative of the City.

**V. ALTERNATIVES:**

- A. Authorize the mayor to sign a letter of support for HB 3113. The City of Keizer will add its name to the communities across the state supporting this bill.
- B. Take No Action – Keizer’s position on the issue will not be a part of the decision-making process.

**VI. RECOMMENDATION:**

Staff recommends that the Council authorize the mayor to take a position of support for HB 3113 by signing a letter on behalf of the Keizer City Council with the additional request to include local non-state roads as suggested by the League of Oregon Cities.

**Attachment**

- HB 3113
- Draft Letter of Support for HB 3113

# House Bill 3113

Sponsored by Representative MCLAIN

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Appropriates moneys from General Fund to Department of Transportation, for biennium beginning July 1, 2023, for improving safety and increasing access to walking, biking and transit on state highways that serve as community main streets.

Declares emergency, effective July 1, 2023.

## A BILL FOR AN ACT

Relating to highway safety; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** In addition to and not in lieu of any other appropriation, there is appropriated to the Department of Transportation, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$\_\_\_\_\_, for improving safety and increasing access to walking, biking and transit on state highways that serve as community main streets.

**SECTION 2.** This 2023 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect July 1, 2023.

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

LC 3772



# City of Keizer

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Phone: (503) 390-3700 • Fax: (503) 393-9437  
930 Chemawa Rd. N.E. • P.O. Box 21000 • Keizer, OR 97307-1000

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Mayor Cathy Clark

Councilor Laura Reid

Councilor Kyle Juran

Councilor Robert Husseman

Council President Shaney Starr

Councilor Soraida Cross

Councilor Dan Kohler

Dear Co-Chairs Representative McLain and Senator Gorsek, Vice Co-Chairs Representative Boshart Davis and Senator Boquist and the Joint Committee on Transportation,

On behalf of the Keizer City Council we thank you for taking the time to consider this important piece of legislation. The Keizer City Council recognizes the importance of advancing investments in the Great Streets Program even though this will not directly benefit the City of Keizer. This program identifies and invests in safety projects to increase access to walking, biking, and transit. ODOT's focus will be on "main streets" in communities and the state highway corridors that run through communities.

The \$50 million that has been allocated to this program from the federal transportation funds in the Infrastructure Investment and Jobs Act (IIJA) is a great start and we support this investment. We are hopeful this program will see a long-term commitment to funding.

Keizer offers support for additional funding from the state to expand this program to non-state-owned facilities, effectively local roads. We believe as do our cities and partners, investments in transportation safety that improve access and create more opportunities for walking, biking, and transit will improve community livability. The addition of \$100 million into this program would be an incredible investment at the local level.

Transportation infrastructure remains a critical component of the Leagues advocacy. Part of this advocacy for this session is a focus on safety improvements, which will include an expansion of funding for the Great Streets program. We are hopeful you can support this bill and its potential expanded investment.

Thank you again for your consideration and we urge you to vote Yes on HB 3113 with the suggested amendments.

Sincerely,

Cathy Clark, Mayor  
Keizer, Oregon

**"Pride, Spirit and Volunteerism"**



CITY COUNCIL MEETING: APRIL 17, 2023

To: Mayor Clark and City Council Members

FROM: Adam Brown, City Manager

SUBJECT: **COUNCIL GOALS AND WORK PLAN**

**PROPOSED MOTION:**

*I move that the Keizer City Council adopt Resolution R2023-\_\_\_\_\_ Adoption of 2023 and 2024 City Council Goals/Work Plan.*

**I. SUMMARY:**

The adopted Council Rules require the City Council to approve goals by the end of April each two years. The City Council met in a work session on April 10, 2023 to create new long-term and short-term goals and a council work plan. Approval by resolution has been the past practice.

**II. BACKGROUND:** Section 20 of the Council Rules requires the City Council to set goals at a minimum of every two years to coincide with the mayoral terms of office. Section 20.1 a) reads:

a) Goal Setting/Work Plan Parameters. The Council shall set goals at a minimum of every two years to coincide with mayoral terms of office. The goals shall include Short-Term Goals that the Council plans on completing within the next 24 months and Long-Term Goals that the Council plans to work on during the next two years, but will take longer to complete than 24 months. In addition, the Council may also set a work plan for projects that Council has determined to be priorities for the short or long term.

**III. CURRENT SITUATION:**

A. The Council met on April 10, 2023 in a work session to review and revise council goals and work plan. Generally speaking the long-term and short-term goals are council priorities carried out by staff. The short-term goals are ones that can be completed in the two-year time frame. Long-term goals are one's council expects staff to work on in the two-year time frame but not necessarily complete. The Council work plan contains items that the council expects to lead.



## Annual Council Goals and Work Plan

April 17, 2023

## B. The Long-term goals are:

- Sidewalk Gap and Repair Program(s)
- Transportation System Plan Update  
Grant Cycle Funding
- UGB Evolution
- River Cherry Overlay District Redevelopment Incentives or Financing Opportunities
- CFEC Implementation [If it Stands]
- Website Overhaul (mobile friendly)

## C. The Short-term goals are:

- UGB Discussion of Next Steps  
Housing, Employment, Transportation, Considerations in Decision Making
- Procurement Simplification
- Citywide Camera System – Parks, City Exits, & Body Cameras
- Artificial Turf Project(s)
- Codification
- Implementation of Agenda Management System
- HRIS (Human Resource Information System)
- Development of Social Media Policy
- Adoption of Changes to the Emergency Operations Plan
- Adapt Community Center Policies and Practices to Run Optimally
- Integrate Strategic Plan into next Budget Process

## D. The Council Work Plan is as follows:

- Complete Strategic Planning Process
- Community Diversity Engagement
- Volunteer Committee Training (Onboarding and Top 25)
- Housing Disparity and Barriers to Home Ownership in Keizer
- 40<sup>th</sup> Birthday Party
- Hire City Attorney

IV. **ANALYSIS:**

- A. **Strategic Impact** – The Council strategic plan is in progress. The long-term goals, short-term goals, and Council work plan will be used until a formal strategic plan is adopted. After the strategic plan, the work plan and goals can be modified.
- B. **Financial** – It is expected that staff will direct resources towards the council priorities as established in the goal setting process and adopted each year.

## Annual Council Goals and Work Plan

April 17, 2023

- C. **Timing** – Subsection d) of Section 20 requires that the Council Goals/Work Plan be adopted at a regular meeting of the Keizer City Council no later than the second regular session in April of the year following an election.
- D. **Policy/legal** – Only the City Council has the authority to adopt its goals.

**V. ALTERNATIVES:**

- A. Approve Resolution No. 2023-\_\_\_\_\_ adopting the Council long-term and short-term goals as well as the Council work plan.
- B. Take No Action – The Council will not be adhering to its own council rules.

**VI. RECOMMENDATION:**

Staff recommends that the Council approve the long-term and short-term goals and Council work plan created on April 10, 2023.

**Attachment**

Resolution R2023-\_\_\_\_\_ Adoption of 2023 and 2024 City Council Goals/Work Plan

**CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON**

**Resolution R2023-\_\_\_\_**

**ADOPTION OF 2023 AND 2024 CITY COUNCIL  
GOALS/WORK PLAN**

**WHEREAS, over the last several years, the City Council Goals have grown to include programs and projects that are led by Council members;**

**WHEREAS, the Council desires to distinguish between Goals that are led by City staff and the Work Plan that are led by the Council members;**

**WHEREAS, the Council desires to adopt the Goals and Work Plan set forth below;**

**NOW, THEREFORE,**

**BE IT RESOLVED that the City Council of the City of Keizer does hereby adopt the following Council goals for calendar years 2023 and 2024:**

**SHORT TERM GOALS**

- **UGB Discussion of Next Steps**
  - **Housing**
  - **Employment**
  - **Transportation**
  - **Considerations in Decision Making**
- **Procurement Simplification**
- **Citywide Camera System – Parks, City Exits, and Body Cameras**
- **Artificial Turf Project(s)**
- **Codification**
- **Implementation of Agenda Management System**

- **HRIS (Human Resource Information System)**
- **Development of Social Media Policy**
- **Adoption of Changes to the Emergency Operations Plan**
- **Adapt Community Center Policies and Practices to Run Optimally**
- **Integrate Strategic Plan into Next Budget Process**

#### **LONG TERM GOALS**

- **Sidewalk Gap and Repair Program(s)**
- **Transportation System Plan Update**
  - **Grant Cycle Funding**
- **UGB Evolution**
- **River Cherry Overlay District Redevelopment Incentives or Financing Opportunities**
- **CFEC Implementation [If it Stands]**
- **Website Overhaul (mobile friendly)**

**BE IT FURTHER RESOLVED that the City Council of the City of Keizer does hereby adopt the following Work Plan for 2023-2024:**

- **Complete Strategic Planning Process**
- **Community Diversity Engagement**
- **Volunteer Committee Training (Onboarding and Top 25)**
- **Housing Disparity and Barriers to Home Ownership in Keizer**
- **40<sup>th</sup> Birthday Party**
- **Hire City Attorney**

**BE IT FURTHER RESOLVED that the Mayor shall appoint the lead Councilors for each Work Plan at a regular meeting;**

1           **BE IT FURTHER RESOLVED** that this Resolution shall take effect immediately  
2 **upon the date of its passage.**

3           **PASSED** this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

4  
5           **SIGNED** this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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9           \_\_\_\_\_  
10           **Mayor**

11  
12           \_\_\_\_\_  
13           **City Recorder**



CITY COUNCIL MEETING: APRIL 17, 2023

To: Mayor Clark and City Council Members

FROM: Adam Brown, City Manager

SUBJECT: **LAVA DOME EXPLORATION**

---

**PROPOSED MOTION:**

*I move that the Keizer City Council adopt Resolution R2023-\_\_\_\_ Authorizing City Manager and City Attorney to Work with The Lava Dome and For the Love of the Game to Prepare Letter of Intent.*

**I. SUMMARY:**

A registered 501c(3), The Lava Dome, is pursuing an agreement to improve Keizer Little League Park to be a year round all-weather facility. The first phase of the proposal is to enclose four fields at the park under a bubble. The second phase of the project is to replace the remaining fields with artificial turf to extend the season and hours of use.

**II. BACKGROUND:**

- A. The organizers of The Lava Dome began talks with city staff in the fall of 2022. The original vision was to make an enclosed field at either the Volcano's stadium or the Little League Complex.
- B. After additional research and conversation with donors, the vision expanded to try to cover multiple fields under one dome. Consequently, Volcano Stadium fell out of the list of eligible sites. Attention was directed toward the Keizer Little League Park, which is currently being operated and maintained by "For the Love of the Game." In addition to enclosing four fields, the ultimate goal is to have the entire complex replaced with artificial turf which greatly expands the season and hours of play on each field.
- C. Mickey Walker, CEO of the Salem/Keizer Volcano's has participated in every meeting between the organizers of The Lava Dome and the City of Keizer. As a representative of both Sports Enterprises Inc. and For the Love of the Game, Mr. Walker has expressed his support for doing what is best for Keizer.

- D. If the council directs staff to pursue a Letter of Intent with The Lava Dome, it will be important to have For the Love of the Game be part of that transition.

### III. **CURRENT SITUATION:**

- A. The Lava Dome became a legal entity in the State of Oregon in November of 2022. In December of 2022 they applied for and received 501c(3) non-profit status. The Lava Dome came to the Keizer City Council on April 3, 2023 to make an official presentation of concept. Staff needs direction on whether to pursue a mutually beneficial Letter of Intent with their organization and For the Love of the Game. The City Attorney recommends entering into a formal letter of Intent as an appropriate first step.
- B. Should the Council support having the City Manager and City Attorney move forward to come up with a Letter of Intent, it would be important for the Council to express some of the goals and considerations for the facility that should be part of a Letter of Intent.
- C. For example, some considerations might be to:
  - 1. Have local participation in the governing body of the nonprofit association
  - 2. Ensure affordable participation and use by local Keizer residents.
- D. Staff believes that a mutually beneficial agreement could be developed to improve access to recreation for Keizer youth. We would like permission to explore this opportunity.

### IV. **ANALYSIS:**

- A. **Strategic Impact** – The Council has included artificial turf projects as short-term priorities at their goal session meeting on April 10, 2023.
- B. **Financial** – The nonprofit organization, The Lava Dome, has not requested financial support for their organization. They have requested that we move forward to allow them to use Keizer Little League Park as the place to locate the lava dome. For the Love of the Game currently holds the management contract with the City for operation and maintenance of the little league park. Staff and For the Love of the Game are willing to work collaboratively with The Lava Dome to move towards a long-term agreement that improves the complex and provides a financially sustainable complex that offers a great facility that is still available to baseball and softball users at a practical cost.

- C. **Timing** – The Lava Dome is actively raising funds, with a target of \$10 million, to complete phase 1 of the project, which is to enclose four softball and baseball fields. A commitment from the council to work towards a long-term agreement will assist with their ability to secure funds for the project. The next phase of the project is to replace all the fields with artificial turf so that year-round play can be facilitated.
- D. **Policy/legal** – The Council should provide approval to staff to work towards a Letter of Intent and provide any direction as to items you wish to see in the Letter of Intent. Once staff comes to a Letter of Intent it will need to come back to the Keizer City Council for ultimate adoption.

**V. ALTERNATIVES:**

- A. Adopt the attached Resolution directing the City Manager and City Attorney to negotiate a mutually beneficial Letter of Intent for the improvement, operation, and management of what is known as the Keizer Little League Park with The Lava Dome and For the Love of the Game.
- B. Take No Action – Operations and Management of the sports complex will remain the same under the current agreement with For the Love of the Game.

**VI. RECOMMENDATION:**

The City Manager recommends that the Council adopt the attached Resolution and separately provide direction with regard to any issues Council would like addressed in the Letter of Intent.

**Attachment**

Resolution R2023-\_\_\_\_\_ Authorizing City Manager and City Attorney to Work with The Lava Dome and For the Love of the Game to Prepare Letter of Intent



## 1 CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

2  
3 Resolution R2023-\_\_\_\_\_  
45  
6 AUTHORIZING CITY MANAGER AND CITY ATTORNEY TO  
7 WORK WITH THE LAVA DOME AND FOR THE LOVE OF THE  
8 GAME TO PREPARE LETTER OF INTENT  
910  
11 WHEREAS, inclement weather reduces the time that youth and other participants  
12 can use community sports fields;13 WHEREAS, The Lava Dome has approached the City to inquire about  
14 constructing an all-weather dome over some of the fields at Keizer Little League Park;

15 WHEREAS, the concept as presented would not require City funds;

16 WHEREAS, City Council wishes to move forward to determine if the proposal  
17 meets the public interest and City's needs;

18 NOW, THEREFORE,

19 BE IT RESOLVED by the City Council of the City of Keizer that the City  
20 Manager and City Attorney are directed to work with The Lava Dome and For the Love  
21 of the Game in preparing a formal letter of Intent outlining the details of the construction  
22 and future management agreements.23 BE IT FURTHER RESOLVED that the City of Keizer is not legally bound until  
24 the City Council takes further action in writing.  
25  
26

1 BE IT FURTHER RESOLVED that this Resolution shall take effect immediately  
 2 upon the date of its passage.

3 PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

4

5 SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

6

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\_\_\_\_\_  
 Mayor

10

11

12

\_\_\_\_\_  
 City Recorder



CITY COUNCIL MEETING: APRIL 17, 2023

To: Mayor Clark and City Council Members

THRU: Adam J. Brown, City Manager

FROM: Machell DePina, Human Resources Director

SUBJECT: **CITY ATTORNEY RECRUITMENT**

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**PROPOSED MOTION:**

*"I move the City Council adopt Resolution R2023-\_\_\_\_\_ Authorizing City Manager to Initiate Request for Proposal Process to Hire Executive Recruiting Firm for Purpose of Recruiting a City Attorney."*

**I. SUMMARY:**

The City Council has expressed its intent to select and appoint a new City Attorney given the announced final retirement of current City Attorney E. Shannon Johnson effective February 28, 2024. Upon review of the opportunities and challenges of conducting the related recruitment in-house vs. utilization of an executive recruiting firm, the City recommends the latter and, upon City Council concurrence, is prepared to post a Request for Proposals (RFP) immediately to start the recruitment process.

**II. BACKGROUND:**

- A. On December 15, 2021, City Attorney Johnson provided his notice of intent to retire on January 31, 2022 and request to be rehired in Limited Duration capacity until February 28, 2024 via the Work After Retirement Policy which, based on the provisions of Oregon Senate Bill 1049, allows full-time re-employment to end no later than December 31, 2024.
- B. The City Council approved the retire/rehire request and Limited Duration Employment Contract via Resolution R2021-3241 on December 20, 2021. The contract commenced on February 1, 2022 and terminates on February 28, 2024.

- C. During the quarterly PPC meeting held on January 23, 2023, PPC members asked for recommendations to be provided on the pros and cons of using an executive recruiting firm and the amount of time for overlap for the new City Attorney with the departing City Attorney.

### III. CURRENT SITUATION:

- A. Upon review of the opportunities and challenges of conducting the related recruitment in-house vs. utilization of an executive recruiting firm, the City recommends the latter. Workload continues to be a concern within the Human Resources Department and while there are strategies to potentially provide some future support, they will not be in place in the timeframe needed to address the additional workload of the recruitment of the City Attorney for the Council at the same time as a recruitment for the Chief of Police for the City Manager. While there is still HR workload with an executive recruiting firm, the volume is lower and Council would have the benefit of a resource with recent direct experience.
- B. The attached Executive Recruiters Pros & Cons document has been developed for Council review. It represents general pros and cons and is not specific to the City Attorney recruitment. When reviewing the cons side of the document, it is the opinion of the HR Director that only the first one (cost) is of concern for this particular recruitment. The other items can be addressed by selection of a firm that is known for their professionalism in the areas listed.
- C. Upon City Council concurrence, the City is prepared to immediately post a Request for Proposals (RFP) to start the recruitment process and anticipates the Human Resources Director working directly with the selected executive recruiter on the development of the announcement as well as the proposed process and timelines for Council review and confirmation.
- D. Should the City Council determine not to use an executive recruiting firm, the City recommends the Human Resources Director will work with the Mayor to review/update the City Attorney Job Description (if needed), develop the draft announcement, and recommend the process and timelines for City Council review and approval.
- E. The recommended timeline developed by the City Manager includes a 5 week overlap between the new City Attorney and the departing City Attorney. Below is a tentative timeline which will be adjusted based on the Council's decision regarding using an executive recruiting firm or in-house resources.

Mid-April –May  
June – July

Acquiring Executive Recruiter  
Recruitment Preparation

August – Mid-Sept	Recruitment
Mid Sept – Oct	Interviews
Nov – Jan	Background & Notice to Employer
Mid Jan	New City Attorney to Start
February 28, 2024	Retirement of Current City Attorney

#### IV. **ANALYSIS:**

- A. **Strategic Impact** – Does not apply.
- B. **Financial** – The cost of utilizing an executive recruiting firm and related recruitment expenses is estimated at approximately \$25,000 - \$35,000. These costs will be paid with ARPA grant funds.
- C. **Timing** – If the Council wishes to move forward with selecting an executive recruiting firm, it is critical that approval be provided immediately to meet the proposed timeline above. If the Council wishes to accomplish the recruitment in-house, the preparation is anticipated to begin in June.
- D. **Policy/legal** – Council approval is required for this request given the position of City Attorney is supervised by the City Council and therefore the hiring process is also at the discretion of the City Council. Council approval is also required based on the anticipated amount of the expenditure.

#### V. **ALTERNATIVES:**

- A. The Council may choose not to utilize an executive recruiting firm and request the City Attorney recruitment be handled in-house.
- B. The Council may choose to not fill the City Attorney position and instead contract out for legal services.

#### VI. **RECOMMENDATION:**

Staff recommends that the City Council approve Resolution R2023-\_\_\_\_\_ Authorizing City Manager to Initiate Request for Proposal Process to Hire Executive Recruiting Firm for Purpose of Recruiting a City Attorney.

#### **ATTACHMENTS:**

- Executive Recruiters Pros & Cons document
- Resolution R2023-\_\_\_ Authorizing City Manager to Initiate Request for Proposal Process to Hire Executive Recruiting Firm for Purpose of Recruiting a City Attorney

## EXECUTIVE RECRUITERS

### PROS

### CONS

Potential for less in-house workload given initial contact with applicants, interviews/screening and background checks are completed by the executive firm.	High Cost: 25 – 35% of the candidate's 1 <sup>st</sup> year's annual salary.
Candidate guarantee – usually for a period of 90 to 120 days following a new hire but sometimes up to a full year. If the candidate doesn't work out for reasons other than company-wide layoff, the recruiter refunds the fee or re-fills the position for free.	Potential that candidate loyalty to a recruiter will mean losing them a short time down the road. Most contracts require no pulling for another opportunity for a least one year.
Objective, feedback from an external professional on your plans, materials, expectations, processes.	Some recruiters have bad reputations with candidates due to poor communication. Candidates may not apply if they've had negative past experience with the selected firm.
If the firm specialized in the type of position being sought and/or has a positive track record, they likely also have an existing candidate pool.	The recruiter may screen for more narrow or traditionally accepted background, experience and/or education than the preference of the employer.
Good firms include passive recruiting (connecting with those who are not looking) which would be an additional and more difficult workload in-house.	The additional time and effort to develop and run an RFP to hopefully find a great firm.
Potentially better insight on the current job market and strategies for closing the deal on the top candidate.	Potential the recruiter places a candidate in interviews for several organizations, meaning potential additional competition.

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2023-\_\_\_\_\_

AUTHORIZING CITY MANAGER TO INITIATE  
REQUEST FOR PROPOSAL PROCESS TO HIRE  
EXECUTIVE RECRUITING FIRM FOR PURPOSE OF  
RECRUITING A CITY ATTORNEY

WHEREAS, City Attorney submitted his notice of intent to retire and request for  
rehire in Limited Duration capacity until February 28, 2024;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that the City  
Manager, with the assistance of City staff, shall move forward immediately to issue a  
Request for Proposal to hire an executive recruiting firm for the purpose of recruiting a  
City Attorney.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately  
upon the date of its passage.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Recorder



CITY COUNCIL MEETING: APRIL 17, 2023

To: Mayor Clark and City Council Members

FROM: Adam Brown, City Manager

SUBJECT: **STATE CAPITAL FUNDING REQUESTS**

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**PROPOSED MOTION:**

*I move to authorize the City Manager to submit a capital funding request on behalf of Sports Enterprises Inc. for artificial turf and LED upgrades to Volcano's Stadium.*

**I. SUMMARY:**

Sports Enterprises Inc., known commonly as the Volcanos submitted a capital funding request to Senator Kim Thatcher's office. The request will more than likely not be considered unless it comes from a public agency. The council is being asked to consider submitting the project for funding as the property owner.

**II. BACKGROUND:**

- A. The Volcanos, doing business as Sports Enterprises Inc., submitted a capital funding request to Senator Kim Thatcher. Senator Thatcher communicated to Sports Enterprises that it is unlikely that the legislature would be funding private projects. As the property owner, however, the City could make the funding request and it would have a greater potential for funding.
- B. The Eugene Emeralds received approval from a similar funding request from the legislature to build a multi-use facility in Lane County.
- C. The Council considered this request with the City's own capital funding request for the artificial turf Sports Fields at Keizer Rapids Park. Subsequently after speaking with Senator Thatcher's office, we learned that they would like to not have duplicate requests. With Representative Mannix's office already submitting the Keizer Rapids Park Sport Fields, Senator Thatcher would like to have a unique request.



**III. CURRENT SITUATION:**

- A. The City was asked to make application on behalf of Sports Enterprises Inc. The upgrades include two components. The first is to replace the natural grass with artificial turf and the second is to replace the 25-year old outdated field lighting system with energy saving LED field lights.
- B. The potential for Energy Trust of Oregon to assist with the lighting has been reviewed. Sports Enterprises, Inc. can only get approximately \$20,000 from Energy Trust of Oregon which is a very small percentage of the project.

**IV. ANALYSIS:**

- A. **Strategic Impact** – No Strategic Impact.
- B. **Financial** - The total project cost is \$1,950,000. Sports Enterprises, Inc. are requesting funding from the state for \$850,000, which is 44% of the total project cost. There is a financial benefit to the city if the project improves parking and gate revenues since our rent from the lease is based on those two factors.
- C. **Timing** – Submissions must be made to Senator Thatcher’s office by April 18, 2023. This is the last opportunity the council will have to support the project funding request. If funding is received, they would like to begin the project in November or December of 2023.
- D. **Policy/legal** – City Council support is needed to support this request to be submitted to Senator Thatcher.

**V. ALTERNATIVES:**

- A. Authorize the City to apply on behalf of Sports Enterprises, Inc. for improvement to the Volcanos stadium only.
- B. Take No Action – The chance of receiving funding through the capital funding request will be low for Sports Enterprises, Inc. project without the city’s support.

**VI. RECOMMENDATION:**

Staff recommends that the City Council submit a capital funding request for the Volcano’s stadium improvement project.



## MINUTES

### KEIZER CITY COUNCIL/SALEM CITY COUNCIL/MARION COUNTY

#### COMMISSIONERS

Thursday, March 16, 2023

Marion Courthouse Square

Marion County Commissioners Conference Room

Salem, Oregon

<b>CALL TO ORDER</b>	<p>Marion County Commissioner Kevin Cameron called the meeting to order at 9:06 a.m. In attendance were the following:</p> <p>Keizer Mayor Cathy Clark          Keizer City Council President Shaney Starr          Keizer City Councilor Daniel Kohler          Keizer City Councilor Soraida Cross          Keizer City Councilor Kyle Juran          Marion County Commissioner Kevin Cameron          Marion County Commissioner Colm Willis          Salem Mayor Chris Hoy          Salem City Councilor Virginia Stapleton          Salem City Councilor Deanna Gwyn          Salem City Councilor Jose Gonzalez          Salem City Councilor Julie Hoy          Salem City Manager Keith Stahley          Salem Police Chief Trevor Womack          Marion County Sherriff Joe Kast          Marion County Administrator Jan Fritz          Keizer City Recorder Tracy Davis</p>
<b>UPDATES AND DISCUSSION</b>	<p>Salem Mayor Chris Hoy provided updates on increased security at the downtown Salem parking garages, formation of an area safety committee in conjunction with Chemeketa Community College, opening of Yaquina Hall and Mahonia Crossing, and the upcoming availability of commercial flights at the Salem Municipal Airport. Mayor Hoy extended an invitation to the May 16<sup>th</sup> Homeless Alliance conference at the Salem Convention Center.</p>

	<p>Keizer Mayor Cathy Clark highlighted several points from the recent State of the City address including impending Keizer department head retirements, continuation of planning work in regard to HB 2001, and the need to provide additional transitional housing in Keizer. Mayor Clark commended Marion County for the additional beds coming on line soon at the Marion County Jail. Marion County Commissioner Willis explained these additional beds will only have a small effect on the current issues we are experiencing. The group held a long discussion on the mental health issues and the lack of cooperation with the Oregon State Hospital/Oregon Health Authority. Ideas were exchanged, and several suggestions were made to focus efforts on this regional issue. Commissioner Willis volunteered to draft a letter of support from Marion County, Salem, and Keizer focusing on the challenges being experienced in our region. In addition, efforts will be made to offer educational opportunities for members of the state legislature highlighting the needs to address this in a unified manner.</p> <p>Marion County Commissioner Cameron provided an update on the sewer system upgrades for Mill City and Gates which should be online in 2026-2027 and recent progress on unification of the radio system within the County.</p>
<b>ADJOURN</b>	<p>Marion County Commissioner Cameron announced the next meeting will be held on May 18, 2023 at 8:00 a.m. at Marion Courthouse Square.</p> <p>The meeting was adjourned at 9:20 a.m.</p>
	<p>Respectfully submitted,</p> <p>Tracy Davis, MMC Keizer City Recorder</p>



**MINUTES**  
**KEIZER CITY COUNCIL**  
**Monday, April 3, 2023**  
**Keizer Civic Center, Council Chambers**  
**Keizer, Oregon**

**CALL TO ORDER**

Mayor Clark called the meeting to order at 7:00 pm. Roll call was taken as follows:

**Present:**

Cathy Clark, Mayor  
Laura Reid, Councilor  
Shaney Starr, Councilor  
Kyle Juran, Councilor  
Daniel Kohler, Councilor  
Youth Councilor Angelica  
Sarmiento Avendano

**Staff:**

Adam Brown, City Manager  
Tim Wood, Assistant City Manager  
Shannon Johnson, City Attorney  
Bill Lawyer, Public Works Director  
Andrew Copeland, Police  
Tracy Davis, City Recorder

**Absent:**

Soraida Cross, Councilor  
Robert Husseman, Councilor

**FLAG SALUTE**

Mayor Clark led the pledge of allegiance.

**SPECIAL ORDERS OF BUSINESS**

**a. PROCLAMATION**

Mayor Clark read the proclamation.

**– Volunteer  
Recognition  
Month**

*Daisy Hickman*, on behalf of the Volunteer Coordinating Committee, thanked Council for their dedication and ongoing volunteer efforts benefiting the City of Keizer and distributed cookies as a token of appreciation.

**b. PROCLAMATION**

Mayor Clark read the proclamation.

**– National Child  
Abuse  
Prevention  
Month**

*Tanya Hamilton*, Family Building Blocks, *Vanessa Nordyke*, CASA Marion County, and *Kyle Tarr*, Liberty House, each shared information about child abuse, neglect and prevention and collaborating to identify and prevent child abuse, and urged everyone to visit [ParentsfortheFuture.org](https://www.parentsfortheFuture.org) to learn more.

City Manager Adam Brown introduced Jamie Hogland and Paige Zizzi from the Lava Dome Sports Complex.

**c. The Lava Dome  
Presentation**

Ms. Hogland and Ms. Zizzi introduced other members of the Lava Dome project and explained that they have partnered with the Walker family to create an element-proof regional field for softball and baseball. They explained that the Lava Dome is a 501C3 that will provide scholarship

and sponsorship opportunities for all so that no one is ever turned away and that they have taken steps to become good partners with Keizer. They shared information about the Board and Youth Board, showed their concept of the dome which would cover four fields and be available for all kinds of ball, and explained that they will be raising \$10 million for Phase 1 and that this would allow the Keizer Little League fields to become ADA compliant, provide opportunities for vendors and create a hub for families. Phase 2 would turf and upgrade the remaining outdoor fields. The hope is to break ground in August with completion by March.

Mickey Walker, current manager of the fields, voiced enthusiastic support for this project and asked that the current contract for the fields be amended to include these large capital improvements.

Ms. Hogland and Ms. Zizzi then fielded questions regarding various aspects of the structure, susceptibility to vandalism, fundraising and grants.

## **COMMITTEE REPORTS**

### **a. Keizer Cultural Center**

*Lore Christopher*, Keizer, shared information about accomplishments of the Keizer Cultural Center noting that it is the only cultural center in the United States that includes four non-profit entities. She brought attention to the information in the Center's annual report, highlighted various events held at the Center, thanked Robert Johnson with the City for his assistance in grounds maintenance and suggested that the City take over the maintenance of the Center's grounds for economic and aesthetic reasons.

*Kat Thoreson* reported that the Keizer Public Arts Commission had approved works by Joel Nickel for the next gallery display and chosen Christina Patterson's Quilt submission for the 2023 Holiday Card. The Commission also approved expenditure of funds for the roundabout art, discussed utility box painting and received a compilation of art displayed in the gallery in the past fiscal year for possible purchase.

*Tammy Saldivar* reported that Traffic Safety-Bikeways-Pedestrian Committee has been working on updating the Neighborhood Traffic Management Plan and Committee Purpose and had discussed responses to the Safety Action Plan survey, the possibility of having driver/cyclist classes and the Bike Skills Fair scheduled for June 10. Ms. Saldivar then asked Council to keep the committee informed regarding the Lava Dome project as it will undoubtedly cause an increase in pedestrian and vehicle traffic and the committee wants to make sure everyone remains safe.

## **PUBLIC COMMENTS**

Mayor Clark acknowledged for the record written comments received from Marlene Parsons, Claire Juran, Kim Freeman, Colleen Busch, Betty Hart, Corrie Falardeau and Angelica Sarmiento Avendano, regarding naming the cow sculpture, and Kathy Lincoln regarding House Bill 3458.

**PUBLIC HEARING**

None

**ADMINISTRATIVE ACTION****a. Verda and Chemawa Public Art**

City Manager Adam Brown summarized his staff report. Mayor Clark provided additional information.

Councilor Starr moved that the Keizer City Council name the public art of whimsical dancing cows located in the traffic circle at the crossroads of Verda and Chemawa as 'Rosalie's Cows' and that the City Council direct staff to bring back amendments to either Ordinance 2020-813 or Resolution No. R2020-3060 clarifying naming responsibilities for future artwork. Councilor Reid seconded. Motion passed as follows:

AYES: Clark, Reid, Kohler, Starr and Juran (5)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Hussman and Cross (2)

**b. State Capitol Funding Requests**

Mr. Brown summarized his staff report and fielded questions regarding the impact of asking for funding for both projects and alternative funding opportunities. Mr. Walker fielded questions regarding possible increased income to the City.

Councilor Starr moved that the Keizer City Council authorize the City to apply for Capital Project Funding for the Keizer Rapids Park artificial turf sport fields project only. Councilor Reid seconded.

Mayor Clark noted that she was in favor of supporting both projects. Mr. Brown explained that the request made by Sports Enterprises, Inc. would be stronger if supported by a public agency. Councilor Kohler noted that he felt it inappropriate for the City to endorse a grant request from a private enterprise. Councilor Starr expressed opposition to including the Sports Enterprise project in the request.

Motion passed as follows:

AYES: Reid, Kohler, Starr and Juran (4)

NAYS: Clark (1)

ABSTENTIONS: None (0)

ABSENT: Hussman and Cross (2)

**c. Support for HB 3458**

Mr. Brown summarized his staff report noting that the League of Oregon Cities supports the bill and staff is recommending support. Mayor Clark referred to a letter from Kathy Lincoln opposing the bill and provided additional information regarding the bill. City Attorney Shannon Johnson explained that this bill made sense from the City staff point of view.

Councilor Starr moved that the Keizer City Council authorize the Mayor to sign a letter of support on behalf of the Keizer City Council for House Bill 3458, a bill limiting post-review appeals through the Land Use Board of Appeals. Councilor Reid seconded. Motion passed as follows:

AYES: Clark, Reid, Kohler, Starr and Juran (5)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Hussman and Cross (2)

Mr. Brown noted that the Greater Northeast Keizer Neighborhood Association had indicated that they also supported this Bill.

## CONSENT CALENDAR

- a. RESOLUTION – Authorizing City Manager to Enter Into Right-of-Way Landscape and Vegetated Stormwater Facility Maintenance Services Contract with GT Landscape Solutions
- b. RESOLUTION – Authorizing City Manager to Sign Amendment Number 01 to Agreement with State of Oregon for Verda Lane: Dearborn Avenue to Salem Parkway Project
- c. RESOLUTION – Authorizing the City Manager to Sign Thomson Reuters Clear Order Form
- d. RESOLUTION – Authorizing the City Manager to Award and Enter Into a Contract with R&G Excavating, Inc. for Meadows Well Filtration Project
- e. RESOLUTION – Authorizing the City Attorney to Sign Agreements in the National Opiate Litigation Settlement (Teva, Allergan, CVS, Walgreens, and Walmart)
- f. RESOLUTION – Authorizing the City Manager to Sign Public Body Work Order Contract with DePaul Industries, Inc. for Temporary Staffing Services
- g. Approval of March 20, 2023 Regular Session Minutes
- h. Approval of March 27, 2023 Work Session Minutes

Councilor Starr moved for approval of the Consent Calendar. Councilor Reid seconded. Motion passed as follows:

AYES: Clark, Reid, Kohler, Starr and Juran (5)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Husseman and Cross (2)

## OTHER BUSINESS None

## STAFF UPDATES

### a. Keizer Rapids Park All Weather Field Project Update

Mr. Brown shared a slide presentation on the turf fields in Keizer Rapids Park showing the current design, financials, project delivery and timeline. Public Works Director Bill Lawyer added that the parking lot and bathroom part includes a storage building and the new building is where the septic system is for the house so it works well for the house to be hooked up to the sanitary sewer system.

Mr. Brown noted that the Walkers are interested in scheduling and maintaining the fields but it could be done in-house with additional staffing. The field construction could begin in the summer but a better price would be likely in the fall. Discussion followed regarding volunteers

participating in the project and donated materials.

Finance Director Tim Wood reported that the Budget document would likely be available the last week in April.

Lt. Copeland announced that Ryan Russell was the new Keizer Fire Chief and thanked Councilor Starr for attending the Citizen Academy which will conclude with a tour of the Jail and Dispatch. He noted that there will be an all-city Neighborhood Watch meeting on May 4 which will include information for every neighborhood.

## **COUNCIL MEMBER REPORTS**

Councilor Starr congratulated Chief Russell, praised the Rotary fundraising dinner and congratulated them on raising \$40,000.

Councilor Kohler shared information about the Community Dinner and the progress in planning Keizer's 40<sup>th</sup> Birthday party.

Councilor Reid praised the Keizer Rotary dinner, announced the first Heritage Foundation financial policy meeting and upcoming McNary Track meets and invited anyone interested to attend the Community Diversity Engagement Committee meeting.

Youth Councilor Angelica Sarmiento reported that several German Exchange Students are attending McNary for two weeks and announced that district festivals for band, choir and orchestra are coming up and Prom is this Saturday.

Mayor Clark reported on work being done with the Homeless Alliance, announced the opening of Yaquina Hall, urged everyone to complete the Safety Action Plan survey, and announced upcoming meetings and events.

Mayor Clark then thanked Councilor Reid for having her students submit videos for the "If I Were Mayor" contest. There were 22 submissions. She congratulated the various winners and noted that the top three winners would be invited to the April 17 Council meeting. The team of Elijah Guernica Romero, Victor Ceja and Caesar Rodriguez will be advanced to the State competition.

## **AGENDA INPUT**

April 10, 2023 – 6:00 p.m. - City Council Work Session

- City Council 2023-2024 Goal Setting

April 17, 2023 – 7:00 p.m. - City Council Regular Session

May 1, 2023 – 7:00 p.m. - City Council Regular Session

## **ADJOURNMENT**

Mayor Clark adjourned the meeting at 9:15 p.m.

MAYOR:

APPROVED:

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Cathy Clark

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Debbie Lockhart, Deputy City Recorder



## COUNCIL MEMBERS

~ Absent ~

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Councilor #1 – Laura Reid

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Councilor #4 – Soraida Cross

~ Absent ~

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Councilor #2 – Shaney Starr

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Councilor #5 – Robert Husseman

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Councilor #3 – Kyle Juran

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Councilor #6 – Daniel R. Kohler

Minutes approved: \_\_\_\_\_