



CITY COUNCIL AGENDA
May 11, 2015, 6:30PM
Regular Meeting
 CITY COUNCIL CHAMBERS, CITY HALL
 29592 ELLENSBURG AVE
 GOLD BEACH OR 97444

Call to order: _____ **Time:** _____

1. The pledge of allegiance

2. Roll Call:

	Present	Absent
Mayor Karl Popoff		
Council Position #1 Melinda McVey STARTING VOTE		
Council Position #2 Larry Brennan		
Council Position #3 Becky Campbell		
Council Position #4 Doug Brand		
Council Position #5 Tamie Kaufman		
City Administrator Jodi Fritts		
Student Liaison VACANT		

3. Special Orders of Business:
None Scheduled

4. Consent Calendar:
None Scheduled

5. Citizens Comments
As presented to the Mayor at the beginning of the meeting

6. Public Hearing

- a. J & S Speedy Mart Liquor License Request
- b. CTR COLA request
- c. *NOTE: THE CITY COUNCIL WILL ADJOURN AND CONVENE AS THE GOLD BEACH URBAN RENEWAL AGENCY AFTER DISPENSING URA BUSINESS THE COUNCIL WILL RECONVENE*
Minor Amendment to URD boundary

7. Citizen Requested Agenda Items
None scheduled

8. Public Contracts and Purchasing

- a. Review of bids for Dangerous Building removal

The City of Gold Beach is dedicated to enhancing quality of life, while promoting health, safety, and welfare of our citizens, businesses, and visitors in the most fiscally responsible manner. In doing this, the City will respect the past, respond to current concerns, and plan for the future, while maintaining environmental sensitivity in our beach oriented community

- 9. Ordinances & Resolutions**
 - a. Resolution R1415-17 CTR COLA
 - b. Second Reading Ordinance No. 654 Bee Amendment
 - c. Resolution R1415-16 Awarding Contract for Dangerous Building abatement

- 10. Miscellaneous Items (including policy discussions and determinations)**
 - a. REVISIT: Plastic Bag Ban for School \$\$
 - b. Staff request to review drug use policy RE: recreational marijuana
 - c. Graffiti info from other cities

- 11. City Administrator's Report**

To be presented at the meeting

- 12. Mayor and Council Member Comments**
 - a. Mayor Karl Popoff
 - b. Councilors
 - 1) Melinda McVey
 - 2) Larry Brennan
 - 3) Becky Campbell
 - 4) Doug Brand
 - 5) Tamie Kaufman
 - c. Student Liaison, Vacant

- 13. Citizens Comments**

As presented to the Mayor at the beginning of the meeting

- 14. Executive Session**

None scheduled

The next scheduled meeting of the Gold Beach City Council is **Monday, June 8, 2015, at 6:30PM** in the Council Chambers of City Hall, 29592 Ellensburg Avenue, Gold Beach, Oregon.

15. Adjourn Time: _____

The location of the hearing/meeting is accessible to the disabled. Advance notice is requested if special accommodations are needed. Call 541-247-7029 so that appropriate assistance can be provided. The City of Gold Beach is an affirmative action EEOE and complies with section 504 of the rehab act of 1973. Complaints of discrimination should be sent to: USDA, Attention Director, Office of Civil Rights, Washington, D.C. 20250-9419

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PUBLIC HEARING

**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



Agenda Item No. **6 a.**
Council Hearing Date: May 11, 2015

TITLE: J & S Speedy Mart Liquor License request

SUMMARY AND BACKGROUND:

Oregon Liquor Control Commission (OLCC) requires each jurisdiction to make a recommendation regarding requests for licenses to serve alcohol prior to issuance of a liquor license by OLCC. Initial license requests require Council review. Staff was recently visited by a OLCC staff member and they shared information regarding local regulation which I have attached to this report.

J & S Speedy Mart is proposing to take over ownership of the Gray Whales state liquor store and is requesting initial approval for their Change of Ownership and Off-Premises Sales of alcohol. The business is located at 29830 Ellensburg Avenue.

At the time of this report staff makes the recommendation that the Council recommend that the OLCC grant approval of the license request.

FINANCIAL IMPACT:

None

DOCUMENTS ATTACHED:

- OLCC information: Reasons OLCC Can Deny or Restrict A License
- A copy of the OLCC permit request

REQUESTED MOTION/ACTION:

Recommendation to OLCC to GRANT/DENY the license request

Suggested Motion:

I make the motion that the Council recommends to OLCC that the request for a Change of Ownership and Off-Premise Alcohol sales requested by J & S Speedy Mart be GRANTED/DENIED.

COPY OF REPORT AND ATTACHMENTS SENT TO:

Council and PD

**REASONS WE CAN
DENY OR RESTRICT A LICENSE
ORS 471.313 (4)(5) OAR 845-005-0355**

The following is a list of problems relating to the **APPLICANT** or **BUSINESS** that OLCC can consider to refuse or restrict a license:

- Applicant has a habit of using alcohol or drugs to excess
- Applicant makes a false statement to OLCC (must be related to a refusal basis)
- Applicant has been convicted of local, state or federal laws that are substantially related to the fitness of holding a liquor license
- Applicant has demonstrated poor moral character
- Applicant has a poor record of compliance when previously licensed by OLCC
- If the business or applicant has a history of serious and persistent problems and we believe similar activities will occur at this location. The problems can include:
 - ✓ obtrusive or excessive noise, music or sound vibrations
 - ✓ public drunkenness
 - ✓ fights or altercations
 - ✓ harassment
 - ✓ unlawful drug sales
 - ✓ alcohol or related litter

OLCC is not able to consider the following issues when deciding to issue a liquor license:

- Lack of parking
- Increase in traffic
- Too many licenses in a specific area (saturation)
- Entertainment type - nude dancing, gambling, live bands, etc.
- Increased noise
- Zoning issues



OREGON LIQUOR CONTROL COMMISSION LIQUOR LICENSE APPLICATION

Application is being made for:

LICENSE TYPES

- Full On-Premises Sales (\$402.60/yr)
 - Commercial Establishment
 - Caterer
 - Passenger Carrier
 - Other Public Location
 - Private Club
- Limited On-Premises Sales (\$202.60/yr)
- Off-Premises Sales (\$100/yr)
 - with Fuel Pumps
- Brewery Public House (\$252.60)
- Winery (\$250/yr)
- Other: _____

ACTIONS

- Change Ownership
- New Outlet
- Greater Privilege
- Additional Privilege
- Other _____

90-DAY AUTHORITY

Check here if you are applying for a change of ownership at a business that has a current liquor license, or if you are applying for an Off-Premises Sales license and are requesting a 90-Day Temporary Authority

APPLYING AS:

- Limited Partnership
- Corporation
- Limited Liability Company
- Individuals

CITY AND COUNTY USE ONLY

Date application received: _____

The City Council or County Commission:

(name of city or county)

recommends that this license be:

- Granted
- Denied

By: _____
(signature) (date)

Name: _____

Title: _____

OLCC USE ONLY

Application Rec'd by: AK

Date: 4/27/15

90-day authority: Yes No

1. Entity or Individuals applying for the license: [See SECTION 1 of the Guide]

- J & S Speedy Mart Inc
- _____

2. Trade Name (dba): Speedy Mart

3. Business Location: 29830 Ellenburg Ave Gold Beach, Coos, OR 97444
(number, street, rural route) (city) (county) (state) (ZIP code)

4. Business Mailing Address: [Redacted] Obrien OR 97634
(PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: (541) 247-7514
(phone) (fax)

6. Is the business at this location currently licensed by OLCC? Yes No

7. If yes to whom: Marjorie Prazier Type of License: off premises/liquor

8. Former Business Name: Hallmark store Gray Whales Hallmark liquor store

9. Will you have a manager? Yes No Name: _____
(manager must fill out an Individual History form)

10. What is the local governing body where your business is located? Gold Beach
(name of city or county)

11. Contact person for this application: Jimmy Su [Redacted]
(name) (phone number(s))
[Redacted] Redwood Hwy [Redacted] [Redacted]
(address) (fax number) (e-mail address)

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant(s) Signature(s) and Date:

- [Signature] Date 3/26/15
- _____ Date _____
- _____ Date _____



OREGON LIQUOR CONTROL COMMISSION
BUSINESS INFORMATION

Please Print or Type

Applicant Name: J & S Speedy Mart Inc Phone: [REDACTED]

Trade Name (dba): Speedy Mart

Business Location Address: 29830 Ellenburg Ave

City: Gold Beach ZIP Code: 97444

DAYS AND HOURS OF OPERATION

Business Hours:

Sunday to
Monday 10 to 6
Tuesday 10 to 6
Wednesday 10 to 6
Thursday 10 to 6
Friday 10 to 6
Saturday 10 to 6

Outdoor Area Hours:

Sunday to
Monday to
Tuesday to
Wednesday to
Thursday to
Friday to
Saturday to

The outdoor area is used for:

- Food service
Alcohol service
Enclosed, how

The exterior area is adequately viewed and/or supervised by Service Permittees.

(Investigator's Initials)

Seasonal Variations: Yes No If yes, explain:

ENTERTAINMENT

Check all that apply:

- Live Music
Recorded Music
DJ Music
Dancing
Nude Entertainers
Karaoke
Coin-operated Games
Video Lottery Machines
Social Gaming
Pool Tables
Other:

DAYS & HOURS OF LIVE OR DJ MUSIC

Sunday to
Monday to
Tuesday to
Wednesday to
Thursday to
Friday to
Saturday to

SEATING COUNT

Restaurant: Outdoor:
Lounge: Other (explain):
Banquet: Total Seating:

OLCC USE ONLY
Investigator Verified Seating: (Y) (N)
Investigator Initials:
Date:

I understand if my answers are not true and complete, the OLCC may deny my license application.

Applicant Signature: [Signature] Date: 3/26/15

GOLD BEACH CITY COUNCIL AGENDA REPORT



Agenda Item No. 6 b. & 9 a.
Council Hearing Date: May 11, 2015

TITLE: Public Hearing Curry Transfer & Recycling CPI adjustment request

SUMMARY AND BACKGROUND:

The City and Curry Transfer and Recycling (CTR) entered into a franchise agreement on March 24, 1997, enacted by Ordinance No. 533. The franchise agreement provides for annual Cost of Living Adjustments (COLA) subject to written request by CTR.

C. COST OF LIVING ADJUSTMENT (COLA). In addition to the rate adjustments described above, the portion of the rates for recycling, collection, transportation and disposal represented by specific dollar amounts listed on the rate sheets (Exhibit "A") shall be further adjusted upon written request of the Franchisee if Franchisee can demonstrate by a preponderance of the evidence, an increase in the CPI over the preceding calendar year. The adjustment shall be based upon the change in the CPI from December 31 of the current year, compared to the CPI as of December 31 of the prior year. The rates shall be subject to adjustment on or about the 1st day of April of each year thereafter (the "adjustment date") as follows:

1. The base for computing the adjustment is the CPI (U) National published by the United States Department of Labor, Bureau of Labor Statistics ("Index"), which is published for the month nearest the date of the commencement of the term of this Ordinance ("Beginning Index"). If the index published for the most recent month prior to the rate application ("Extension Index") has increased over the Beginning Index, the rates for the following year (until the next adjustment) shall be set by multiplying the rates by a fraction, the numerator which is the Extension Index and the denominator of which is the Beginning Index. After request for adjustment as provided herein, the parties shall act with all diligence to adjust the rates as set forth hereunder. For subsequent adjustments, the Beginning Index shall be the Extension used for the last previous cost of living adjustment.

2. If the CPI is changed so that the base year differs from that used as of the month immediately preceding the month in which the term commences, the CPI shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the CPI is discontinued or revised during the term, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the CPI had not been discontinued or revised.

3. The COLA adjustment provided for herein shall not be granted to Franchisee in any rate hearing where Franchisee is requesting a rate adjustment pursuant to Section 7 A 3 of this Agreement. Following a rate hearing in which Franchisee is granted an adjustment pursuant to Section 7 (A) (3), the Beginning Index shall be the Index published nearest that date on which the Section 7 (A) (3) adjustment was granted.

D. RATE DISPUTES. If the City rejects a rate adjustment requested by the Franchisee, grants an increase less than what was requested by Franchisee, or fails to act timely upon all or any part of the Franchisee's rate adjustment application, then the Franchisee may request binding arbitration of the matter as provided in Section 15 of this Ordinance.

CTR has submitted a written request with supporting documentation and is requesting a rate adjustment of 1.13%. The CPI for the 2014 was 1.50% according to CTR's documentation.

During the public hearing portion of the meeting testimony will be taken on the CTR request for a CPI adjustment. In the Ordinances & Resolutions section of the meeting a resolution has been prepared for review and possible adoption.

FINANCIAL IMPACT:

If approved, this will adjust the rates within the city limits by 1.13% (\$0.24 per month for basic service)

DOCUMENTS ATTACHED:

Request and documentation from CTR

REQUESTED MOTION/ACTION:

In the Ordinances & Resolutions section of the meeting a resolution has been prepared for adoption

Suggested motion:

I make the motion to adopt Resolution R1415-17, a resolution approving Curry Transfer and Recycling (CTR) rate adjustment and repealing Resolution R1314-14 and any other resolutions that may be in conflict.

COPY OF REPORT AND ATTACHMENTS SENT TO:

Council, Pete Smart-CTR

Curry Transfer & Recycling

PO Box 4008 Brookings, OR 97415

Phone: (541) 469-2425

Fax: (541) 469-1048

April 14, 2015

City of Gold Beach
29592 Ellensburg Ave.
Gold Beach, OR 97444

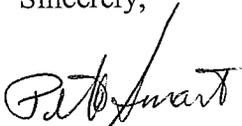
Dear City Council:

RE: CPI Adjustment 2015

Please find enclosed proof of the CPI adjustment for year **2014**, based on the National U.S. City Average index, which is calculated at **1.50%**.

Although the CPI is **1.50 %** the rate schedule enclosed reflects **1.13% (75%** of the year **2014** CPI inflation). This will result in a **\$0.24** per month adjustment for a basic 32 gallon cart service. Please use this notice and the other information enclosed to consider a rate adjustment effective **July 1, 2015**.

Sincerely,



Pete Smart

Enclosure: **2015** rate schedule
2014 rate schedule (for comparison)
2014 CPI Adjustment- Department of Labor

Current

**EXHIBIT A
EFFECTIVE JULY 1, 2014
RATE SCHEDULE- CITY OF GOLD BEACH**

\$21.63	per month	One thirty-two (32) gallon can each week
27.04	per month	One forty (40) gallon can each week
32.45	per month	One forty-eight (48) gallon can each week
43.26	per month	One sixty-four (64) gallon can each week
64.89	per month	One ninety-six (96) gallon can each week
67.59	per month	One one-hundred (100) gallon can each week
108.16	per month	One one-hundred sixty (160) gallon can each week
131.82	per month	One one-hundred ninety-five (195) gallon can each week
16.32	per month	Recycle only- where available
Residential Compactor		In excess of two (2) bags- 1.5 times can rate

CANS/CARTS: OTHER THAN SET OUT SERVICE

\$1.26 per trip each way for each drivable driveway, 1.26 each additional twenty-five feet.

\$1.26 each: Gate, door, fence, hallway, stairs, unsecuring, securing, etc. - each time, each way

COMMERCIAL/RENTAL SERVICE (CONTAINER/CART/CAN)

32 gallon cart	\$ 22.60
Container service- per loose yard-per pick-up	29.39
Container service- per loose yard- Brush (roll-off)	13.10
Container service- per loose yard- Metal (roll-off)	13.10
Container service- Gate Fee- (each time)- Extra	6.93
Customer requested- Auto lock- Dumpster service- per month	4.01
Container rental- one- eight yard- per month	15.49
Customer requested- Other than weekly- each trip minimum	19.87
Customer requested- Time of pick-up- each trip	19.87
Customer service- Special events, construction, clean up, etc. Per trip.	19.87
Container service- Roll-out service- Extra	10%
Container ramp roll-out, as deemed safe by collector- Extra	20%
Customer requested- After hour, Saturday or Sunday- Extra	50%
Mechanically compacted waste- 2.75 times yard or can rate.	

RECYCLING CREDITS (COMMERCIAL WHEN SERVICE IS AVAILABLE)

Container service- Newsprint properly prepared-	of commercial rate	50%
Container service- Waste paper, office paper, cans, bottles, plastics, (all properly prepared)	of commercial rate	25%

OTHER RESIDENTIAL & COMMERCIAL CHARGES

(1)	Occasional extra in route pick-up- Each	\$ 5.75
(2)	Customer requested special pick-up- Minimum	8.58
(3)	Initial set-up, close-out, monitored inactive service- each transaction	6.93
(4)	Customer Requested- Off route trip charge	12.80
(5)	Rental property- Owners responsibility for sanitation charges.	
(6)	Medical Waste Disposal- (\$24.74 individual 1 gal container & disposal)	21 to
	48 gal tubs – container & disposal	Per gallon rate
		2.64
(7)	Extra heavy roofing/demolition- 2.75 times yard rate	
(8)	Waste in excess of 280 lbs per yard. Subject to the approved tonnage rate.	
(9)	Car tires 5.65 (mounted \$4.33 extra) Truck Tires 10.09 (mounted- \$29.45 extra)	
(10)	Household hazardous waste. As approved.	

2015 CPI INFLATION RATE ADJUSTMENT- GOLD BEACH- JULY 1, 2015

CPI INFLATION IN 2013 (US CITY AVERAGE) **1.50 %**

CTR RATE ADJUSTMENT **1.13% (75% of the above CPI rate)**

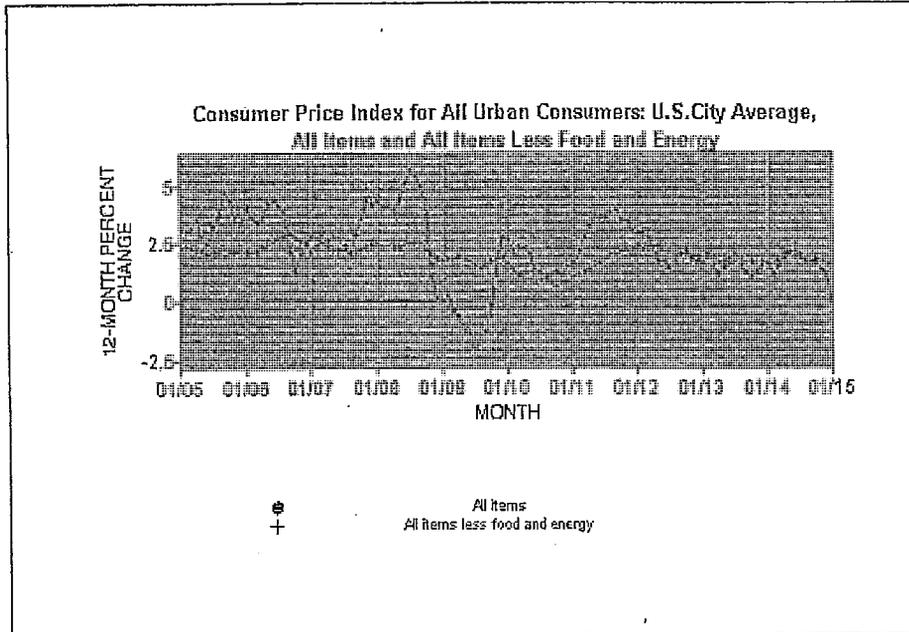
CURRENT RATE 32 GALLON RESIDENTIAL	\$21.63
LESS PORT ORFORD CLOSURE	< .13 >
LESS HHW (Household Hazardous Waste)	< .28 >
	<u>\$21.22</u>
CPI (1.13%)	<u>.24</u>
ADJUSTED RATE	\$ 21.46
PORT ORFORD CLOSURE	.13
HHW	<u>.28</u>
TOTAL ADJUSTED RATE	\$21.87

1 YARD	\$29.39
LESS PORT ORFORD CLOSURE	< .15 >
LESS HHW	< .39 >
	<u>\$28.85</u>
CPI (1.13%)	<u>.32</u>
ADJUSTED RATE	\$ 29.17
PORT ORFORD CLOSURE	.15
HHW	<u>.39</u>
TOTAL ADJUSTED RATE	\$ 29.71

CURRENT RATE 32 GALLON COMMERCIAL	\$22.60
LESS PORT ORFORD CLOSURE	< .13 >
LESS HHW	< .28 >
	<u>\$ 22.19</u>
CPI (1.13%)	<u>.25</u>
ADJUSTED RATE	\$ 22.44
PORT ORFORD CLOSURE	.13
HHW	<u>.28</u>
TOTAL ADJUSTED RATE	\$ 22.85

Consumer Price Index

CPI FONT SIZE: [A] [B] [C]



Source: Bureau of Labor Statistics, Consumer Price Indexes

12-Month Percent Change

Series Id: CUUR0000SA0
 Not Seasonally Adjusted
 Area: U.S. city average
 Item: All items
 Base Period: 1982-84=100

Download: [xls](#)

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
2005	3.0	3.0	3.1	3.5	2.8	2.5	3.2	3.6	4.7	4.3	3.5	3.4	3.4	3.0	3.8
2006	4.0	3.6	3.4	3.5	4.2	4.3	4.1	3.8	2.1	1.3	2.0	2.5	3.2	3.8	2.6
2007	2.1	2.4	2.8	2.6	2.7	2.7	2.4	2.0	2.8	3.5	4.3	4.1	2.8	2.5	3.1
2008	4.3	4.0	4.0	3.9	4.2	5.0	5.6	5.4	4.9	3.7	1.1	0.1	3.8	4.2	3.4
2009	0.0	0.2	-0.4	-0.7	-1.3	-1.4	-2.1	-1.5	-1.3	-0.2	1.8	2.7	-0.4	-0.6	-0.1
2010	2.6	2.1	2.3	2.2	2.0	1.1	1.2	1.1	1.1	1.2	1.1	1.5	1.6	2.1	1.2
2011	1.6	2.1	2.7	3.2	3.6	3.6	3.6	3.8	3.9	3.5	3.4	3.0	3.2	2.8	3.5
2012	2.9	2.9	2.7	2.3	1.7	1.7	1.4	1.7	2.0	2.2	1.8	1.7	2.1	2.3	1.8
2013	1.6	2.0	1.5	1.1	1.4	1.8	2.0	1.5	1.2	1.0	1.2	1.5	1.5	1.5	1.4
2014	1.6	1.1	1.5	2.0	2.1	2.1	2.0	1.7	1.7	1.7	1.3	0.8	1.6	1.7	1.5
2015	-0.1														

12-Month Percent Change

Series Id: CUUR0000SA01E
 Not Seasonally Adjusted
 Area: U.S. city average
 Item: All items less food and energy
 Base Period: 1982-84=100

Proposed

EXHIBIT A
EFFECTIVE JULY 1, 2015
RATE SCHEDULE- CITY OF GOLD BEACH

\$21.87	per month	One thirty-two (32) gallon can each week
27.34	per month	One forty (40) gallon can each week
32.82	per month	One forty-eight (48) gallon can each week
43.75	per month	One sixty-four (64) gallon can each week
65.62	per month	One ninety-six (96) gallon can each week
68.35	per month	One one-hundred (100) gallon can each week
109.38	per month	One one-hundred sixty (160) gallon can each week
133.30	per month	One one-hundred ninety-five (195) gallon can each week
16.50	per month	Recycle only- where available
Residential Compactor		In excess of two (2) bags- 1.5 times can rate

CANS/CARTS: OTHER THAN SET OUT SERVICE

\$1.27 per trip each way for each drivable driveway, 1.27 each additional twenty-five feet.
\$1.27 each: Gate, door, fence, hallway, stairs, unsecuring, securing, etc. - each time, each way

COMMERCIAL/RENTAL SERVICE (CONTAINER/CART/CAN)

32 gallon cart	\$ 22.85
Container service- per loose yard-per pick-up	29.71
Container service- per loose yard- Brush (roll-off)	13.30
Container service- per loose yard- Metal (roll-off)	13.30
Container service- Gate Fee- (each time)- Extra	7.01
Customer requested- Auto lock- Dumpster service- per month	4.06
Container rental- one- eight yard- per month	15.66
Customer requested- Other than weekly- each trip minimum	20.09
Customer requested- Time of pick-up- each trip	20.09
Customer service- Special events, construction, clean up, etc. Per trip.	20.09
Container service- Roll-out service- Extra	10%
Container ramp roll-out, as deemed safe by collector- Extra	20%
Customer requested- After hour, Saturday or Sunday- Extra	50%
Mechanically compacted waste- 2.75 times yard or can rate.	

RECYCLING CREDITS (COMMERCIAL WHEN SERVICE IS AVAILABLE)

Container service- Newsprint properly prepared-	of commercial rate	50%
Container service- Waste paper, office paper, cans, bottles, plastics, (all properly prepared)	of commercial rate	25%

OTHER RESIDENTIAL & COMMERCIAL CHARGES

(1) Occasional extra in route pick-up- Each	\$ 5.80	
(2) Customer requested special pick-up- Minimum	8.80	
(3) Initial set-up, close-out, monitored inactive service- each transaction	7.01	
(4) Customer Requested- Off route trip charge	12.95	
(5) Rental property- Owners responsibility for sanitation charges.		
(6) Medical Waste Disposal- (\$25.11 individual 1 gal container & disposal)		
21 to 48 gal tubs -- container & disposal	Per gallon rate	2.75
(7) Extra heavy roofing/demolition- 2.75 times yard rate		
(8) Waste in excess of 280 lbs per yard. Subject to the approved tonnage rate.		
(9) Car tires 5.75 (mounted \$4.35 extra) Truck Tires 10.20 (mounted- \$29.40 extra)		
(10) Household hazardous waste. As approved.		

GOLD BEACH URBAN RENEWAL AGENCY AGENDA REPORT



Agenda Item No. 6 c.
Council Hearing Date: May 11, 2015

TITLE: MINOR AMENDMENT TO URBAN RENEWAL DISTRICT BOUNDARY

NOTE: THE CITY COUNCIL WILL NOW ADJOURN AS THE COUNCIL AND CONVENE AS THE GOLD BEACH URBAN RENEWAL AGENCY. ONCE URA BUSINESS HAS BEEN DISPENSED THE URA WILL ADJOURN AND THE CITY COUNCIL WILL RECONVENE AND CONTINUE THE REGULAR AGENDA

The City adopted an Urban Renewal Plan and District June 10, 2013. The plan and district boundary were provided to the Curry County Assessor after adoption for processing of the TIF (Tax Increment Financing). The Assessor completed that work in January of 2014. After they processed the parcels in the boundary it was noted that we had exceeded the statutory limitations on assessed value. In order to correct this, the City must remove enough assessed value within in the district to reduce us below the statutory threshold. Due to staffing shortages both here at the City and at the Assessor's Office it has taken this long to formulate the list of assessed value to be reduced.

Our original UR contractor Elaine Howard has prepared the necessary amendments to the UR plan and implementing resolutions. She is also working with the Assessor and the state Department of Revenue to help us receive TIF this tax year so we won't lose another year's revenue to the district.

Attached to this report are the following documents:

- Memo from me prepared by Elaine Howard
- Resolution R1415-01: resolution of the URA approving the boundary amendment
- Email from Howard regarding "under levy"
- Resolution R1415-02: resolution approving an "under levy"

REQUESTED MOTION/ACTION:

Acting as the URA, adopt the resolutions approving the amended URD boundary and "under levy" for November 2015

Suggested Motion:

Resolution R1415-01:

I make the motion that the Urban Renewal Agency adopt Resolution R1415-01, a resolution approving a minor amendment to the Gold Beach Urban Renewal Plan removing property from the Gold Beach Urban Renewal Area.

Resolution R1415-02:

I make the motion that the Urban Renewal Agency adopt Resolution R1415-02, a resolution approving an under levy request for fiscal year 2015-2016 and consulting and conferring with the taxing districts.

To: Gold Beach Urban Renewal Agency

From: Jodi Fritts, City Administrator (prepared by Elaine Howard)

Date: May 7, 2015

Re: Minor Amendment to the Gold Beach Urban Renewal Plan

The Gold Beach Urban Renewal Plan (Plan) was adopted by the Gold Beach City Council on June 10, 2013 by Ordinance No. 648. ORS 457.420(2)(b)(A) limits the areas of urban renewal in cities with populations below 50,000 to twenty-five percent of the total assessed value of the city. When the Gold Beach Urban Renewal Feasibility Study and Gold Beach Urban Renewal Plan were drafted, access to the Curry County Assessor taxation records was restricted due to staffing shortages. The County provided data for the Gold Beach Urban Renewal Feasibility Study on the projected total assessed value of the urban renewal area. The consultant and the city were unable to gain access to the records to check and update that data for preparation of the Gold Beach Urban Renewal Plan (Plan). After confirmation with legal counsel that the Plan would be legal even if the frozen base exceeded the twenty-five percent limitation and, if that happened, a minor amendment could be made to the Plan, the decision was made to use the data provided by the County and review the information when the frozen base was established by the Curry County Assessor.

The City of Gold Beach received information about the assessed value of the urban renewal areas from the Curry County Assessor at the end of January, 2014. We contacted the urban renewal consultant who prepared the Plan, who advised that the boundary needed to be adjusted to bring the Plan in conformance with state statute regarding the twenty five percent of assessed value limitation. The frozen base of the urban renewal area was established at \$61,288,575. The total assessed value of the City of Gold Beach at the time the urban renewal plan was adopted was \$221,997,469. Statutory limitations allow only \$55,499,367 of total assessed value in urban renewal. Therefore, the Gold Beach Urban Renewal area must be reduced in value by at least \$5,789,300.

We are proposing the attached boundary revision. The revision brings the total assessed value under the twenty-five percent limitation, reducing the Area's real property assessed value by \$7,115,620. This revision in assessed value and the associated revision and acreage is shown in Table 2. We are also working with the State Department of Revenue and the Curry County Assessor's office to determine when we can take our first division of taxes for the urban renewal area.

Figure 1 – Gold Beach Urban Renewal Original Area Boundary

Urban Renewal Boundary - Gold Beach, Oregon

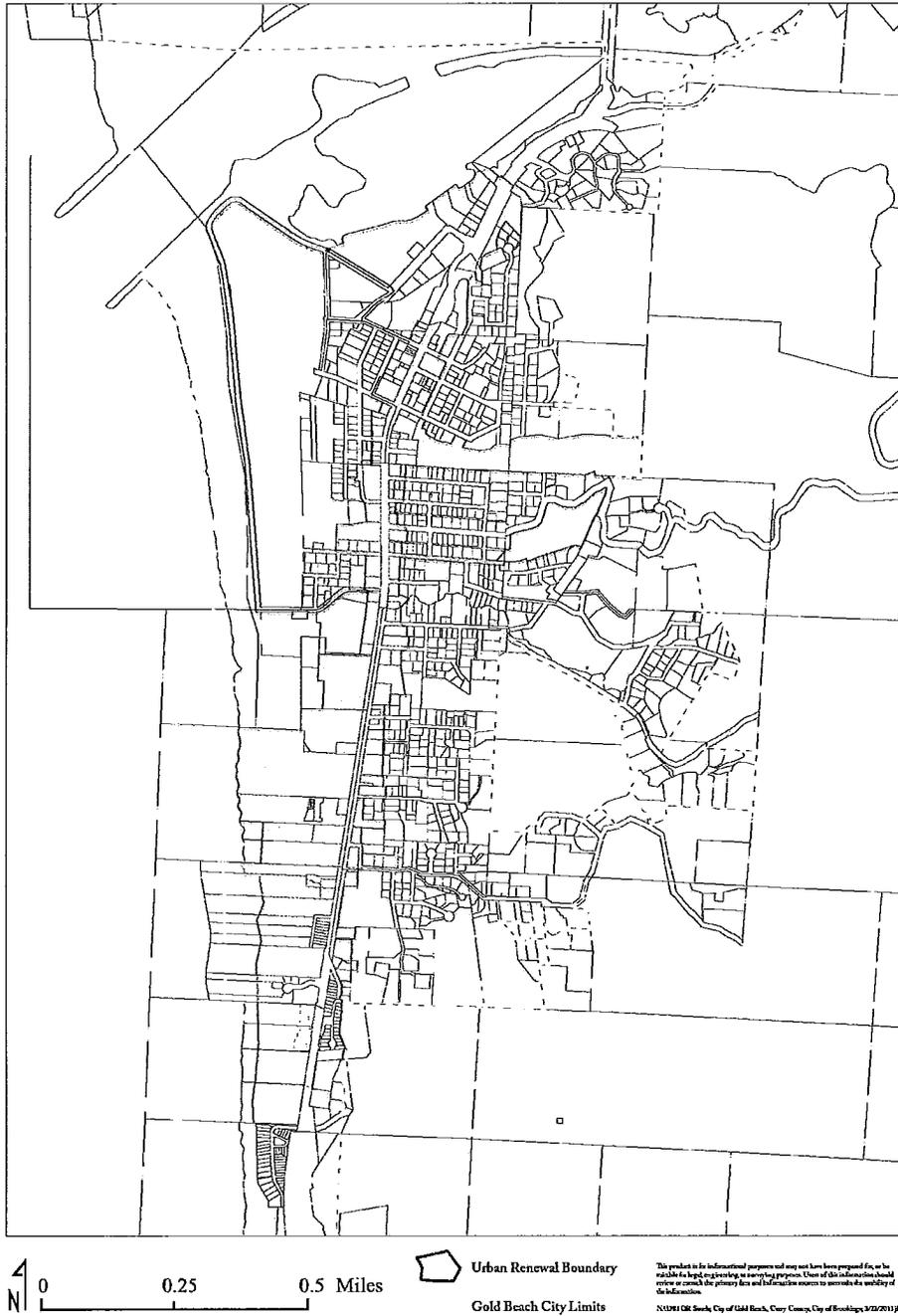


Figure 2 – Area to be Removed from Urban Renewal Boundary



Table 1 – Tax Lots to be Removed

ASSESSOR MAP #	TAX LOT	ASSESSED VALUE			
3715-01DB	01302	\$177,160			TOTAL VALUE OF PARCELS TO BE REMOVED \$7,115,620
	01303	\$198,660			
	01304	\$198,180			
	01305	\$198,400			
	01306	\$198,790			
	01307	\$197,180			
	TOTAL		\$1,168,370		
2715-01DC	00400	\$208,500	2715-01DC	80122	\$125,640
	70100	\$41,600		80124	\$113,100
	70200	\$41,600		80126	\$131,430
	70300	\$4,160		80128	\$134,010
	70400	\$41,600		80130	\$135,910
	70500	\$41,600		80219	\$174,950
	70600	\$41,600		80221	\$174,950
	70700	\$41,600		80223	\$174,950
	70800	\$41,600		80225	\$174,950
	70900	\$219,940		80227	\$174,950
	71000	\$41,600		80229	\$174,950
	71100	\$41,600		80231	\$181,750
	71200	\$41,600		90102	\$153,990
	71300	\$41,600		90104	\$125,220
	71400	\$41,600		90104	\$125,220
	71500	\$41,600		90106	\$153,990
	71600	\$41,600		90108	\$125,220
	71700	\$41,600		90110	\$225,270
	71800	\$41,600		90112	\$150,810
	71900	\$41,600		90114	\$103,370
	72000	\$41,600		90201	\$150,350
	72100	\$41,600		90205	\$162,960
	72200	\$41,600		90207	\$122,470
	72300	\$41,600		90209	\$171,150
	72400	\$41,600		90211	\$126,950
	72500	\$41,600		90213	\$147,910
	80008	\$6,210		90215	\$105,110
	80009	\$6,030			
	80020	\$8,670		TOTAL	\$5,947,250
			\$125,640		
			\$125,640		
			\$130,120		
		\$134,010			

Table 2 - Urban Renewal Area Conformance with Assessed Value and Area Limits

Urban Renewal Area	Assessed Value	Acres
Gold Beach Urban Renewal Area	\$46,220,413	186.75
City of Gold Beach	\$219,430,679	1,766
Percent of AV in Urban Renewal	21.06%	
Percent of Acreage in Urban Renewal		10.57%

Jodi Fritts

From: Elaine Howard <elainehowardconsulting@gmail.com>
Sent: Wednesday, May 6, 2015 12:50 PM
To: KRAMER Gregory A; Jodi Fritts
Subject: Gold Beach

Hi Greg: I've spoken with my attorney, Jeannette Launer, the private attorney with the most urban renewal experience in the state.

Jeannette agrees that an under levy would be an allowable way for Gold Beach to get their division of taxes for the urban renewal area for next fiscal year. Once they pass the amendment to reduce the boundary and thereby the assessed value, the plan will be in conformance with ORS 457, and they should be able to take their division of taxes.

We are planning to proceed with these assumptions unless I hear otherwise from you that for some reason the Department of Revenue has a problem with this approach.

I greatly appreciate being able to talk over this issue with you, and if you have any other concerns, please let me know.

Elaine

--

Elaine Howard
Elaine Howard Consulting, LLC
503.206.7060 cell 503.975.3147
www.elainehowardconsulting.com

Jodi Fritts

From: Elaine Howard <elainehowardconsulting@gmail.com>
Sent: Wednesday, May 6, 2015 12:55 PM
To: Tracy Garner; Jodi Fritts
Subject: Gold Beach

Hi Tracy: I've spoken with my attorney, Jeannette Launer, the private attorney with the most urban renewal experience in the state.

Jeannette agrees that an under levy would be an allowable way for Gold Beach to get their division of taxes for the urban renewal area for next fiscal year. Once they pass the amendment to reduce the boundary and thereby the assessed value, the plan will be in conformance with ORS 457, and they should be able to take their division of taxes.

We are planning to proceed with these assumptions. We are coordinating with Greg Kramer at the Department of Revenue and have asked him to let us know if for any reason they have an objection to proceeding in this manner.

In order for Gold Beach to do an under levy, we will need the information on your projections for the division of taxes for the urban renewal area for FY 2015/16. This information should include what the existing frozen base is and what the exception value is. From that information we will be able to make adjustments to that information to project for an under levy. I understand you have auditors in this week, if you can get me this information at the first of next week that would be very helpful. Gold Beach will have to go ahead with preparing a budget for the urban renewal agency and will need this information to be able to prepare the budget and then to fill out the UR 50 form.

I greatly appreciate any help you can offer us to help out Gold Beach. If you have any questions, please let me know.

Elaine

--

Elaine Howard
Elaine Howard Consulting, LLC
503.206.7060 cell 503.975.3147
www.elainehowardconsulting.com

Resolution No. R1415-01

A RESOLUTION OF THE URBAN RENEWAL AGENCY OF THE CITY OF GOLD BEACH APPROVING A MINOR AMENDMENT TO THE GOLD BEACH URBAN RENEWAL PLAN REMOVING PROPERTY FROM THE GOLD BEACH URBAN RENEWAL AREA.

WHEREAS, the Gold Beach City Council adopted the Gold Beach Urban Renewal Plan on June 10, 2013 by Ordinance No. 648; and

WHEREAS, the Urban Renewal Agency of the City of Gold Beach ("Agency") has prepared a minor amendment to the Gold Beach Urban Renewal Plan ("Plan"); and

WHEREAS, the Minor Amendment attached to this Resolution as Exhibit A would amend the Plan to Remove property from the Plan area; and

WHEREAS, modifications to the boundary of the urban renewal area are necessary to bring it into compliance with ORS 457.420(2)(b)(A); and

WHEREAS, the Minor Amendment has been prepared in conformance with the requirements of the Gold Beach Urban Renewal Plan and ORS 457; now, therefore,

BE IT RESOLVED BY THE URBAN RENEWAL AGENCY OF THE CITY OF GOLD BEACH, OREGON as follows:

Section 1. Approval of Minor Amendment. The boundary of the Gold Beach Urban Renewal Plan is hereby adjusted to bring the boundary in conformance with ORS 457.420, such modifications as shown in Exhibit A are adopted by the Gold Beach Urban Renewal Agency.

Section 2. Notification of Assessor. This resolution and the boundary modifications including the revised legal description will be sent to the Curry County Assessor for modification of the Gold Beach Urban Renewal Area.

Section 3. Recording of Resolution and new Legal Description. This resolution and the revised legal description will be recorded with the Curry County recorder.

Section 4. Effective Date. This resolution shall be effective upon its adoption.

ADOPTED this 11th day of May, 2015

**Urban Renewal Agency of the City of
Gold Beach, Oregon**

BY _____
Authorized Officer

Attachment Exhibit A. Minor Amendment to the Gold Beach Urban Renewal Plan

Exhibit A- Gold Beach Urban Renewal Plan First Amendment

Deleted language is shown in ~~crossout~~, new language is shown in *italics*

1. A new Page is inserted before the Introduction to state:

The Gold Beach Urban Renewal Plan was approved by the City Council on June 10, 2013 by Ordinance No.648. The First Amendment removes property from the urban renewal boundary.

Figure 1 is replaced in its entirety with the following boundary map.

Appendix A is replaced in its entirety with the following legal description.

Figure 1 – Gold Beach Urban Renewal Area

Attachment A - Legal Description of Gold Beach Urban Renewal Area

DRAFT

Resolution No. R1415-02

A RESOLUTION OF THE URBAN RENEWAL AGENCY OF THE CITY OF GOLD BEACH APPROVING AN UNDER LEVY REQUEST FOR FY 2015/16 AND CONSULTING AND CONFERRING WITH TAXING DISTRICTS.

WHEREAS, the Gold Beach City Council adopted the Gold Beach Urban Renewal Plan on June 10, 2013 by Ordinance No. 648; and

WHEREAS, the Urban Renewal Agency of the City of Gold Beach ("Agency") adopted a minor amendment to the Gold Beach Urban Renewal Plan ("Plan") reducing acreage of the urban renewal area and thereby reducing assessed value to bring the plan in conformance with ORS 457; and

WHEREAS, the Agency desires to take the appropriate division of tax revenues for the urban renewal area that relate to the boundary as results from the minor amendment passed in May, 2015 for FY 2015/16 and this action can be accomplished through an under-levy of division of taxes pursuant to ORS 457.455; and

WHEREAS, the Agency is required to consult and confer with the taxing jurisdictions if it proposes an under-levy of division of taxes; now, therefore,

BE IT RESOLVED BY THE URBAN RENEWAL AGENCY OF THE CITY OF GOLD BEACH, OREGON as follows:

Section 1. Approval of Under-L Levy. The Gold Beach Urban Renewal Agency hereby authorizes staff to prepare the UR 50 form anticipating an under-levy of the division of tax revenues equal to the amount anticipated following the adjustment to the boundary.

Section 2. Consult and Confer with Taxing Jurisdictions. The Gold Beach Urban Renewal Agency hereby authorizes staff to consult and confer with taxing jurisdictions as required by ORS 457.455 regarding the under-levy.

Section 3. Effective Date. This resolution shall be effective upon its adoption.

ADOPTED this 11th day of May, 2015

**Urban Renewal Agency of the City of
Gold Beach, Oregon**

BY _____
Authorized Officer



PUBLIC CONTRACTS & PURCHASING



DANGEROUS BUILDING ABATEMENT

ADVERTISEMENT FOR BIDS FOR BUILDING REMOVAL & SITE CLEANUP

The Gold Beach City Council is soliciting bids from licensed contractors for the removal of a council determined "dangerous building" and the general clean-up of the parcel surrounding the building.

The "dangerous building" is an abandoned older double-wide mobile home NOT on a permanent foundation. There is debris within the structure.

The council seeks an itemized bid for:

- Removal of the structure,

- General clean-up of the area under and around the structure,

- Removal of debris on the lot,

- And the securing of the utilities serving the parcel (capping off sewer and water connections, and making electric service safe after disconnection).

The address of the parcel is: 94223 1st Street in Gold Beach.

Licensed contractors may bid on all or part of the work needed. Bids should be detailed and include a narrative of any additional work the contractor feels necessary to accomplish the removal and clean-up of the lot.

Bids must include the contractor's name and DBA (if any), mailing address, phone number, and contractor's license number and bond info. The Council will be accepting bids until Friday, May 1, 2015, and will review and discuss the bids at the May 11th Council meeting.

If you have questions about this Advertisement for Bids please direct them to:

City Administrator Jodi Fritts
jfritts@goldbeachoregon.gov
541-247-7029

Ad shown is not actual print size

RECEIVED

APR 29 2015

**Proposal and Contract
Residential Building Construction and Alteration**

**CITY OF GOLD BEACH
Proposal # 15011**

Date 4/27/15

Submitted To: Jodi Fritts City Admin.

Job Site: 94223 1st Gold Beach Or.

We will supply all materials and labor as necessary to complete the following: 1. Remove all debris from interior of building. 2. Clean up all debris from exterior of building. 3. PUD to remove power. 4. Cap sewer, water. 5. Remove structure. 5. Any hazardous waste will need to be removed by a hazardous waste contractor.

Excludes:

- 1. Hazardous waste.
- 2. Permits 3. Concrete slab under trailer

All above work shall be completed in a professional like manner according to the drawings project specifications. Terms and conditions of this contract attached. For the sum of \$ 7,550.00 Permit fees are not included. . Payment is due upon completion. If payment is not received when due a 1.5% LATE FEE will be assessed (monthly). Additional work requires owners written authorization.

The price quoted is good for 10 days, Delay in acceptance will require a verification of prevailing labor and material costs. This offer becomes a contract upon acceptance by contractor but shall be invalid if not executed within 20 days from the date above.

Thank you. If you have any questions please do not hesitate to call 541 815 9036.

Halco Contracting LLC : CCB#: 162965
Hal Ohler President/Owner
16063 Driftwood Ln.# 9
Brookings Oregon 97415

Acceptance: You are hereby authorized to furnish all materials and labor required to complete the work according to the drawings, project specifications, terms and conditions attached, for which we agree to pay the amounts itemized above. I hereby acknowledge receipt of these Oregon CCB notices: Consumer Protection Notice: Notice Of procedure, and Information Notice to owned about Construction Liens.

Owner _____ Date _____

Contractor Hal Ohler Halco Contracting LLC Date: 4/27/2015

Note: Lead-based paint testing may be required on homes build pre-1978, at an additional cost to the customer. The testing must be preformed by a licensed EPA-Certified Lead Inspector, and removed by a licensed Lead base paint renovator.

Note: IF it is necessary to refer this account for collection, buyer agrees to pay seller reasonable attorney fees and collection costs, including any collection fees charged by a collection agency, even though no suit or action is filed..If a suit or action is filed the amount of such reasonable attorney's or collection charges shall be fixed by the court or courts in which the suit or action including any appeal therein is tried, heard or decided.

RECEIVED

APR 29 2015

PROPOSAL

CITY OF GOLD BEACH

From: Jack Waibel DBA

**Y-BULL SEPTIC and EXCAVATING LLC
15486 VISTA VIEW LANE
BROOKINGS, OR 97415
541-469-4683 PHONE
541-469-5983 FAX**

**DATE 4-28-15
LOCATION 94223 1st St.
Begin: Pending
Completion: Pending
CCB# 187546**

**TO: City of Gold Beach, Jodi Fritts-Matthey
RE: Building Removal & Site Clean up**

Y-Bull Excavating proposes to furnish all necessary equipment and perform all labor necessary to complete the following work: Demo and haul off of existing manufactured home and contents at 94223 1st St. removal of all debris on lot, arranging to have electrical power disconnected from home and marking and capping the water and sewer. Mowing or string trimming of the lot.

Moving costs: \$500.

Estimate of materials to be hauled off in dumpsters: after compaction 240Cu/ Yds. @ \$35/ cu yd= \$8,400.

Three days excavator and dump truck costs = \$3,600.

Three days contract labor: \$1,500

Asbestos inspection and removal: MAXIMUM PAID BY CONTRACTOR \$500 any additional will be responsibility of City.

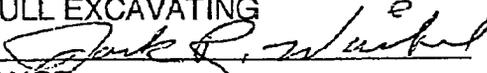
Total Price: \$14,499.00

Payment to be made as follows: \$1,000.00 down on acceptance balance on completion and satisfaction of City representative. Any additional work requested by City will be done at time and material plus 10% of both or a agreed upon lump sum price.

Hourly rates are: Excavator \$100, Front end Loader \$100, Dump Truck \$100, Trencher \$70, Compactor \$80. Equipment rates include operator. Labor \$50.

Any alteration or deviation from the plans and specifications will be executed only upon written orders for same and will be added to or deducted from the sum quoted in this contract. All additional agreements must be in writing. The Contractor agrees to carry Public Liability Insurance and to pay all taxes on material and labor furnished under this contract as required by Federal laws and the laws of the State in which this work is performed.

**Respectfully submitted,
Y-BULL EXCAVATING**

By: 

ACCEPTANCE

You are hereby authorized to order all material and furnish equipment and labor required to complete the work described in the above proposal, for which the undersigned agrees to pay the lump sum amount or time and material rates stated above and according to terms and conditions thereof.



J.C. LandClearing, Inc.
 96290-A Cape Ferrelo Rd., Brookings OR 97415
 Phone: 541-469-7287 Fax: 541-412-0326
 C.C.B. : 69431 D.E.Q.: 36492 D&B: 603691023
 E-Mail: jim@jclc.biz



General Contractor

Estimated Proposal # 065 4/6/2015

Name:	Gold Beach City Council	Phone:	541-247-7029
Attn:	Jodi Fritts	Email:	jfritts@goldbeachoregon.gov
Mailing Address:	29592 Ellensburg	Cell:	
City State Zip:	Gold Beach, Or. 97444	Fax:	

The Corporation proposes to furnish all materials and perform all labor necessary to complete the following:

Project Location: 94223 1st St. Gold Beach, Or. 97444

Project Description:

J.C. Land Clearing Inc. will remove mobile home, cap sewer, water and electrical and clean up lot located at 94223 1st st. Gold Beach, Or. 97444

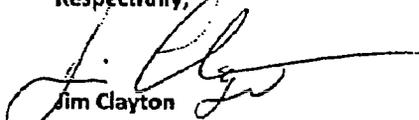
Asbestos testing required prior to start. Bid does not include asbestos testing or removal.

All of the a above work to be completed in a substantial and workman-like manner according to standard practices for the sum of: \$ 7,400.00

To be paid as follows:

The party executing and accepting this bid proposal below, understands and agrees, that all charges under this bid proposal shall be paid within ten days from the billing date by J.C. LandClearing, Inc. Full payment shall be made within ten days from the completion date of said project unless a payment schedule is included in an addendum hereto. In the event it is necessary for J.C. LandClearing, Inc. to hire an attorney to either institute collection proceedings and/or litigation for collection of any sums under the bid proposal, then the undersigned accepting party hereby agrees to pay all reasonable attorney fees, litigation costs, expert witness fees and all other costs paid by the company in regards to collection of said debt even if suit or action is not instituted or if said suit or action is instituted then such costs and attorney fees as set by any trial or appellate court.

Respectfully,


 Jim Clayton
 President

Date: 4-7-15

Accepted

This Bid Proposal is hereby accepted by the undersigned as set out herein. Said bid must be accepted within 15 days from the date of offering by J.C. Land Clearing, Inc. or said bid shall be null & void. Any and all additional work which is provided beyond this bid if the project is commenced will be done at a time and material basis at the rates for labor and materials generally charged by J.C. Land Clearing, Inc. in the regular course of business. Property owner shall be responsible for marking any and all appropriate boundaries of the real property on which the project is to be completed and the company will rely thereon in completing the project.

Signature of Property Owner: _____ Date: _____

(or) Authorized Agent: _____ Date: _____

RESOLUTION R1415-07

A RESOLUTION REGARDING THE DANGEROUS BUILDING DETERMINATION OF A STRUCTURE LOCATED AT 94223 1ST STREET

WHEREAS, a Dangerous Building Hearing was held on November 10, 2014, pursuant City Code Section 5.370; and

WHEREAS, notice was given of the hearing to the owner(s) of the property located at 94223 1st Street, Assessor Map number 3615-36DD tax lot 1301, according to the above referenced code section; and

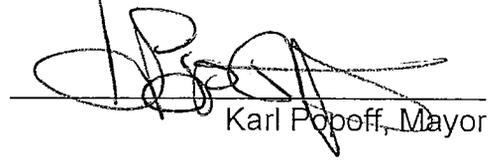
WHEREAS, the hearing was conducted according to the procedures outlined in the Code, and evidence was taken in the form of exhibits, and oral and written testimony; and

WHEREAS, at the public hearing on November 10th, the Council found that the structure located at 94223 1st Street met the City Code definition of Dangerous Building and therefore is deemed "dangerous" as defined in Section 5.350(1)(a-d):

- (a) A structure which, for the want of proper repairs or by reason of age and dilapidated condition or by reason of poorly installed electrical wiring or equipment, defective chimney, defective gas connections, defective heating apparatus, or for any other cause or reason, is especially liable to fire and which is so situated or occupied as to endanger any other building or property or human life.
- (b) A structure containing combustible or explosive material, rubbish, rags, waste, oils, gasoline or inflammable substance of any kind especially liable to cause fire or danger to the safety of such building, premises or to human life.
- (c) A structure which shall be kept or maintained or shall be in a filthy or unsanitary condition, especially liable to cause the spread of contagious or infectious diseases.
- (d) A structure in such weak or weakened condition, or dilapidated or deteriorated condition, as to endanger any person or property by reason of probability of partial or entire collapse.

NOW, THEREFORE, BE IT resolved the City Council of the City of Gold Beach finds that the structure located at 94223 1st Street is a Dangerous Building as defined by City Code and shall be abated as further provided in the City Code.

PASSED BY THE CITY COUNCIL OF THE CITY OF GOLD BEACH, COUNTY OF CURRY, STATE OF OREGON, and EFFECTIVE THIS 26th DAY OF JANUARY, 2015



Karl Popoff, Mayor

ATTEST:



Candy Cronberger, City Recorder



ORDINANCES & RESOLUTIONS

RESOLUTION R1415-17

A RESOLUTION APPROVING CURRY TRANSFER AND RECYCLING (CTR) RATE ADJUSTMENT AND REPEALING RESOLUTION R1314-14 AND ANY OTHER RESOLUTIONS THAT MAY BE IN CONFLICT

WHEREAS: The City of Gold Beach and Curry Transfer and Recycling (CTR) entered into a Solid Waste Franchise agreement on March 24, 1997; and

WHEREAS: Ordinance No. 533 sets the franchise terms; and

WHEREAS: SECTION 7 of Ordinance No. 533 provides for solid waste collection and service rate review and adjustment; and

WHEREAS: Curry Transfer and Recycling, pursuant to SECTION 7 (C) COST OF LIVING ADJUSTMENT (COLA), has requested an adjustment of 1.13% based on the Bureau of Labor Statistics annual CPI.

NOW THEREFORE, BE IT RESOLVED: the City Council of the City of Gold Beach approves the requested CPI adjustment and rate schedule which are attached as EXHIBIT A to this resolution effective July 1, 2015.

PASSED BY THE CITY COUNCIL OF THE CITY OF GOLD BEACH, COUNTY OF CURRY, STATE OF OREGON, and EFFECTIVE THIS 11th DAY OF MAY, 2015.

APPROVED BY:

Karl Popoff, Mayor

ATTEST:

Candy Cronberger, City Recorder

EXHIBIT A
EFFECTIVE JULY 1, 2015
RATE SCHEDULE- CITY OF GOLD BEACH

\$21.87	per month	One thirty-two (32) gallon can each week
27.34	per month	One forty (40) gallon can each week
32.82	per month	One forty-eight (48) gallon can each week
43.75	per month	One sixty-four (64) gallon can each week
65.62	per month	One ninety-six (96) gallon can each week
68.35	per month	One one-hundred (100) gallon can each week
109.38	per month	One one-hundred sixty (160) gallon can each week
133.30	per month	One one-hundred ninety-five (195) gallon can each week
16.50	per month	Recycle only- where available
Residential Compactor		In excess of two (2) bags- 1.5 times can rate

CANS/CARTS: OTHER THAN SET OUT SERVICE

\$1.27 per trip each way for each drivable driveway, 1.27 each additional twenty-five feet.
 \$1.27 each: Gate, door, fence, hallway, stairs, unsecuring, securing, etc. - each time, each way

COMMERCIAL/RENTAL SERVICE (CONTAINER/CART/CAN)

32 gallon cart	\$ 22.85
Container service- per loose yard-per pick-up	29.71
Container service- per loose yard- Brush (roll-off)	13.30
Container service- per loose yard- Metal (roll-off)	13.30
Container service- Gate Fee- (each time)- Extra	7.01
Customer requested- Auto lock- Dumpster service- per month	4.06
Container rental- one- eight yard- per month	15.66
Customer requested- Other than weekly- each trip minimum	20.09
Customer requested- Time of pick-up- each trip	20.09
Customer service- Special events, construction, clean up, etc. Per trip.	20.09
Container service- Roll-out service- Extra	10%
Container ramp roll-out, as deemed safe by collector- Extra	20%
Customer requested- After hour, Saturday or Sunday- Extra	50%
Mechanically compacted waste- 2.75 times yard or can rate.	

RECYCLING CREDITS (COMMERCIAL WHEN SERVICE IS AVAILABLE)

Container service- Newsprint properly prepared-	of commercial rate	50%
Container service- Waste paper, office paper, cans, bottles, plastics, (all properly prepared)	of commercial rate	25%

OTHER RESIDENTIAL & COMMERCIAL CHARGES

(1) Occasional extra in route pick-up- Each	\$ 5.80
(2) Customer requested special pick-up- Minimum	8.80
(3) Initial set-up, close-out, monitored inactive service- each transaction	7.01
(4) Customer Requested- Off route trip charge	12.95
(5) Rental property- Owners responsibility for sanitation charges.	
(6) Medical Waste Disposal- (\$25.11 individual 1 gal container & disposal) 21 to 48 gal tubs – container & disposal Per gallon rate	2.75
(7) Extra heavy roofing/demolition- 2.75 times yard rate	
(8) Waste in excess of 280 lbs per yard. Subject to the approved tonnage rate.	
(9) Car tires 5.75 (mounted \$4.35 extra) Truck Tires 10.20 (mounted- \$29.40 extra)	
(10) Household hazardous waste. As approved.	

ORDINANCE NO. 654

**AN ORDINANCE AMENDING ORDINANCE NO. 634,
THE GOLD BEACH ZONING ORDINANCE
ALLOWING FOR THE KEEPING OF BEES FOR PERSONAL USE**

WHEREAS, the City Council received several request to amend the Gold Beach Zoning Ordinance to allow for the keeping of bees for personal use; and

WHEREAS, the current Zoning Ordinance is silent on the prohibition or keeping of bees; and

WHEREAS, several cities have eased restrictions on the keeping of bees for domestic purposes; and

WHEREAS, on November 10, 2014, the City Council discussed proposed regulations to allow the limited, responsible, keeping of bees in residential and commercial use areas and directed staff to prepare an ordinance amendment allowing for the keeping of bees for personal use.

**NOW THEREFORE, THE CITY OF GOLD BEACH, OREGON, ORDAINS AS
FOLLOWS:**

The keeping of bees for personal use is permitted outright, subject to the conditions listed below, in the following Residential and Commercial Zones:

Residential Zone (1-R)	Section 2.020 (8)
Residential Zone (2-R)	Section 2.120 (7)
Residential Zone (3-R)	Section 2.220 (9)
Commercial Zone (4-C)	Section 2.320 (22)

Bees. The keeping or maintaining of bees, bee colonies, bee hives, combs, or containers of any kind or character wherein bees are hived is subject to the following:

1. Registration with the city is required to keep beehives within the city limits and the City Administrator shall provide a beekeeping registration process.
2. No more than three (3) bee colonies shall be kept or maintained on properties of less than one acre.
3. No more than five (5) bee colonies shall be kept or maintained on properties of one acre or greater.
4. Bee colonies shall be kept in hives with removable frames, which shall be kept in sound and usable condition.

5. For each colony permitted to be maintained under this ordinance, there may also be maintained upon the same property, one nucleus colony in a hive structure not to exceed one standard 9-5/8 inch depth 10-frame hive body.

6. In each instance where a colony is kept less than twenty five (25) feet from a property line, a flyway barrier at least six (6) feet in height shall be maintained parallel to the property line for a minimum of ten (10) feet in either direction from the hive. The flyway barrier may consist of a wall, fence, dense vegetation or a combination thereof, such that bees will fly over rather than through the material to reach the colony.

7. A constant supply of fresh water shall be provided for the colonies on site within fifteen (15) feet of each hive.

8. Each beekeeper shall ensure that no wax comb or other material that might encourage robbing by other bees are left upon the grounds of the property. Such materials once removed from the site shall be handled and stored in sealed containers or placed within a building or other insect proof container.

9. If the beekeeper serves the community by removing a swarm or swarms of honey bees from locations where they are not desired, the beekeeper shall be permitted to temporarily house the swarm on the property for no more than 60 days from the date acquired. If the beekeeper is not at hive capacity shall be permitted to keep the hive permanently.

10. Africanized bees are prohibited.

11. The sale of surplus honey or bee's wax produced on site shall be permitted on the property where the keeping of bees is permitted provided the property owner meets the general Home Occupation standards in Section 3.050.

Passed and Adopted by the City Council of the City of Gold Beach, Oregon, State of Oregon, on the 8th day of May, 2015.

Karl Popoff, Mayor

ATTEST:

Jodi Fritts, City Administrator

First Reading: April 13, 2015
AYES: 5 NAYS: 0

Second Reading: May 11, 2015
AYES: NAYS:

RESOLUTION R1415-16

A RESOLUTION TO AWARD A CONTRACT TO ABATE A DANGEROUS BUILDING LOCATED AT 94223 1ST STREET

WHEREAS, the City Council held a Dangerous Building Hearing on November 10, 2014, pursuant to City Code Section 5.370 regarding a structure located at 94223 1st Street; and

WHEREAS, after formal notice of the Dangerous Building determination, the property owner failed to abate the Dangerous Building as order by the Council; and

WHEREAS, the Council, pursuant to City Code Section 5.385, ordered the Dangerous Building abated and filed a statement with the City Administrator of the specific work to be performed and directed the City Administrator to advertise for bids for the work to be performed; and

WHEREAS, the City Administrator advertised the work to be performed in a paper of general circulation and solicited interested bidders for removal of the Dangerous Building and clean-up of the surrounding property; and

WHEREAS, Three individual bidders submitted bids for consideration for the project which the City Administrator presented to the City Council for their consideration; and

WHEREAS, the City Council after reviewing the three bids chose _____ with a total bid of \$ _____ to perform the advertised work; and

NOW, THEREFORE, BE IT RESOLVED: the City Council of the City of Gold Beach, awards the contract for removal of the Dangerous Building and clean-up of the surrounding property located at 94223 1st Street to: _____ and authorizes the City Administrator to execute all documents related to the project.

Passed by the City Council of the City of Gold Beach, County of Curry, State of Oregon, this 11th day of May, 2015.

Karl Popoff, Mayor

ATTEST:

Candy Cronberger, City Recorder



MISC. ITEMS

(INCLUDING POLICY DISCUSSIONS & DETERMINATIONS)

GOLD BEACH CITY COUNCIL AGENDA REPORT



Agenda Item No. **10 a.**
Council Hearing Date: May 11, 2015

TITLE: REVISIT: Request to ban grocery bags within the City

SUMMARY AND BACKGROUND:

The Council first heard this request at the March meeting. Testimony was received and the Council tabled the request until May to gather more information. I don't have a lot more to provide but I did get some direction from our Legal Counsel:

- The City does have the authority to enact a tax which would be passed on to another group—provided the money is used for a public purpose.
- If the City decides to enact a tax Legal Counsel recommended that it be set up like the Transient Room Tax: collected by the operators and remitted to the City with the operators keeping a portion of the tax for their administrative trouble.
- Legal Counsel questioned whether there would be a profit to collect/remmit—most bag bans allow operators to collect a nominal fee to offset the cost of the paper recycled bags but it doesn't usually cover the actual increased cost—we heard testimony last month from the manager of McKay's stating the paper is significantly higher in cost than the plastic ones.
- Another thought: typically taxes have some nexus to the use—in this particular case is the concern environmental or school funding? It should be made clear.
- How much money are we really talking? Is it worth the hassle?

FROM MARCH REPORT: A Citizen Requested Agenda Item was submitted by Amy Timeus requesting the Council ban all bags in grocery stores in Gold Beach. Her specific request is:

“What I propose is to do away with all bags at Rays and McKay's. Many other towns have gone to no bags and the consumer is responsible for bringing their own bags which not only save the stores from having to purchase bags but also save the environment. I want to propose that we go bagless here and if a customer needs or wants bags from the store there is a .05 cent per bag charge. I would like that .05 cent charge per bag to then be given to the schools to fund any programs or projects they may be short funding. Since the stores already purchase the bags I don't see why they would have an issue giving the money to the school should this all come into play. The stores would ultimately be paying less for the bags as more people would bring their own. Obviously it would take a while to see how much revenue this would generate for the schools but I feel it would be a win win situation and I want to do all I can to make sure this happens.”

REQUESTED MOTION/ACTION:

Discuss the citizen request

**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 10 b.
Council Hearing Date: May 11, 2015

TITLE: Staff Request for Council direction on updating employee drug use policy, RE: Medical and Recreational Marijuana

SUMMARY AND BACKGROUND:

The Staff Committee Chair recently inquired how the City intended to handle the pending legalization of recreational use marijuana in July as it relates to our current drug use policy. I spoke with Legal Counsel and she provided the following information for the Council to consider:

As you are well aware, on July 1st, individuals 21 and older will be allowed to legally use and possess recreational marijuana. Given the changes to the legal landscape surrounding marijuana, staff is asking for guidance from the Council about what the City is willing to allow in the workplace. The City is not required to allow marijuana or marijuana use in the workplace, nor is the City required to allow employees to come to work impaired or with marijuana in their systems. However, it is worth noting that marijuana may remain in a user's system for a considerable amount of time even though the user is no longer impaired.

Staff is asking for direction on whether the Council wants to impose a zero-tolerance policy, or simply to prohibit employees from working while impaired. Under a zero tolerance policy, an employee could be disciplined or terminated for having marijuana in their system, even if the employee was not impaired at work and the marijuana in the employee's system is the result of lawful off-duty marijuana use. On the other hand, if the City's policy simply prohibits an employee from being impaired at work, then an employee could report to work with residual marijuana in his or her system as long as the employee is not impaired while in the workplace.

The City is not required to adopt one policy or other (except that certain employees, such as those employees who hold commercial driving licenses, may have to comply with zero-tolerance under applicable federal regulations), but staff would like some direction from the Council so that the City can have a policy in place prior to July 1, 2015, when possession and use of recreational marijuana will become legal.

Legal Counsel also sent the attached information from our insurance provider, CIS.

DOCUMENTS ATTACHED:

- Current Drug Use Policy
- CIS Marijuana Use information

REQUESTED MOTION/ACTION:

Direction on how to proceed/not proceed with updating current drug use policy

COPY OF REPORT AND ATTACHMENTS SENT TO:

Department Heads

220 Controlled Substance Use /Drug Testing

220.1 Controlled Substance Use Policy and Rules

The city is committed to providing a safe work environment and to promoting high standards of employee health and performance. Using or being under the influence of or impaired by drugs or alcohol on the job may pose serious safety and health risks to the employee and to members of the public. The policy and rules in this section cover all city applicants and employees, except those in the Police Department when covered by separate drug and alcohol rules.

The city recognizes that alcohol and drug use may be a sign of chemical dependency and that employees with alcohol and drug problems can be successfully treated. An employee who seeks assistance with a drug or alcohol problem may contact the administrative services director for assistance in identifying any city benefits and benefit programs that may be available to help deal with the problem. Employees can be assured that the contact will remain confidential to the extent legally possible. If an employee believes at any time that the employee's ability to perform the essential functions of his or her job is compromised, the employee should immediately discuss this concern with the employee's supervisor. The city will, if required to do so by law, provide a reasonable accommodation which would allow an employee in good standing to perform the essential functions of his or her job.

The possession, transfer, offering, manufacture, use or being under the influence of, or impaired by, alcohol or illegal drugs while on city premises and while conducting business related activities off the city premises is prohibited. The conduct prohibited by these policies includes use of illegal drugs and/or consumption of alcohol prior to reporting to work, during breaks or lunch periods, or on the job, and includes the presence of the odor of alcohol or drugs on the employee's breath when reporting to work.

The legal use of prescribed drugs or over-the-counter medications is permitted on the job only if it does not impair an employee's ability to perform the functions of the job effectively and in a safe manner that does not endanger other individuals in the workplace. The legal use of marijuana may be permitted only if the use is while off-duty, the effects of the off-duty use do not render the employee unqualified for the job, unable to perform job duties, and/or unable to work safely. In all cases, clearance from a qualified physician may be required and the city retains the right to make the final determination concerning the employee's fitness to perform work.

Employees must notify their department director of any felony drug arrest and of any drug conviction by the next regularly scheduled workday.

220.2 Discipline

Employees who violate the provisions of this section will be judged on a case-by-case basis. Discipline up to and including discharge may be imposed. Other corrective action may also be imposed as the city deems appropriate. If corrective action includes treatment or counseling, any part of the cost of treatment or counseling not covered by the employee's then existing health insurance policy will be the employee's responsibility. If an employee is subject to a valid collective bargaining agreement, the city and the employee will follow the discipline and or grievance procedures provided for within that agreement.

220.3 Searches

The city reserves the right to search, without employee consent, all areas and property over which the city maintains joint or full control. All city vehicles, equipment, offices, desks and lockers are subject to search by management. Searches that are undertaken specifically to investigate violations of these rules will be conducted in the presence of the employee, if practical. If the employee is not available, or if the employee requests, a reasonable time will be allowed for a representative to be present before a search is conducted of property used by only one employee.

For areas neither jointly controlled nor fully controlled by the city, the manager or supervisor shall first ask the employee to consent to a search of the area where the manager or supervisor believes there is evidence of violation of this policy. The city also has the right to search or inspect any item (lunch box, vehicle, purse, etc.) brought onto city premises if there is reasonable suspicion that alcohol or a controlled substance will be found. Under no circumstances shall a city employee frisk, pat down, or otherwise physically search another city employee. Refusal by an employee to cooperate with a properly authorized search or inspection is cause for disciplinary action.

"Reasonable suspicion" for the purposes of this policy means the specific articulable observations by a supervisor or department director concerning the work performance, appearance, behavior, speech, or noticeable odor of alcoholic beverage of, on, or about the employee. Any accident or incident involving physical injury to any person and where human factors contribute to the accident or incident shall also constitute reasonable suspicion. Specific articulable observations which constitute reasonable suspicion include, but are not limited to, the following:

- a. Observable phenomena such as direct observation of drug, prescription medication, or alcohol use; observation regarding possession of drugs or prescription medications; or observation of the physical symptoms of being under the influence of a drug or prescription medication;
- b. An observable pattern of abnormal conduct or erratic behavior;

Controlled Substance Use/Drug Testing

- c. Arrest or conviction for a Drug or alcohol related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking;
- d. Information regarding the employee's drug, prescription medication, or alcohol use provided by a reliable and credible source and independently corroborated;
- e. Evidence that the employee has tampered with a previous drug test.

220.4 Drug and Alcohol Testing

220.4.1 Applicant Testing

All applicants (including current employees) for employment in safety-related or safety-sensitive positions with the city must consent to testing for drug usage as part of the pre-employment process. As part of the application process, the applicant will be requested to sign an Applicant Consent to Drug Testing form. All conditional offers of employment for safety-related or safety-sensitive positions are conditioned upon the applicant producing a negative drug test result. Employees who are being considered for promotion or movement to a new position that is safety-related or safety-sensitive will also be requested to sign an Applicant Consent to Drug Testing form and such promotion or change in position will be dependent upon a negative drug test result.

Factors to consider when determining which applicants will be subject to pre-employment drug testing shall be:

- 1) Whether the applicant is required to hold a CDL or works with or operates vehicles or other machinery.
- 2) Whether the applicant's work is related to public safety.
- 3) Whether the applicant works with children.
- 4) Whether the applicant works around hazardous areas and/or hazardous materials.

220.4.2 Results of an Applicant Test

A positive result from a drug and/or alcohol test may result in the applicant not being hired where the applicant's use of drugs and/or alcohol could negatively affect public safety, job duties or essential functions, or job responsibilities.

If a drug test is positive, the applicant must provide as soon as possible (but no later than within 48 hours of request) a verification of a valid prescription drug identified in the test. If the prescription medication is not in the applicant's name or the applicant does not provide acceptable verification, or if the prescription medication is one that is likely to impair the applicant's ability to perform essential job functions or negatively affect public safety, the applicant may not be hired.

220.4.3 Employee Testing

In those instances where an employee's impaired job performance or conduct, whether on or off site, provides a department director or supervisor with reasonable suspicion of drug or alcohol use, the city may require appropriate testing. An employee in a position that requires a Commercial Driver's License (CDL) will be subject to random drug and alcohol testing pursuant to the federal Department of Transportation (DOT) guidelines. Employees may also be tested pursuant to the terms of any collective bargaining agreement or any agreement between the employee and the city that is designed to address the employee's substance abuse and work behavior problems such as "last chance" agreements.

The employee will be placed on paid administrative leave until the test results are received and a determination is made regarding the appropriateness of the reasonable suspicion determination. Testing of employees will occur at the request of the city administrator and upon the concurrence of the city attorney. All drug and alcohol testing and result validation will be performed by a laboratory selected by the city and in accordance with the then prevailing practices in the medical field. An employee who initially tests positive may request a second verifying test, at the employee's expense.

220.4.4 Management of Test Results

Laboratory test results will be retained in an employee or applicant's confidential medical file. The laboratory or laboratories shall retain a sample for retesting for a minimum of six (6) months. The test results will be delivered to the administrative services director and the results will be disclosed to the city administrator and appropriate department director and supervisor on a need-to-know basis. Disclosure of the written records without the applicant or employee's consent will be made only in accordance with state and/or federal law; however, disclosures, without patient consent, may also occur when: (1) the information is compelled by law or by judicial process; (2) the information has been placed at issue in a formal dispute between the employer and employee or applicant; (3) the information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.

There's Smoke, but There's No Fire:



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Why Employers Should Not Overreact to Oregon's Recreational Marijuana Law

By Tamara E. Jones, CIS Pre-Loss Attorney

CIS members have been quick to react to the passage of Oregon's recreational marijuana law, but from an employment law perspective there is little (if anything) for employers to react to.

The new law (which was listed as Measure 91 on Oregon voters' ballots) goes into effect on July 1, 2015. It has no employment or labor law provisions included in the language of the law. Zero. In fact, the new law specifically states that it "may not be construed . . . [t]o amend or affect in any way any state or federal law pertaining to employment matters." Nor does it give authority to the Oregon Bureau of Labor and Industries to draft labor or employment regulations interpreting the law. In a nutshell, all the new law does is legalize the possession of marijuana for adults within specified limits, and provides for a commercial regulatory system of marijuana production, distribution and sale.

The following are some of the primary questions I have fielded from CIS members regarding Oregon's recreational marijuana law and my responses. Of course, if you have a question that isn't answered here, feel free to email or call me (tjones@cisoregon.org or 503-763-3845).

Does the new law make marijuana users a protected class under Oregon law, like race or disability?

No. The recreational marijuana law does not give lawful marijuana users any employment or labor rights or protections, and it does not give employees a right to sue employers who may choose to discriminate against them because of their lawful marijuana use.

Does that mean I can fire someone for the sole reason that they use marijuana?

Probably. I qualify this answer for a couple of reasons. First, the safest terminations occur because the employee has violated an existing policy or an employer's publicized directive (like a discipline notice). Thus, to minimize risk to your city, I would want to know what your city's policies state on the subject of employee drug and alcohol use.

Most CIS members currently have policies that demonstrate their city's "zero tolerance," meaning that the employer doesn't allow its employees to test positive for any drug or alcohol in the work place (even if the employee is not im-

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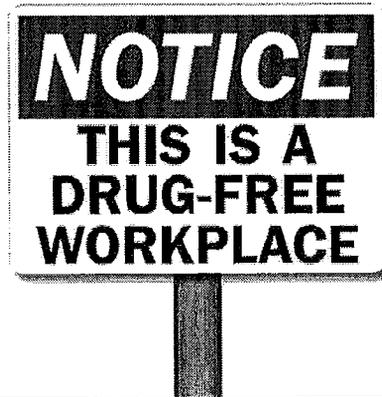
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“The new law does not give licensed medical marijuana users any rights in the labor or employment law context.”



paired). With that kind of a policy, and assuming we could show that your employees knew about it, terminating a lawful user of marijuana would be acceptable.

Note: If your city is subject to federal regulations implemented by the Department of Transportation, the Federal Aviation Administration or any other federal agency, you must continue to comply with those regulations. Marijuana remains illegal under federal law, and your city must comply with those regulations.

Some CIS members, however, have policies that merely prohibit employees from coming to work in any intoxicated or impaired state. These employers should expect that random drug tests will reveal more marijuana use among their employees, but not necessarily impaired or intoxicated employees. Those employers should also respond in accordance with their policies, and consider whether termination is appropriate.

Second, issues arise when the termination relates to an employee who is arrested for marijuana possession (above the legal limits set by the new law, or for possession of any amount at any point before July 1, 2015). Specifically, the city needs to be careful about setting a precedent that it can't or won't follow with a different employee later, i.e., if we fire this employee for being arrested or convicted, are we going to fire the next employee who is, as well as every other employee who follows suit? Also, terminations based on arrests or convictions should never be made lightly: Consider whether there is a reasonable connection between the offense and the nature of the work performed by the employee, because the closer the connection, the less risky the termination decision will be.

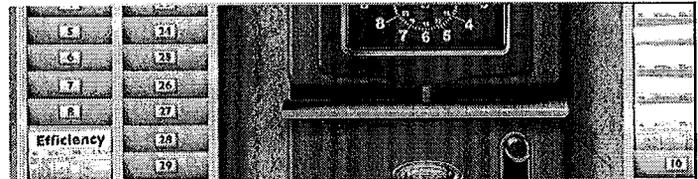
Finally, even if the recreational marijuana law doesn't give lawful marijuana users any employment law rights or protections against terminations, remember that a termination for lawful marijuana use may not necessarily constitute "just cause" under the collective bargaining agreements in place with your employees. It will be necessary to consult with your city's labor counsel on that issue.

Does that mean I *should* fire someone because they are a lawful marijuana user?

That's the real question, isn't it? Some of your best employees may choose to lawfully use marijuana under the new law without any impact on the work they do for you. Your pool of

qualified applicants for any given position could shrink if you excluded lawful marijuana users. Some of your citizens may strongly support the law and not take kindly to your city reacting harshly to employees who are lawful users of marijuana. I think, however, the best way for your city to approach this is to consider the history of your city's tolerance towards drug and alcohol use and to take a position, whatever it may be. That position can always be adjusted later, but starting with a baseline approach now in anticipation of the July 1, 2015, effective date is a sensible start.

(continued on page 22)



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CIS – EMPLOYERS & MARIJUANA

How does the new law affect medical marijuana users and employers' obligations towards them?

It doesn't. The new law does not give licensed medical marijuana users any rights in the labor or employment law context. The law in this regard is unchanged: Employers are not required to accommodate medical marijuana users in the workplace, or to allow medical marijuana users to use medical marijuana during working hours. If an employee who uses medical marijuana has a "disability" under federal or Oregon law, however, the employer will still be required to engage in the interactive process with that employee to determine whether the underlying disability can be reasonably accommodated.

What rights (yeah, right) does the recreational marijuana law give me, the employer?

It doesn't. Having said that, an employer may lawfully prohibit employees from:

- (1) Coming to work impaired (discussed above);
- (2) Coming to work with any detectable amounts of marijuana in their system, even if they aren't impaired (discussed above);
- (3) Smoking marijuana on city property, or in city vehicles;
- (4) Bringing marijuana (in any form), marijuana brownies or other items prepared with marijuana in them to the work place or on work premises (discussed below);
- (5) Serving items prepared with marijuana to co-workers or members of the public while on work time, or on work premises or property (discussed below);
- (6) Bringing to the workplace marijuana-related equipment or any devices marketed for use or designed specifically for use in ingesting, inhaling or otherwise introducing marijuana (among other drugs), such as pipes, bongs, smoking masks, roach clips and or other drug paraphernalia; and
- (7) Bringing marijuana paraphernalia to the work place or on work premises, including any equipment, products or materials of any kind which are marketed for use or designed for use in planting, propagating, cultivating, growing, or manufacturing marijuana, including live or dried marijuana plants.

So is there anything employers should do now?

Yes. First, review your policies on drug testing in the work place and drug use by employees. Do these policies accurately reflect your city's view and tolerance towards employees who use drugs and alcohol, even if lawfully? If not, some rewriting may need to go into effect. You may also wish to consider expanding on current policies to address the lawful

prohibitions I describe above. Any policies relating to drug use or drug testing should be properly announced so that employees are put on notice.

Second, as noted above, decide as a general matter what the city's view towards lawful marijuana use will be.

Third, consider sending a notice to your employees now that states in general terms what the city's view is towards marijuana in the workplace and that the passage of Oregon's recreational marijuana law does not change that view. The notice could remind CDL holders about their obligations as well.

Is CIS going to issue a new drug testing/drugs in the workplace policy?

Yes. The 2015 edition of the Sample Employee Handbook will be made available during the early part of this year, well before the new law goes into effect in July 2015. It will include a new drug testing/drug use policy that addresses issues in this article. ■

ACHIEVE MORE



Brad Balfish,
Partner



Rob Moody,
Partner



Cinnamon
Williams, Manager



Rachel Swanson, Senior
Auditor

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**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



Agenda Item No. **10 c.**
Council Hearing Date: May 11, 2015

TITLE: Grafitti Info from other cities

SUMMARY AND BACKGROUND:

The subject of graffiti came up at a recent meeting and the Council asked that I find information from other cities. I found information from the cities of Medford, Salem, Portland, and Washington County for the Council to review.

DOCUMENTS ATTACHED:

- Graffiti info from other cities and WA county

REQUESTED MOTION/ACTION:

Information provided at the request of the Council

COPY OF REPORT AND ATTACHMENTS SENT TO:

2013 ORS § 164.383¹

Unlawfully applying graffiti

- (1) A person commits the offense of unlawfully applying graffiti if the person, having no right to do so nor reasonable ground to believe that the person has such right, intentionally damages property of another by applying graffiti to the property.
- (2) Unlawfully applying graffiti is a Class A violation. Upon a conviction for unlawfully applying graffiti, a court, in addition to any fine it imposes and pursuant to ORS 137.128 (Community service as part of sentence) but notwithstanding ORS 137.129 (Length of community service sentence), may order the defendant to perform up to 100 hours of community service. The community service must include removing graffiti, either those that the defendant created or those created by another, or both.
- (3) If the court orders community service, the community service must be completed within six months after entry of the order unless the person shows good cause why community service cannot be completed within the six-month time period.
[1995 c.615 §2; 1999 c.1051 §156]

Note: See note under 164.381 (Definitions).

...

Chapter 164

Law Review Citations

51 OLR 427-637 (1972)

Related Statutes³

- 164.386
Unlawfully possessing a graffiti implement
- 419C.461
Disposition for graffiti related offenses

Q: What should I do if I see graffiti anywhere within the city?

A: The City of Medford has a graffiti ordinance that requires the affected property owner to remove or cover over the graffiti within 10 days of notification of the nuisance. The Code Enforcement Department takes photos of the graffiti (or accepts digital photos via email) and forwards them to the Gang/Street Drug Unit within the Police Department for their follow-up investigation. Phone calls to the Code Enforcement Department are appreciated when instances of graffiti are noticed so that we can get this damage covered over or removed as soon as possible to help keep the city graffiti-free. **See Medford Municipal Code 5.519**

5.519 Unlawful Graffiti Nuisance on Private Property

(1) No owner or person in charge of property may permit graffiti, as defined below, to remain on said property for a period in excess of ten (10) days.

(2) This section shall not apply to markings which:

(a) are a part of the general color scheme of the building or structure; and

(b) do not contain words or symbols; and

(c) were applied by the owner or person in charge, or an agent thereof; or

(d) are a part of a sign, which has been previously approved by the City, with the painting or marking reviewed by the City Planning Department or Commission, pursuant to Medford Code Sections 10.1000 through 10.1810.

(3) Graffiti is found to be a nuisance and shall be abated pursuant to the provisions of Medford Code Sections 5.520 through 5.535.

(4) Definitions:

(a) "Graffiti". Any unauthorized markings of paint, ink, chalk, dye, or other similar substances, and/or the unauthorized etching or scratching of property and the structures appurtenant thereto, including but not limited to, buildings, structures, fences, walls, and poles, where the markings are visible from premises open to the public such as the public right of way, sidewalks, or other publicly owned property.

(b) "Permit". To suffer, allow, consent to, acquiesce by failure to prevent, or expressly assent or agree to the doing of an act.

(c) "Person in Charge". Any person, in actual or constructive possession of a property, including but not limited to, an owner of record, and an occupant under the owner's dominion, ownership or control, who has control over the property or premises.

(d) "Person". Any natural person, agent, association, firm, partnership or corporation capable of owning, occupying or using property in the City of Medford.

(e) "Property". As defined in MC 5.511.

[Added, Ord. No. 2000-198, Oct. 5, 2000.]

Anti Graffiti Ordinance

SALEM REVISED CODE 95.600 DEFINITIONS.

As used in SRC 95.600 to 95.660

(a) "Graffiti" means any inscription, word, figure, design, painting, writing, drawing or carving that is marked, etched, scratched, drawn, painted, or otherwise applied to property without the prior authorization of the owner of the property regardless of the graffiti content, or nature of the material used in the commission of the act, or the material of the property.

(b) "Graffiti Nuisance Property" means property to which graffiti has been applied, if the graffiti is visible from any public right of way, from any other public or private property or from any premises open to the public, and if the graffiti has not been abated within the time provided in SRC 95.650.

(c) "Owner" has the meaning set forth in SRC 98.140(d) and, in addition, includes the state and political subdivisions of the state, school districts and special districts.

(d) "Permit" has the meaning set forth in SRC 98.140(e).

(e) "Property" means any real or personal property and that which is affixed, incident or appurtenant to real property, including but not limited to any premise, house, building, fence, structure or any separate part thereof, whether permanent or not.

(f) "Structure" has the meaning set forth in SRC 98.140(h). (Ord No. 37-94; Ord No. 96-95)

95.610 PROHIBITED GRAFFITI.

(a) It shall be unlawful for any person to apply graffiti.

(b) It shall be unlawful for any person to solicit or command another person to apply graffiti.

(c) It shall be unlawful for any person to aid or abet or agree to aid or abet another person to plan to apply or apply graffiti. (Ord No. 37-94; Ord No. 96-95)

95.620 PENALTY.

Violation of SRC 95.610 is an infraction. In addition to any other penalty provided by law, a person adjudged responsible for violation of SRC 95.610 or any other offense within the jurisdiction of the court may be ordered by the court to perform community

service including graffiti removal at any locations within the jurisdiction of the court and to pay restitution. (Ord No. 37-94; Ord No. 96-95)

95.630 GRAFFITI REMOVAL.

(a) Graffiti removal means:

(1) Removal or attempted removal of graffiti from or painting or repair of public or private property with the written consent, on a form approved by the Salem City Attorney, of the owner of such property or of a person authorized by the owner of such property to give written consent, or

(2) Abatement under SRC 95.660.

(b) Graffiti removal shall be supervised by the Chief of Police or his or her designee. (Ord No. 37-94; Ord No. 96-95)

95.635 REWARD.

The Chief of Police may offer a reward of One Hundred Dollars (\$100.00) or such other sum as the council may direct for information leading to the arrest and conviction of an adult or a finding that a juvenile is within the jurisdiction of the court for violating SRC 95.610. (Ord No. 37-94)

95.640. GRAFFITI NUISANCE PROPERTY.

(a) It is hereby found and declared that graffiti creates a visual blight and property damage. When graffiti is allowed to remain on property and not is promptly removed, it invites additional graffiti and criminal activity and constitutes a nuisance.

(b) Any property within the city which becomes graffiti nuisance property is in violation of this chapter and subject to its remedies.

(c) Any owner of property who permits said property to be a graffiti nuisance property shall be in violation of this chapter and subject to its remedies. (Ord No. 97-95)

95.645. NOTICE PROCEDURE.

(a) When the Chief of Police believes in good faith that property within the city is a potential public nuisance property, the Chief of Police shall notify the owner and the owner's registered agent under SRC 98.180, if known, in writing that the property is potential graffiti nuisance property. The notice shall contain the following information:

(1) The street address or description sufficient for identification of the property.

(2) That the Chief of Police has found the property to be potential graffiti nuisance property with a concise description of the conditions leading to his/her findings.

(3) A direction to abate the graffiti, or show good cause to the Chief of Police why the owner cannot abate the graffiti, within five city business days from the date of mailing the notice.

(4) That if the graffiti is not abated and good cause for failure to abate is not shown, the council may order abatement, with appropriate conditions. The council may also employ any other remedy deemed by it to be appropriate to abate the nuisance, including but not limited to authorizing a civil complaint in a court of competent jurisdiction.

(5) That the rental dwelling license, if any, of the property is subject to suspension or revocation.

(6) That permitting graffiti nuisance property is an infraction.

(7) That the above remedies are in addition to those otherwise provided by law.

(b) Service of the notice is completed upon mailing the notice first class, postage prepaid, addressed to:

(1) The owner's registered agent under SRC 98.180, if any, or

(2) The owner at the address of the property believed to be a potential graffiti nuisance property, and to such other address as shown on the tax rolls of the county in which the property is located or such other place which is believed to give the owner actual notice of the determination by the Chief of Police.

(c) A copy of the notice shall be served on occupants of the property, if different from the owner. Service shall be completed upon mailing the notice first class, postage prepaid, addressed to "occupant" of each unit of the property believed to be a potential graffiti nuisance property.

(d) The failure of any person or owner to receive actual notice of the determination by the Chief of Police shall not invalidate or otherwise affect the proceedings under this chapter. (Ord No. 96-95; Ord No. 51-96)

95.650. ABATEMENT PROCEDURES.

(a) Within five city business days of the mailing of the notice the owner shall abate the graffiti or show good cause why the owner cannot abate the graffiti within that time.

(b) Upon good cause shown, the Chief of Police may grant an extension of up to ten additional city business days.

(c) If the owner does not comply with subsection (a) or (b) of this section, the Chief of Police may refer the matter to the council for hearing as a part of its regular agenda at the next succeeding meeting. The City Recorder shall give notice of the hearing to the owner and occupants, if different from the owner. At the time set for hearing the owner and occupants may appear and be heard by the council. The council shall determine whether the property is graffiti nuisance property and whether the owner has complied with subsection (a) and (b) of this section. The city has the burden of showing by a preponderance of the evidence that the property is graffiti nuisance property. The owner has the burden of showing by a preponderance of the evidence that there is good cause for failure to abate the nuisance within five city business days of the mailing of the notice. (Ord No. 96-95; Ord No. 51-96)

95.655. REMEDIES BY COUNCIL.

(a) In the event the council determines that property is graffiti nuisance property, the council may order that the nuisance be abated. The order may include conditions under which abatement is to occur. The council may also employ any other remedy deemed by it to be appropriate to abate the nuisance, including but not limited to authorizing a civil complaint in a court of competent jurisdiction.

(b) The remedies in this section are in addition to those otherwise provided by law. (Ord No. 96-95; Ord No. 51-96)

95.660. ABATEMENT BY CITY.

If the owner fails to abate the nuisance as ordered by the council, the city may cause the nuisance to be abated as provided in SRC 45.094 to 45.096, except that the Chief of Police shall be responsible for causing abatement instead of the health officer. (Ord No. 96-95)

95.990. VIOLATIONS.

(a) Violation of SRC 95.010, 95.190, 95.200, 95.210, 95.220, 95.300, 95.340, 95.440, 95.510, 95.520, or 95.530, 95.610 or 95.640 is an infraction.

(b) Violation of SRC 95.580 is a misdemeanor punishable by a fine of not more than \$250, imprisonment for a period not to exceed 30 days, or by both such fine and imprisonment.

(c) Violation of any other provision of this chapter is a misdemeanor. (Ord No. 193-79; Ord No. 96-95; Ord No. 23-97)

31.999. SUSPENSION OR REVOCATION OF LICENSE.

(a) In addition to any other ground for suspension or revocation of a license required by SRC 31.993, the following shall be grounds for suspension or revocation of such license as provided in SRC 30.120 and 30.130.

(1) Refusal of the licensee, or of any agent or employee of the licensee, to permit any inspection of the premises mentioned in SRC 31.993 by any inspector charged with the enforcement of the provisions of Titles IV and V of this Code.

(2) Refusal of the licensee, or of any agent or employee of the licensee, to provide reasonable cooperation and assistance to any inspector charged with the enforcement of Titles IV and V of this Code when requested to do so by such inspector in connection with the inspection of the premises mentioned in SRC 31.993.

(3) Permitting a rental dwelling to be a public nuisance property as defined in SRC 98.140.

(b) "Reasonable cooperation and assistance," as used in this section, may include, but is not limited to:

(1) Providing means of ingress and egress to the premises and any part thereof not then in the lawful possession of a tenant at a reasonable time;

(2) Arranging introductions and appointments with tenants or other persons in charge of the premises or any part thereof;

(3) Informing tenants or other persons in charge of the premises that the inspector acts with the consent of the licensee. (Ord No. 123-72; Ord No. 61-78; Ord No. 24-93; Ord No. 96-95; Ord No.2-96)

SOURCE: City of Salem



Help Me Find...

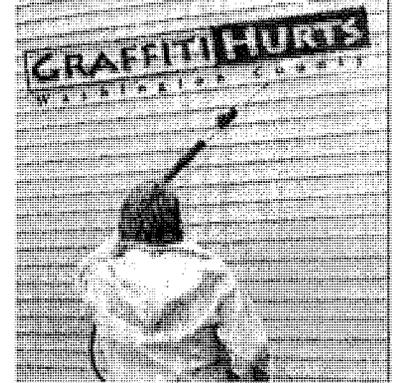
[County Home](#) [Sheriff](#) [Other Services](#) [Gangs and Graffiti](#) [Graffiti Hurts Program](#)

Graffiti Hurts Program

What is Graffiti?

Under Oregon law, graffiti means "any inscriptions, words, figures or designs that are marked, etched, scratched, drawn, painted, pasted or otherwise affixed to the surface of the property." In Washington County we see graffiti applied to everything from fences and buildings to school desks and notebooks.

A distinction can be made between property damage by gangs and that of "taggers". Gang-related graffiti is used by gang members to mark their territory, list members, or send warnings to rival gangs. Tagging is damage that is not gang-related and it includes more random markings, initials, and various social commentary.



How Does Graffiti Hurt Washington County?

Graffiti, whether gang-related or not, has a negative effect on a resident's feeling of safety in their neighborhood. It creates a perception (whether factual or not) that crime is on the rise and gangs are moving into the area.

When graffiti appears and is left up indefinitely, it sends a signal that people just don't care, which in turn attracts other forms of crime and delinquency to the neighborhood.

Graffiti drains tax dollars. Funds that could and should be used for schools, roads, parks, and other community needs, are used to clean graffiti.

What is the Cost of Cleaning Up Graffiti?

Figures vary by community but according to one study, graffiti cleanup costs the average U. S. taxpayer anywhere from \$3 to \$5 dollars per year. The latest figures from nearby Portland, Oregon indicate they spend approximately \$2 million dollars per year to clean up graffiti in their city.

What Should I do About Graffiti in my Neighborhood?

Report Graffiti—Your local law enforcement agency is very interested in documenting graffiti as a means to track criminal activity, including gangs, in Washington County. Your report may help prevent more serious crimes!

- When Graffiti Is "Occurring Now"—If you are a witness to graffiti vandalism as it is happening, call 9-1-1. Give as much information as you can about the suspects and the location.
- When Graffiti appears on your property or someone else's—If you see that graffiti has been put up in the neighborhood, report it to your local law enforcement agency as soon as possible by calling the non-emergency dispatch number at (503) 629-0111. This allows police officers or deputies that serve your area to document the writing and refer it to the [Interagency Gang Enforcement Team](#) for evaluation and intelligence gathering purposes.
- In Any Case—The Sooner Graffiti Is Removed, The Better! Research shows that removal within 24-48 hours is effective in discouraging repeat vandalism. If you choose to remove the graffiti before contacting law enforcement, take a photo, if possible, that can be given to the officer/deputy and attached to the report. If the graffiti appears on someone else's property and you believe they may be unaware, consider contacting them directly. You will be acting as a "good neighbor" by letting them know and also making sure they understand the importance of quick removal.

How Do I Remove Graffiti?

The most common ways of removing graffiti are sanding or scraping it off, painting over it, or

removal with solvents. The method selected will depend on the type of surface and the substance to be removed. For a comprehensive, easy to follow guide to graffiti removal, we recommend the website [GraffitiHurts](http://www.GraffitiHurts.com).

(Graffiti Hurts is a non-profit, community-based graffiti prevention program established by Keep America Beautiful, Inc. and the Sherwin-Williams Company.) For a printed copy of this guide, contact the Washington County Sheriff's Office [Crime Prevention Unit](#) at (503) 846-2579.

In Hillsboro, report the graffiti first by calling non-emergency dispatch at (503) 629-0111. Thanks to the Hillsboro Sherwin-Williams Store and the [Hillsboro Police Graffiti Removal Program](#), any citizen can obtain a 20% discount on paint and supplies for graffiti clean-up by mentioning the program. The store is located at 348 SE 10th Avenue in Hillsboro.

What if I am Physically or Financially Unable to Remove Graffiti Myself?

If you live in the city limits of:

- › Beaverton—contact the City Operations Division at (503) 526-2206.
- › Hillsboro—contact the Hillsboro Police Graffiti Removal Program at (503) 615-6639.
- › Tualatin—call the non-emergency dispatch number for Tualatin Police at (503) 629-0111. If you are unable to remove the graffiti within 24 hours, the officer who takes the report will provide you the option of completing a waiver form which will allow the City of Tualatin Operations Center to remove the graffiti for you at no cost.

If you live in other areas of Washington County, you may contact the Washington County Sheriff's Office [Graffiti Eradication Program](#) at (503) 846-2451.

How Can Our Community Prevent Graffiti?

Most effective graffiti prevention efforts involve a combination of community education and citizen involvement, efficient removal methods, laws and ordinances that are strictly enforced, and a commitment to engage at-risk youth in positive activities within the community.

- › Get educated. In turn, you can help educate others about the importance of reporting and cleaning up graffiti.
- › Adopt a spot in your neighborhood and ensure it stays clean and free of graffiti.
- › Become a volunteer with an established graffiti clean-up program in your local community. In Hillsboro, contact the Hillsboro Police Department volunteer coordinator at (503) 681-6474.
- › Organize a mural project to cover a wall that is an ongoing target for graffiti. These types of community murals are less likely to be defaced by graffiti and instill a sense of local pride among young and old alike.
- › Find ways to encourage and engage at-risk youth in positive activities. Consider becoming a coach, youth leader, school volunteer, or mentor through various community organizations in your area. Boys and Girls Club, Big Brothers Big Sisters, and Start Making a Reader Today (SMART) are just a few examples of organizations that are helping local youth and are always looking for caring volunteers.
- › Utilize the Practice Crime Prevention Through Environmental Design (CPTED) strategy. This strategy is used by architects, city planners, law enforcement, and others in order to use the physical environment to reduce the incidence and fear of crime, including graffiti. CPTED includes four main elements:
 - › Territoriality—Use of fences, signs, landscaping, and good maintenance to convey ownership of the property.
 - › Natural Surveillance—Purposeful placement of physical features and activities that maximize the ability of people in the area to see what is going on around them.
 - › Activity Support—Positive, legitimate activities are encouraged in public spaces, thereby discouraging criminal activity.
 - › Access Control—Proper placement of entrances, exits, fencing, landscaping, and lighting to discourage criminal activity.
 - › Join a Neighborhood Watch Program. Contact your local law enforcement agency for information about existing Neighborhood Watch groups in your area or for help in starting a new one. Neighborhood Watch helps to strengthen communities by encouraging residents to look out for one another and to work closely with law enforcement to address crime and livability issues in their area.

How Can the Business Community Help?

Since businesses are a vital part of the community they can follow all of the above guidelines to

discourage and remove graffiti from their property. For more information from Graffiti Hurts that is specifically focused on businesses, go to:

www.graffitihurts.org/bustips.pdf

Merchants can also respond to the graffiti problem by making it harder to get the paint or markers used by taggers. By making these products less accessible, retailers can make a big impact. Options to businesses include relocating spray paint displays, placing spray paint in locked cabinets, and restricting sales to minors. The National Council to Prevent Delinquency has designed an [Anti-Graffiti Project](#) whose primary goal is to prevent the illegal or harmful misuse of legitimate consumer products, especially by young people.

More about Graffiti Hurts Washington County

Graffiti Hurts Washington County is a public information campaign about the harm that graffiti poses to the greater Washington County community. This campaign was formulated through the collaboration of many allied agencies and community partners who have joined together in a county-wide approach to the graffiti problem. Our goal is to educate the public about graffiti and the importance of reporting it to law enforcement. Graffiti Hurts Washington County also emphasizes the importance of prompt graffiti removal to discourage ongoing acts of vandalism and related gang activity. Helpful information about graffiti eradication and restoration is included to assist citizens in their clean-up efforts. We acknowledge the generous support of Keep America Beautiful, Inc. and their national Graffiti Hurts community education campaign. You may also visit their website at www.graffitihurts.org.

COMMUNITY PARTNERS

- › Beaverton School District
- › Cornelius Chamber of Commerce
- › Cornelius Police Department
- › Forest Grove School District
- › Hillsboro Chamber of Commerce
- › Hillsboro Parks and Recreation Department
- › Hillsboro Police Department
- › Hillsboro School District
- › Tigard Police Department
- › Tigard-Tualatin School District
- › Tualatin Hills Parks and Recreation District
- › Tualatin Police Department
- › Vision Action Network
- › Washington County Juvenile Department
- › Washington County Sheriff's Office

Chapter 14B.80 Graffiti Nuisance Property

14B.80.010 Declaration of Purpose.

- A.** It is the purpose and intent of this ordinance to provide for a procedure for removal of graffiti from buildings, walls and other structures in order to reduce social deterioration within the City and to promote public safety and health.
- B.** The Manager may adopt procedures, forms, and written policies for administering and implementing the provisions of this Chapter.
-

14B.80.020 Graffiti Nuisance Property.

- A.** Any property, building or structure within the City of Portland which becomes a graffiti nuisance property is in violation of this Chapter and is subject to its remedies.
- B.** Any person who permits property under their control to become a graffiti nuisance property shall be in violation of this Chapter and subject to its remedies.
-

14B.80.030 Definitions.

For the purposes of this Chapter, the following definitions shall apply:

- A.** Graffiti: Any unauthorized markings of paint, ink, chalk, dye or other similar substance which is visible from premises open to the public, and that have been placed upon any real or personal property such as buildings, fences, structures, or the unauthorized etching or scratching of such described surfaces where the markings are visible from premises open to the public, such as public rights of way or other publicly owned property.
- B.** Manager: The Graffiti Abatement Manager is the City official, or designated representative, who is responsible for the administration of the Graffiti Nuisance Abatement program under this Chapter. In accordance with adopted procedures, the Manager may appoint such officers, employees and agents as shall be authorized and necessary to enforce the provisions of this Chapter.
- C.** Graffiti Nuisance Property: Property upon which graffiti has been placed and such graffiti has been permitted to remain for more than ten (10) days after the property owner of record has been issued written notification pursuant to Section 14B.80.040 B.
- D.** Occupant: Any person or sublessee, successor or assignee who has control over property.
- E.** Owner: Any person, agent, firm or corporation having a legal or equitable interest in a property and includes but is not limited to:
- 1.** A mortgagor in possession in whom is vested all or part of the legal title to the property or all or part of the beneficial ownership and a right to present use and enjoyment of the premises; or
 - 2.** An occupant who has control over the property/premises.
- F.** Permit: Knowingly to suffer, allow, or acquiesce by any failure, refusal or neglect to abate.

G. Property: Any real or personal property and that which is affixed incidental or appurtenant to real property but not limited to any premises, house, building, fence, structure or any separate part thereof, whether permanent or not.

H. Unauthorized: Without the consent of the owner or the occupant.

14B.80.040 Procedures.

(Amended by Ordinance No. 178352, effective May 28, 2004.)

A. Required Graffiti Removal. The owner or occupant of any property in the City shall remove any graffiti from such property within ten (10) days of the graffiti's appearance.

B. Notification

1. Whenever the Manager determines that graffiti exists on any structure in the City of Portland, the Manager may issue an abatement notice.
2. The Manager shall cause the notice to be served upon the property owner and any occupant. The owner or occupant shall have ten (10) days after the date of service of the notice in which to remove the graffiti. The Graffiti Abatement Manager shall have the sole discretion to grant the property owner the option of giving the City written permission to enter on the property and remove the graffiti.
3. Service shall be accomplished by addressing the notice to the owner and occupant and sending it by personal service, registered mail or certified mail. Service on the occupant may also be accomplished by posting the notice in a clearly visible location on the subject property.
4. If graffiti is not removed or written permission is not given to the City to remove the graffiti, the costs of removal may be assessed to the owner and will become a lien on the affected property. For each instance of graffiti abatement, the Manager shall keep an accurate account of all expenses incurred, including an overhead charge of 25 percent for program administration and a civil penalty of \$250 for each abatement. In the event that the measures taken are deemed by the Code Hearings Officer to be appropriate, the cost for the same may be made as an assessment lien upon the property.

C. Appeal

1. Within ten (10) days of the receipt of the notice, the property owner or occupant may appeal the notice from the Manager to the Code Hearings Officer of the City of Portland, as set out in Chapter 22.10 of this Code.
2. Upon receipt of the appeal request, the Code Hearings Officer shall set the matter for hearing within ten (10) business days. If the Code Hearings Officer finds the property to be a Graffiti Nuisance Property, and the owner or responsible party has been given notice in accordance with Subsection B. above, the Code Hearings Officer shall specify when and under what conditions the graffiti shall be abated.

D. Removal of Graffiti

1. The Manager may summarily abate any graffiti on any utility poles and cabinets, on exterior walls and fences immediately abutting public streets or property, or on any public property,

including but not limited to traffic signs and lights.

2. Whenever the Manager has reasonable cause to believe that there exists upon any building or structure any graffiti requiring abatement under this Chapter, the Manager may enter upon the graffiti nuisance property at all reasonable times to perform any duty imposed on the Manager under this Chapter, and to enforce the provisions of this Chapter. Upon the failure to comply with the notice of abatement by the designated compliance date, and if the property owner or occupant has not appealed the notice as provided under Subsection C., the following steps may be taken if the graffiti nuisance property is plainly enclosed to create privacy and prevent access by unauthorized persons:

a. If the graffiti nuisance property is occupied, the Manager shall first present proper credentials and demand entry to cause the graffiti to be abated. If entry is refused, the Manager may attempt to secure entry by any legal means.

b. If the graffiti nuisance property is unoccupied, the Manager shall first make a reasonable attempt to locate the owner or occupant and demand entry. Such demand may be included in the initial notice sent to the owner or occupant under Subsection B. above. If entry is refused, the Manager may attempt to secure entry by any legal means.

(1) If the Manager has first obtained an administrative search warrant to secure entry onto the graffiti nuisance property to abate the graffiti, no owner or occupant shall refuse, fail or neglect, after proper request, to promptly permit entry by the Manager to abate the graffiti.

(2) It shall be unlawful for any owner or occupant to refuse to permit entry by the Manager to abate graffiti under this Chapter after an administrative search warrant has been obtained. Any violation of this Subsection is punishable upon conviction by a fine of not more than \$500 and a jail sentence of up to six months.

c. If the graffiti is not removed and abated, or cause shown, as specified above, the Manager may cause the graffiti to be removed and abated upon issuance of an Administrative Search warrant.

(1) Graffiti Abatement. If the graffiti is not removed and abated, or cause shown, as specified above, the Manager may cause the graffiti to be removed and abated.

(2) Warrants. The Manager may request any Circuit Court judge to issue a graffiti abatement warrant whenever entry onto private property is necessary to remove and abate any graffiti.

(3) Grounds for Issuance of Graffiti Abatement Warrants; Affidavit.

(a) Affidavit. A graffiti abatement warrant shall be issued only upon cause, supported by affidavit, particularly describing: the applicant's status in applying for the warrant; the ordinance or regulation requiring or authorizing the removal and abatement of the graffiti; the building or property to be entered; the basis upon which cause exists to remove or abate the graffiti, and a statement of the graffiti to be removed or abated.

(b) Cause. Cause shall be deemed to exist if there is reasonable belief that a

graffiti violation exists, as defined in this Chapter, with respect to the designated property, and that the property owner has been given notice and an opportunity to abate the graffiti, and has not responded in a timely fashion.

(4) Procedure for Issuance of a Graffiti Abatement Warrant.

(a) Examination. Before issuing a graffiti abatement warrant, the judge may examine the applicant and any other witness under oath and shall be satisfied of the existence of grounds for granting such application.

(b) Issuance. If the judge is satisfied that cause for the removal and abatement of any graffiti nuisance exists and that the other requirements for granting the application are satisfied, the judge shall issue the graffiti abatement warrant, particularly describing the person or persons authorized to execute the warrant, the property to be entered, and a statement of the general types and estimated quantity of the items to be removed or conditions abated. The warrant shall contain a direction that it be executed on any day of the week between the hours of 8:00 a.m. and 6:00 p.m., or where the judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.

(c) Police Assistance. In issuing a graffiti abatement warrant, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to remove any person or obstacle and to assist the representative of the bureau in any way necessary to enter the property and, remove and abate the graffiti.

(5) Execution of Graffiti Abatement Warrants.

(a) Occupied Property. Except as provided in 14B.80.040 D.2., in executing a graffiti abatement warrant, the person authorized to execute the warrant shall, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request. A copy of the warrant shall be left with the occupant or the person in possession.

(b) Unoccupied Property. In executing a graffiti abatement warrant on unoccupied property, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in 14B.80.040 D.2.c.(5)(a), but may promptly enter the designated property if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition. In such case a copy of the graffiti abatement warrant shall be conspicuously posted on the property.

(c) Return. A graffiti abatement warrant must be executed within 10 working days of its issue and returned to the judge by whom it was issued within 10 working days from its date of execution. After the expiration of the time prescribed by this subsection, the warrant unless executed is void.

E. Graffiti Abatement Consent Forms.

- 1.** The Manager shall develop consent forms allowing the Manager to enter onto property to abate the graffiti without prior notice from the Manager. The Manager shall make these consent forms available to the public.

- 2.** Property owners and occupants may request and sign consent forms for allowing graffiti abatement. The Graffiti Abatement Manager shall renew the consent forms at least biannually.