

AGENDA

KEIZER CITY COUNCIL **REGULAR SESSION**

Monday, October 19, 2015

7:00 p.m.

Robert L. Simon Council Chambers
Keizer, Oregon

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **FLAG SALUTE**

4. **SPECIAL ORDERS OF BUSINESS**

5. **COMMITTEE REPORTS**

6. **PUBLIC TESTIMONY**

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

7. **PUBLIC HEARINGS**

- a. El Patron Mexican Grill Liquor License Application (Previously Salsa Rica Restaurant)
- b. Pats 1 Cig Liquor License Application
- c. Keizer Development Code Amendment – Materials on Sidewalks and Streets

8. **ADMINISTRATIVE ACTION**

- a. **RESOLUTION** – Authorizing City Manager and Chief of Police to Sign 2015-2018 Collective Bargaining Agreement With Keizer Police Association
- b. **ORDER** – In the Matter of the Application of Trademark Enterprises, LLC, Robert Bowden, Doug Harner, and JDC Homes LLC for Approval of a 32 Lot Subdivision Located at 5447 Burbank Street N, 5457 Burbank Street N, and an Unaddressed Field Directly to the West of those Addresses in Keizer, Oregon (Case No. 2015-11)
- c. **ORDINANCE** – Relating to Abandoned Shopping Carts

9. CONSENT CALENDAR

a. Approval of October 5, 2015 Regular Session Minutes

10. COUNCIL LIAISON REPORTS

11. OTHER BUSINESS

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

12. WRITTEN COMMUNICATIONS

To inform the Council of significant written communications.

13. AGENDA INPUT

November 2, 2015

7:00 p.m. – City Council Regular Session

November 14, 2015 (Saturday)

9:00 a.m. – City Council Work Session

- Tour of Covanta Facility - Brooks, OR and Ash Fill Site near Woodburn, OR

November 16, 2015

7:00 p.m. – City Council Regular Session

14. ADJOURNMENT

Upon request, auxiliary aids and/or special services will be provided. To request services, please contact us at (503)390-3700 or through Oregon Relay at 1-800-735-2900 at least two working days (48 hours) in advance.

CITY COUNCIL MEETING: October 19, 2015

AGENDA ITEM NUMBER: _____

TO: MAYOR CLARK AND CITY COUNCIL MEMBERS

**THROUGH: CHRIS C. EPPLEY
CITY MANAGER**

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

**SUBJECT: EL PATRON MEXICAN GRILL- LIQUOR LICENSE APPLICATION -
CHANGE OF OWNERSHIP**

BACKGROUND:

On September 24, 2015 the City received an application for a change of ownership for the liquor license for Salsa Rica Restaurant located at 3844 River Road, Keizer, Oregon. The Oregon Liquor Control Commission requires a new application when changing ownership, location, or license type. The restaurant will be renamed El Patron Mexican Grill. As required by Keizer Ordinance a public hearing was scheduled; notice was published and mailed to all property owners within 200 feet of the proposed establishment.

RECOMMENDATION:

It is recommended the public hearing be opened to allow testimony and upon completion the hearing be closed. It is further recommended the Council recommend approval of the application for a change of ownership for Salsa Rica under the guidelines as established by ORS 471.178 and the Ordinances of the City of Keizer. This recommendation shall then be forwarded to the Oregon Liquor Control Commission for final approval.



KEIZER POLICE DEPARTMENT

930 Chemawa Road NE • P.O. Box 21000 • Keizer, OR 97307-1000 • www.keizerpd.com

Phone (503) 390-3713 • **Fax** (503) 390-8295

City Council Meeting of _____

Agenda Item No. _____

To: Mayor and City Council

Thru: Chris Eppley, City Manager

From: John Teague, Chief of Police
Laurie Phillips, Police Support Supervisor-Interim

Subject: Salsa Rica Restaurant (Change of Ownership) Name changed to:
El Patron Mexican Grill

Issue: Shall the City Council approve the liquor license application due to
Change of Ownership of El Patron Mexican Grill (formerly Salsa Rica
Restaurant) located at 3844 River Rd. N., Keizer, Oregon 97303?

Applicant Background Check:

The applicants for new ownership, Miriam Villa and Carlos Pineda have no Oregon criminal history.

Recommendation

The Keizer Police Department recommends approval of the liquor license application change of ownership for El Patron Mexican Grill.



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 Ch/tn

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: 9/24/15

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: Hingston

Date: 9/24/15

90-day authority: ☐ Yes ☒ No

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

① El Patron Mexican Grill, LLC ③

② _____ ④ _____

2. Trade Name (dba): El Patron Mexican grill

3. Business Location: 3844 River Rd N. Keizer OR Marion 97303
(number, street, rural route) (city) (county) (state) (ZIP code)

4. Business Mailing Address: _____
(PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: 503-339-7732
(phone)

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

7. If yes to whom: _____ Type of License: SALEM REGIONAL OFFICE

8. Former Business Name: _____

9. Will you have a manager? ☒ Yes ☐ No Name: Carlos Pineda 503-936-3603
(manager must fill out an Individual History form)

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

11. Contact person for this application: Carlos Pineda 503-936-3603
(name) (phone number(s))
3844 River Rd N Keizer OR 97303 El.patron87@yahoo.com
(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:

① Miriam Giller Date 9-24-15 ③ Date _____

② [Signature] Date 9-24-15 ④ Date _____

OREGON LIQUOR CONTROL COMMISSION
LIMITED LIABILITY COMPANY QUESTIONNAIRE



Please Print or Type

LLC Name: El Patron Mexican Grill, LLC Year Filed: 2015

Trade Name (dba): El Patron Mexican Grill

Business Location Address: 3844 River Rd N. ~~Ter~~

City: Keizer OR. ZIP Code: 97303

List Members of LLC:

Percentage of Membership Interest:

1. Miriam Villa
(managing member)

99%

2. Carlos Pineda
(members)

1%

3. _____

4. _____

5. _____

6. _____

(Note: If any LLC member is another legal entity, that entity must also complete an LLC, Limited Partnership or Corporation Questionnaire. If the LLC has officers, please list them on a separate sheet of paper with their titles.)

Server Education Designee: Miriam Villa DOB: 11-10-1987

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

Signature: Miriam Villa Date: 3-9-15
(name) (title)



OREGON LIQUOR CONTROL COMMISSION BUSINESS INFORMATION

Please Print or Type

Applicant Name: El Patron Mexican Grill, LLC Phone: 503-936-3603

Trade Name (dba): El Patron Mexican Grill

Business Location Address: 3844 River Rd N.

City: Keizer OR ZIP Code: 97303

DAYS AND HOURS OF OPERATION

Business Hours:

Sunday 10am to 9pm
Monday 10am to 9pm
Tuesday 10am to 9pm
Wednesday 10am to 9pm
Thursday 10am to 9pm
Friday 10am to 9pm
Saturday 10am to 9pm

Outdoor Area Hours:

Sunday _____ to _____
Monday _____ to _____
Tuesday _____ to _____
Wednesday N/A
Thursday _____ to _____
Friday _____ to _____
Saturday _____ to _____

The outdoor area is used for:

- ☐ Food service Hours: _____ to _____
☐ Alcohol service Hours: _____ to _____
☐ Enclosed, how _____

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

(Investigator's Initials)

Seasonal Variations: ☒ Yes ☐ No If yes, explain: will close at 10pm-11pm
during the summer.

ENTERTAINMENT

Check all that apply:

- ☐ Live Music ☐ Karaoke
☒ Recorded Music ☐ Coin-operated Games
☐ DJ Music ☐ Video Lottery Machines
☐ Dancing ☐ Social Gaming
☐ Nude Entertainers ☐ 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: 38 Outdoor: _____
Lounge: _____ Other (explain): _____
Banquet: _____ Total Seating: 38

OLCC USE ONLY

Investigator Verified Seating: ☒ (Y) ☐ (N)

Investigator Initials: MT

Date: _____

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

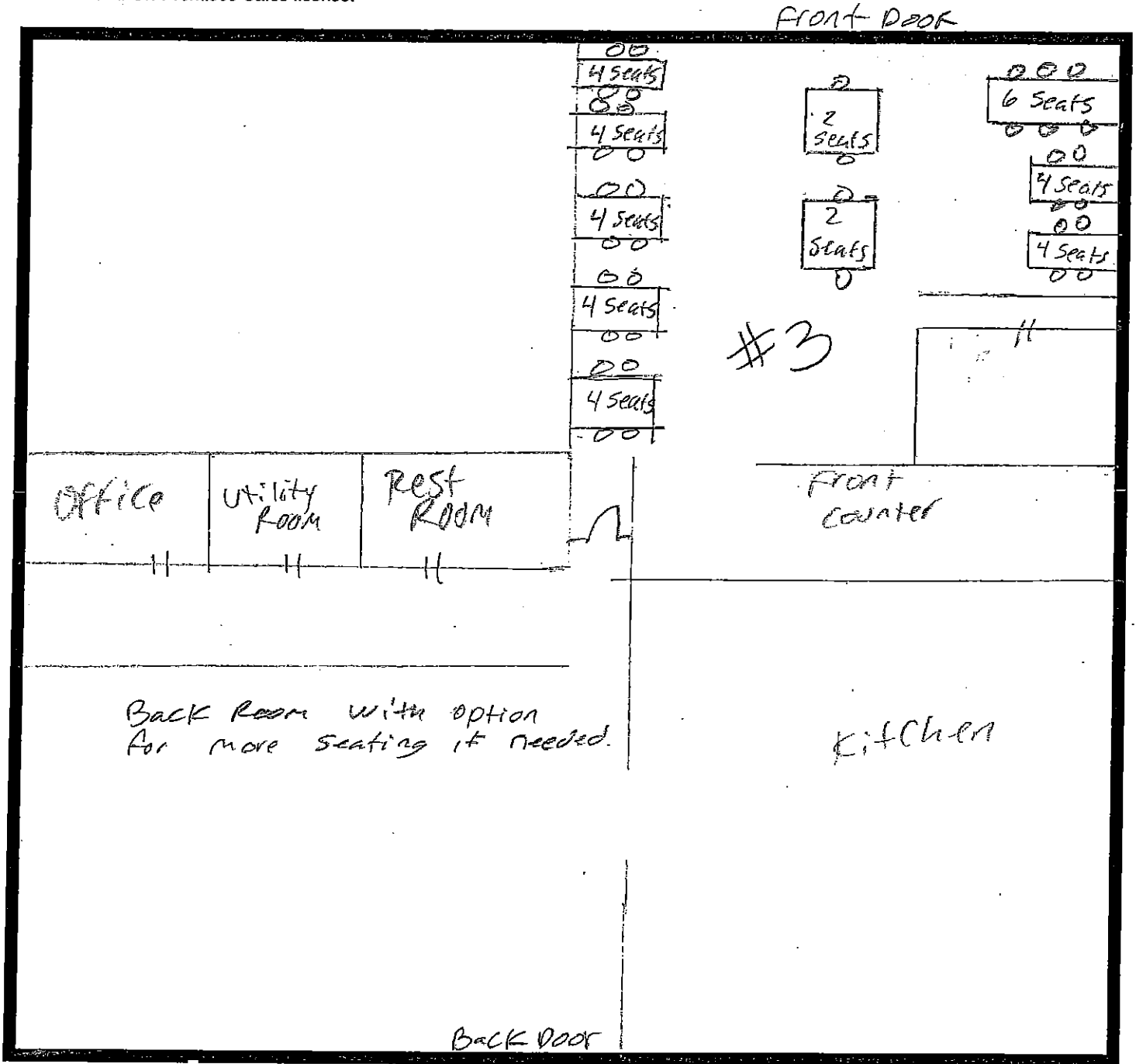
Applicant Signature: Miriam Villa Date: 3-9-15

1-800-452-OLCC (6522)



OREGON LIQUOR CONTROL COMMISSION FLOOR PLAN

- Your floor plan must be submitted on this form.
- Use a separate Floor Plan Form for each level or floor of the building.
- The floor plan(s) must show the specific areas of your premises (e.g. dining area, bar, lounge, dance floor, video lottery room, kitchen, restrooms, outside patio and sidewalk cafe areas.)
- Include all tables and chairs (see example on back of this form). Include dimensions for each table if you are applying for a Full On-Premises Sales license.



El Patron Mexican Grill, LLC
Applicant Name

El Patron Mexican Grill
Trade Name (dba):

Keizer OR. 97303
City and ZIP Code

.....OLCC USE ONLY.....
MINOR POSTING ASSIGNMENT(S)

#3 Entire Premises

Date: _____

Initials: MLH

1-800-452-OLCC (6522)

www.oregon.gov/olcc

(rev. 09/12)

CITY COUNCIL MEETING: October 19, 2015

AGENDA ITEM NUMBER: _____

TO: MAYOR CLARK AND CITY COUNCIL MEMBERS

**THROUGH: CHRIS C. EPPLEY
CITY MANAGER**

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

SUBJECT: PATS 1 CIGS - LIQUOR LICENSE APPLICATION

BACKGROUND:

On October 2, 2015 the City received an application for a new liquor license for Pats 1 Cig located at 4486 River Road N, Keizer, Oregon. As required by Keizer Ordinance a public hearing was scheduled; notice was published and mailed to all property owners within 200 feet of the proposed establishment. The Keizer Police Department reports a clear background check on the applicants. In addition, the Keizer Community Development Department finds the location of the establishment to be properly zoned and has no additional comment on the application.

RECOMMENDATION:

It is recommended the public hearing be opened to allow testimony from the applicant or other interested individuals and upon completion, the hearing be closed. It is further recommended the Council recommend approval of the application for Pats 1 Cig under the guidelines as established by ORS 471.178 and the Ordinances of the City of Keizer. This recommendation shall then be forwarded to the Oregon Liquor Control Commission for final approval.



KEIZER POLICE DEPARTMENT

930 Chemawa Road NE • P.O. Box 21000 • Keizer, OR 97307-1000 • www.keizerpd.com
Phone (503) 390-3713 • **Fax** (503) 390-8295

City Council Meeting of _____

Agenda Item No. _____

To: Mayor and City Council

Thru: Chris Eppley, City Manager

From: John Teague, Chief of Police
Laurie Phillips, Police Support Supervisor-Interim

Subject: Pats Cigs (Change of Ownership) Name changed to:
Pats 1 Cig

Issue: Shall the City Council approve the liquor license application due to
Change of Ownership of Pats 1 Cig (formerly Pats Cigs) located at 4486
River Rd. N., Keizer, Oregon 97303?

Applicant Background Check:

The applicants for new ownership, Najeeb Mohammed and Pamela Munoz Tonantzin have no Oregon criminal history.

Recommendation

The Keizer Police Department recommends approval of the liquor license application change of ownership for Pats 1 Cig.



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: C. W. Wanda

Date: 10-2-15

90-day authority: ☒ Yes ☐ No

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

① Dutch II corporation ③ _____
② _____ ④ _____

2. Trade Name (dba): Pats I Cig

3. Business Location: 4486 River Rd N. Keizer OR 97303
(number, street, rural route) (city) (county) (state) (ZIP code)

4. Business Mailing Address: 4486 River Rd N. Keizer OR 97303
(PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: (503) 390-3647
(phone)

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

7. If yes to whom: _____ Type of License: _____

8. Former Business Name: Pats Cigs

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? Keizer
(name of city or county)

11. Contact person for this application: Najeeb Mohammed (424) 386-2689
(name) (phone number(s))

2809 SE 115th Ave, Portland 97266 Najeebmj2689@yahoo.com
(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:

① Najeeb Date 10-28-15 ③ _____ Date _____

② _____ Date _____ ④ _____ Date _____

OREGON LIQUOR CONTROL COMMISSION
LIMITED LIABILITY COMPANY QUESTIONNAIRE



Please Print or Type

LLC Name: Dutch II corporation. Year Filed: 2015.
Trade Name (dba): Pats 1 Cigs.
Business Location Address: 4486 River Rd N.
City: Keizer ZIP Code: 97303

List Members of LLC:

Percentage of Membership Interest:

1. Najeeb Mohammed
(managing member)
2. Pamela Munoz Tonantzin
(members)
3. _____
4. _____
5. _____
6. _____

90 %
10 %

(Note: If any LLC member is another legal entity, that entity must also complete an LLC, Limited Partnership or Corporation Questionnaire. If the LLC has officers, please list them on a separate sheet of paper with their titles.)

Server Education Designee: _____ DOB: _____

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

Signature: Najeeb Date: 09-28-2015
(name) (title)



OREGON LIQUOR CONTROL COMMISSION BUSINESS INFORMATION

Please Print or Type

Applicant Name: Najeeb Mohammed Dutch II Corp. Phone: 503-390-3647
Trade Name (dba): Pats 1 Cigs
Business Location Address: 4486 River Rd. N.
City: Keizer ZIP Code: 97303

DAYS AND HOURS OF OPERATION

Business Hours:

Sunday 8:00 AM to 8:00 PM
Monday 8:00 to 8:00
Tuesday 8:00 to 8:00
Wednesday 8:00 to 8:00
Thursday 8:00 to 8:00
Friday 8:00 AM to 8:00
Saturday 8:00 AM to 8:00 PM

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 Hours: _____ to _____
☐ Alcohol service Hours: _____ to _____
☐ 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 | ☐ Karaoke |
| ☐ Recorded Music | ☐ Coin-operated Games |
| ☐ DJ Music | ☐ Video Lottery Machines |
| ☐ Dancing | ☐ Social Gaming |
| ☐ Nude Entertainers | ☐ Pool Tables |
| | ☐ Other: <u>Smoke shop</u> |

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.

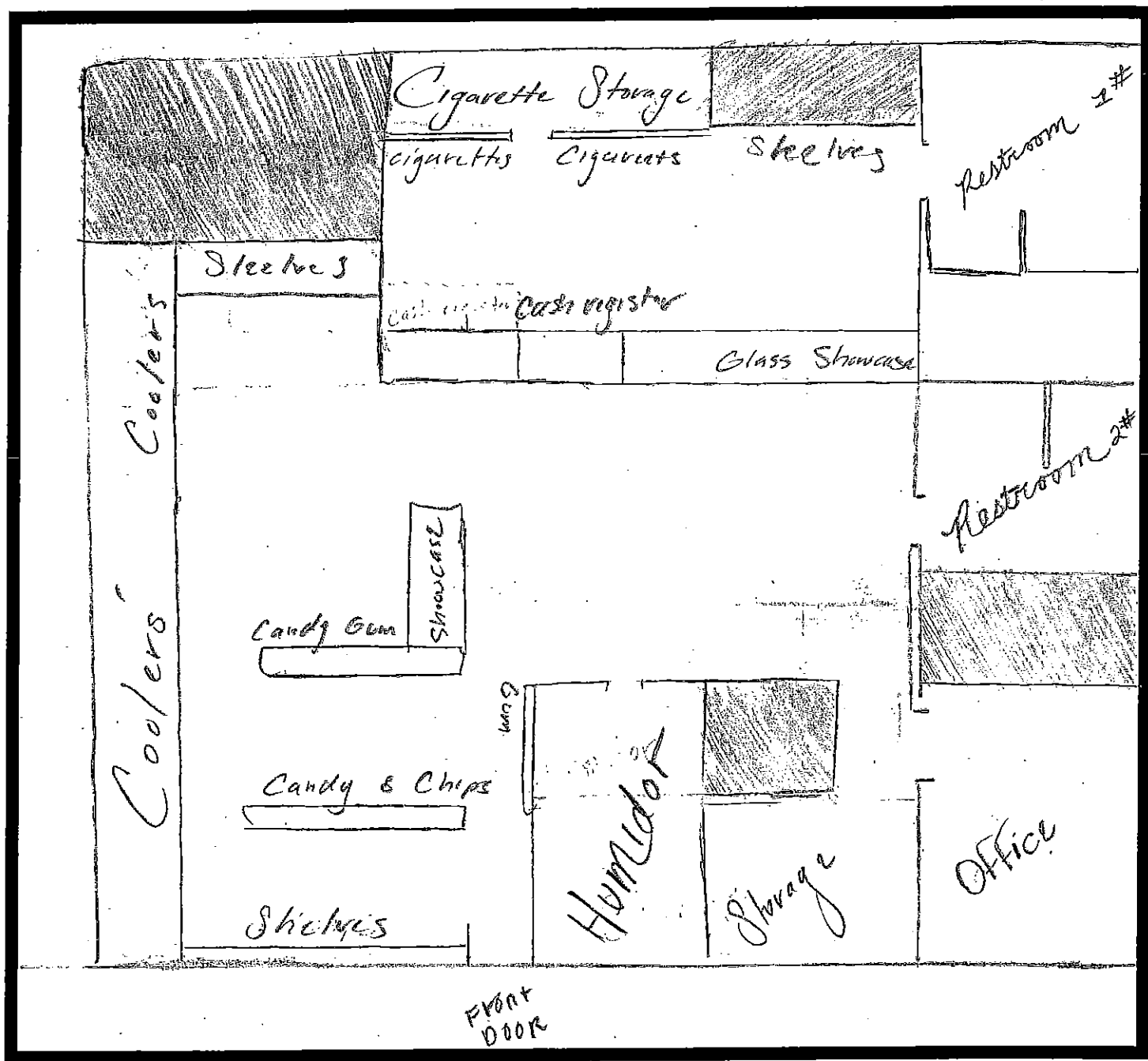
Applicant Signature: Najeeb Date: 9-28-2015

1-800-452-OLCC (6522)



OREGON LIQUOR CONTROL COMMISSION FLOOR PLAN

- Your floor plan must be submitted on this form.
- Use a separate Floor Plan Form for each level or floor of the building.
- The floor plan(s) must show the specific areas of your premises (e.g. dining area, bar, lounge, dance floor, video lottery room, kitchen, restrooms, outside patio and sidewalk cafe areas.)
- Include all tables and chairs (see example on back of this form). Include dimensions for each table if you are applying for a Full On-Premises Sales license.



NAJEEB MOHAMMED
Applicant Name
PATS 1 CIGS
Trade Name (dba):
4486 River rd north Kaysers Oregon
City and ZIP Code 97303

.....OLCC USE ONLY.....
MINOR POSTING ASSIGNMENT(S)
Date: 10-02-2015 Initials: NM

1-800-452-OLCC (6522)

COUNCIL MEETING: Oct 19, 2015
AGENDA ITEM NUMBER: _____

TO: MAYOR CLARK AND CITY COUNCIL MEMBERS
THROUGH: CHRIS EPPLEY, CITY MANAGER
NATE BROWN, COMMUNITY DEVELOPMENT DIRECTOR
FROM: SAM LITKE, SENIOR PLANNER

SUBJECT: Text amendment relating to display of material on sidewalks and streets

Attachments:

- **Section 2.203 - draft**

ISSUE:

The proposed text amendment is relating to the display of material on streets and sidewalks. The Planning Commission voted 4-1 to support the proposed text amendment.

DISCUSSION:

The proposed text amendment will revise Section 2.203 (Permitted Uses Generally) to prohibit the storage or display merchandise or other material for commercial use on a sidewalk or in the public right of way. Occasionally the sidewalk or a portion of the street right of way is used for the display of merchandise. This is typically either in conjunction with a business or a yard sale. The result is this can become a hazard for people using either the sidewalk, bike lane, or the street. At the present time there is nothing in the code that explicitly prohibits this type of activity. This revision will allow Code Enforcement to take action when this type of activity occurs. This section of code is only intended to regulate the placement of commercial material within the public right of way and not the placement of any non-commercial items.

RECOMMENDATION:

That the City Council open the public hearing to consider the proposed text amendment and direct staff to prepare an ordinance with findings to adopt the proposed revision.

2.203 PERMITTED USES GENERALLY

2.203.01 Permitted Uses

The following uses and activities are permitted in all zones:

- A. Utility Facilities. Placement and maintenance of underground or above ground wires, cables, pipes, guys, support structures, pump stations, drains, and detention basins within rights-of-ways by public agencies and utility companies for telephone, TV cable, or electrical power transmission, or transmission of natural gas, petroleum products, geothermal water, water, wastewater, sewage and rainwater. (5/98)
- B. Railroad Tracks. Railroad tracks and related structures and facilities located within rights-of-ways controlled by railroad companies. (5/98)
- C. Street Improvements. Surfaced travel lanes, curbs, gutters, drainage ditches, sidewalks, transit stops, landscaping and related structures and facilities located within rights-of-ways controlled by a public agency. (5/98)
- D. Public Right-of-way Expansion /Use. Expansion of public right-of-way and widening or adding improvements within the right-of-way, provided the right-of-way is not expanded to more width than prescribed for the street in the Public Facilities segment of the Comprehensive Plan. (5/98)

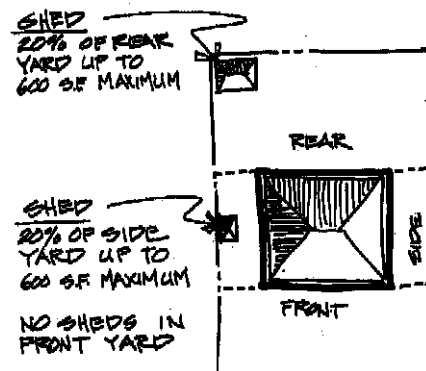
The placement, storage or display of merchandise, or other material for commercial use in the street, on the sidewalk, median strip, or any other portion of the street right of way or public easement is prohibited.

- E. Signs. Signs as permitted in Section 2.300. (5/98)

2.203.02 Permitted Residential Accessory Structures and Uses

The following accessory uses shall be permitted subject to the following limitations and requirements:

- A. Accessory Structures and Uses. The following accessory structures and uses are permitted on a lot in any zone in conjunction with a permitted dwelling or manufactured home:
 - 1. Decks and patios (open, covered or enclosed). (5/98)



Accessory Structure Locations

2. Storage building for fire wood, yard maintenance equipment or tools, or, personal property not used in conjunction with any commercial or industrial business other than a home occupation. (5/98)
 3. Green house or hobby shop. (5/98)
 4. Swimming pools, hot tubs, and saunas along with associated structures. (5/98)
 5. Pets, including outdoors shelters or runs. (5/98)
 6. Fall-out shelters. (5/98)
 7. Garages and carports. (5/98)
 8. Rooms for 1 or 2 boarders residing in the dwelling. (5/98)
- B. Fences. Fences are a permitted accessory or secondary use in all zones subject to the requirements in Section 2.312.10. (5/98)
- C. Residential Office. One manager's office of 400 square feet or less for rental of dwellings is a permitted accessory use in the RL, RM, RH and CM zones provided the office is located within a building containing dwelling units. (5/98)
- D. Agricultural Uses. Gardens, orchards and crop cultivation primarily for personal use is a permitted use accessory to a dwelling in residential zones, except that the keeping of livestock, poultry (except chickens) or the sale of such, as well as the selling of produce on site are prohibited. Chickens are only permitted consistent with the following standards: (9/11)
1. Chickens shall only be kept upon property occupied by a detached single family dwelling or duplex. (9/11)
 2. No more than 3 hens may be kept on any one property. (9/11)
 3. The keeping of roosters is prohibited. (9/11)
 4. Chickens shall be kept for personal, non-commercial use only. No person shall sell eggs or engage in chicken breeding or fertilizer production for commercial purposes. (9/11)
 5. Chickens and chicken coops shall only be located in a side or rear yard. (9/11)
 6. Chicken coops shall comply with Accessory Structure requirements in Section 2.313 B, C, D, and F. (9/11)
 7. Chicken coops shall be kept clean, dry, free of noticeable odors, and in good repair. (9/11)
 8. A chicken coop is required. (9/11)
 9. Chicken coop shall be setback a minimum 10 feet from adjacent property lines. (9/11)

10. Applicant shall obtain a permit from the city prior to the keeping of chickens. (9/11)

2.203.03 Permitted Non-residential Accessory Structures and Uses

- A. Rental Office. A manager's office for rental of space in an industrial zone. (5/98)
- B. Mobile Classrooms. Mobile classrooms are a permitted accessory use in conjunction with elementary and secondary schools. (5/98)

2.203.04 Permitted Temporary Uses

The following temporary uses shall be permitted subject to the following limitations and requirements:

- A. Permitted Activities. Outdoor tree or fireworks sales are permitted in all zones except residential. Amusement and recreational service (SIC 799); and retail sales and services from a vehicle or temporary structure are permitted in all permitting zones, except residential, as a secondary use. However, houses of worship on arterial or collector streets may conduct any temporary use as described in this section. (2/01)

1. The uses are otherwise permitted to be outdoors in the zone. (5/98)
2. The activity is located on the same lot for no more than 90 days in any calendar year. (5/98)
3. The required parking for the primary uses on the same lot is not reduced below Ordinance requirements. (5/98)
4. The use does not block driveways, driveway entrances or parking aisles. (5/98)
5. The activity conforms to all signage requirements in Section 2.308. (5/98)
6. The activity conforms to all setback requirements applicable to the lot and zone. (5/98)

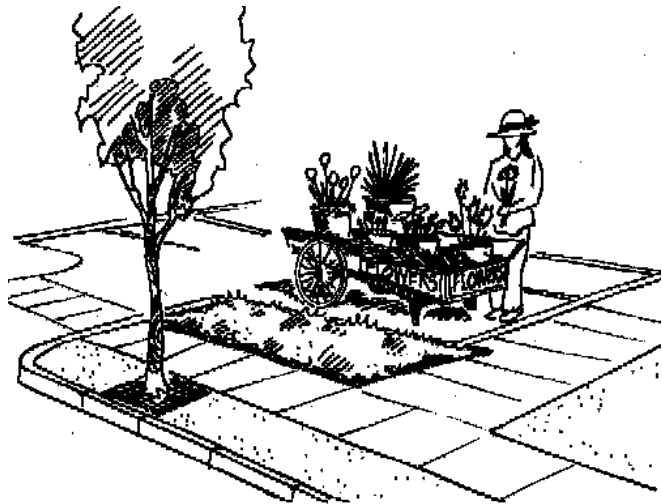


Figure 3.210.04 Pre-Application Co - Temporary Business

7. The operator of a temporary use shall provided the required information, pay the applicable fee, obtain and display the required temporary business permit. (5/98)
 8. The operator of a temporary use shall obtain all permits required by other agencies including those required for food handling and sales, and the sale of fireworks. (5/98)
- B. Temporary Construction Facilities. Mobile offices, temporary power equipment and temporary structures to house personnel and store equipment during construction, provided the structures are not used as dwellings. (5/98)
- C. Produce Stands. Temporary roadside stands in conjunction with a farm use provided:
1. Sales are limited to produce grown in the vicinity with at least 51% of the produce is grown on the premises. (5/98)
 2. One off-street parking space is provided for each 100 square feet of floor area. (5/98)
 3. The roadside stand is operated for no more than 6 months in any calendar year and only between official sunrise and sunset. (5/98)
- D. Yard Sales and Auctions. Yard sales in any residential zone, and auctions in Commercial and Industrial zones, provided there are not more than 3 sales in a calendar year with each sale not to exceed three consecutive days. Merchandise and signs shall remain on private property. (5/98)
- E. Additional Permitted Temporary Uses. The City Council may, by resolution, authorize additional permitted temporary uses during a specific event or festival. This may include setting forth reasonable types of uses, appropriate zones for such uses, temporary signs and any time restrictions the Council finds necessary to protect the health, safety and welfare of the public. (5/04 – Ord 2004-498)
- F. Temporary Use of Containers. The temporary use of a portable storage container may be permitted provided that the portable storage container is placed in a driveway, parking lot, or other paved surface area. A container must be placed on private property and cannot encroach or interfere with any sidewalk, public right of way, access way, or vision clearance area. A portable storage container may not be placed anywhere on a lot or parcel more than a total of 30 days in a calendar year. (3/12)

CITY COUNCIL MEETING: October 19, 2015

AGENDA ITEM NUMBER:_____

TO: MAYOR CLARK AND COUNCIL MEMBERS

THROUGH: CHRISTOPHER C. EPPLEY, CITY MANAGER

FROM: MACHELL DEPINA, HUMAN RESOURCE DIRECTOR

**SUBJECT: COLLECTIVE BARGAINING AGREEMENT BETWEEN THE
CITY OF KEIZER AND THE KEIZER POLICE ASSOCIATION**

The City's Collective Bargaining Agreement (CPA) with the Keizer Police Association (KPA) was set to expire on June 30, 2015. The parties have continued to operate under this agreement. City staff and the City's labor attorney, Kathy Peck, have negotiated a new CBA with the KPA. Such agreement is attached to the enclosed Resolution.

RECOMMENDATION:

Adopt the attached Resolution Authorizing City Manager and Chief of Police to Sign 2015-2018 Collective Bargaining Agreement with Keizer Police Association.

Please contact Chris Eppley if you have any questions in this regard. Thank you.

ESJ/tmh

1 CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

2
3 Resolution R2015-____

4
5 AUTHORIZING CITY MANAGER AND CHIEF OF POLICE TO
6 SIGN 2015-2018 COLLECTIVE BARGAINING AGREEMENT
7 WITH KEIZER POLICE ASSOCIATION
8

9 WHEREAS, the City Council authorized the City Manager and Chief of Police to
10 enter into a Collective Bargaining Agreement with the Keizer Police Association by
11 Resolution R2012-2223;

12 WHEREAS, such Collective Bargaining Agreement was effective from July 1,
13 2012 through June 30, 2015;

14 WHEREAS, the City desires to enter into a new Collective Bargaining Agreement
15 for the period of July 1, 2015 through June 30, 2018;

16 WHEREAS, from time-to-time amendments need to be made to the Collective
17 Bargaining Agreement to modify provisions and change job classifications as authorized
18 by the Council;

19 WHEREAS, such amendments are made with the use of Memoranda of
20 Understanding;

21 WHEREAS, Memoranda of Understanding must be authorized by the City
22 Council;

23 WHEREAS, the City Council desires to allow the City Manager and Chief of
24 Police to sign Memoranda of Understanding relating to the 2015-2018 Collective

1 Bargaining Agreement without further authorization by the City Council except for
2 amendments relating to provisions that relate to wages, benefits, budgetary matters, or
3 job classification additions, except as noted below;

4 WHEREAS, the City Council desires to allow the City Manager and Chief of
5 Police to sign Memoranda of Understanding relating to the 2015-2018 Collective
6 Bargaining Agreement without further authorization by the City Council relating to
7 classification additions if such job classification additions have been formally approved
8 by Council;

9 NOW, THEREFORE,

10 BE IT RESOLVED by the City Council of the City of Keizer that the City Manager
11 and Chief of Police are authorized to sign the attached 2015-2018 Collective Bargaining
12 Agreement with the Keizer Police Association.

13 BE IT FURTHER RESOLVED by the City Council of the City of Keizer that the
14 City Manager and Chief of Police are authorized to sign Memoranda of Understanding
15 relating to the 2015-2018 Collective Bargaining Agreement without further Council
16 authorization unless such Memoranda pertain to provisions that relate to wages, benefits,
17 budgetary matters, or job classification additions, except as noted below.

18 BE IT FURTHER RESOLVED by the City Council of the City of Keizer that the
19 City Manager and Chief of Police are authorized to sign Memoranda of Understanding
20 relating to the 2015-2018 Collective Bargaining Agreement without further Council

1 authorization relating to job classification additions if Council has already formally
2 approved the job classification addition.

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

5 PASSED this _____ day of _____, 2015.

6
7 SIGNED this _____ day of _____, 2015.

8
9
10 _____
11 Mayor

12 _____
13 City Recorder

COLLECTIVE BARGAINING AGREEMENT



Between

CITY OF KEIZER

And

KEIZER POLICE ASSOCIATION

July 1, 2015 through June 30, 2018

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PREAMBLE

This Agreement is entered into by the City of Keizer, Oregon, hereinafter referred to as “City” and the Keizer Police Association, hereinafter referred to as the “Association.”

The purpose of this Agreement is to set forth those matters pertaining to rates of pay, hours of work, fringe benefits and other conditions of employment and the establishment of an equitable and peaceful procedure for the resolution of disputes.

ARTICLE 1 – RECOGNITION

Section 1.1 Bargaining Unit

The City recognizes the Association as the exclusive collective bargaining agent for matters concerning direct or indirect monetary benefits, hours, vacations, sick leave, grievance procedures, and conditions of employment for all regular and regular part-time employees in the following classifications:

- A. Police Officer
- B. Police Support Specialist
- C. Community Service Officer
- D. Investigative Services Specialist
- E. Property and Evidence Specialist
- F. Crime Analyst

Section 1.2 Regular Part-Time Employees

The term “regular part-time employee” means any employee of the City who regularly works and receives salary from the City for thirty (30) hours or less per week or less than 1500 hours in any calendar year, but does not include:

- A. Persons engaged as independent contractors.
- B. Seasonal, emergency or casual workers whose periods of employment with the City do not total 600 hours in any calendar year.

Nothing in this Section shall prevent a regular part-time employee from working forty (40) hours per week, provided the hours are authorized by the City and the employee consents to the additional work hours and provided total work hours do not exceed 1500 hours in any calendar year. In the event, however, that a regular part-time employee is required by the City to work more than thirty (30) hours in a week, the employee shall be entitled to accrue vacation and sick leave at the accrual rate for regular full-time employees. Otherwise, regular part-time employees will accrue such benefits, leaves, etc. on a prorated basis.

Section 1.3 Spouses and Domestic Partners

For the purposes of this Agreement, where insurance benefits are extended to “spouses,” domestic partners shall be considered “spouses.” Additionally, other types of benefits, such as sick leave pay and OFLA benefits to care for a member of the immediate family, are extended to domestic partners. Whenever the term “domestic partner” is used in this Agreement, it will be defined as an individual of the same or opposite sex who lives with the employee and has fulfilled the requirements contained in and completed the “Affidavit of Domestic Partnership” form which is available from Human Resources, except as prohibited by carrier contract. Domestic partners that have fulfilled the requirements set forth in this form will be eligible for all benefit insurance options available to “spouses” as limited by

carrier contracts, as well as other benefits extended to domestic partners under this Agreement. Employees are obligated to promptly notify the Chief of Police and Human Resources when domestic partnerships begin and end.

Section 1.4 New Classifications

When any new classification not listed in Section 1.1 above is established by the City and assigned to the bargaining unit, the City shall designate a pay rate for the new classification. The City shall then notify the Association in writing of the pay rate and furnish the Association with a copy of the new classification specification. In the event the Association does not concur in the pay rate, the Association shall notify the City in writing of such within fourteen (14) days of its receipt of the City notice.

Pursuant to ORS 243.698, if after ninety (90) days of negotiations, the parties have not resolved the issue, an arbitrator shall be mutually agreed upon or selected in accordance with the procedure established in Article 15.1, Step Four, except the arbitrator shall be bound by the applicable provisions of ORS 243.746. Nothing contained herein shall be construed to limit the City's ability to create or combine job classifications.

In the event the City intends to establish a new classification within the Police Department and outside the bargaining unit, the City will notify the Association in writing of its intentions; will provide a copy of the classification description and, if requested to do so, will discuss with the Association whether the classification should be a bargaining unit position. If the parties are unable to agree, the dispute will be resolved under PECBA unit clarification procedures-before the Employment Relations Board.

ARTICLE 2 – MANAGEMENT RIGHTS

Section 2.1 Management Rights

Subject to the requirements of the PECBA relating to the obligation to bargain, the City retains all the customary, usual, and exclusive rights connected with the responsibility to manage the affairs of the Department. The City shall retain the exclusive right to exercise all the customary functions of management, including but not limited to:

- A. To determine the specific programs and services offered by the City, and the methods, means and facilities by which they shall be effectuated.
- B. To determine the size, nature and qualifications of the work force, to assign duties and equipment, to direct and evaluate the employees in the performance of their work assignments.
- C. To develop work rules and operating procedures not inconsistent with this Agreement.
- D. To promote, transfer, lay-off, and to discipline, demote and discharge employees.

Section 2.2 Subcontracting

The City shall notify the Association in writing when it appears reasonably probable that the City will subcontract work currently performed by the bargaining unit. Negotiations and mediation regarding the decision and impact of subcontracting shall continue for no longer than ninety (90) calendar days from the receipt of the City's written notice. If not settled after ninety (90) days, the issue will be submitted to an arbitrator who shall be mutually agreed upon or selected in accordance with the procedure established in Article 16.1, Step Four. The arbitrator shall be bound by the applicable provisions of ORS 243.746.

Section 2.3 Volunteer Utilization

- A. Reserves, Cadets and other volunteers may be used to perform police related tasks and auxiliary functions as determined by the Chief, including but not limited to providing law enforcement services at public events and providing law enforcement related services not restricted by Section 2.4.
- B. The City may utilize Reserve Police Officers or Cadet Officers to perform the following duties without violating Section 5.3, Overtime, or Section 2.4, Work Preservation:
 - 1. Prisoner supervision and transports;
 - 2. Mental patient supervision and transports;
 - 3. Selective enforcement details provided the City has afforded the opportunity to Association members;

4. Crime scene security provided the City has afforded the opportunity to Association members;
 5. School event security provided the City has afforded the opportunity to Association members;
 6. Selective enforcement details such as holiday residential patrol, vacation checks, Christmas lighting routes, disabled parking violation checks, residential security checks, or similar duties customarily performed by Reserve Police Officers consistent with past practice;
 7. Search and rescue operations;
 8. Any other duties mutually agreed between the City and the Association. Nothing in this Section prevents Reserve Police Officers from performing their primary duties, supplementing the Patrol Division or furthering their own experience as outlined in the KPD Policy and Procedures Manual.
- C. In addition, other volunteers may be utilized to perform data entry and miscellaneous support staff services, consistent with past practice.

Section 2.4 Work Preservation

Reserves and auxiliary volunteer personnel will not be utilized to replace bargaining unit employees in the performance of their primary and customary job responsibilities, nor take away overtime opportunities other than those instances described in Section 2.3.

ARTICLE 3 – ASSOCIATION RIGHTS

Section 3.1 Association Activities

Employees shall have the right to form, join and participate in the activities of employee organizations of their own choosing, for the purpose of representation on matters of employee relations. Employees shall also have the right to refuse to join or participate in the activities of the Association. No employee shall be interfered with, intimidated, restrained, coerced or discriminated against by the City or by any employee organization because of their exercise of their rights.

Section 3.2 Non-Discrimination

The provisions of this Agreement shall be applied equally to all employees in the bargaining unit without discrimination as to age, marital status, race, color, sex, creed, religion, national origin, union affiliation, disabled status, political affiliation or other protected status or protected activity in accordance with applicable law. Nothing in this Section shall prohibit the City from establishing bona-fide occupational criteria.

Section 3.3 Gender References

All references to employees in this Agreement designate both sexes and, wherever the male gender is used, it shall be construed to include male and female employees.

Section 3.4 Negotiations

The composition of the Association's negotiating team shall be determined by the Association. Not more than three (3) employees shall be permitted to attend negotiating meetings with the City's representatives as part of the Association's negotiating team without loss of pay relative to securing agreement renewal, to the extent that such meetings are scheduled during the duty hours of the members so attending. Negotiating team members who are on duty for all or a portion of any negotiating session, if any, must be assigned to different shifts or be from different sections of the Department. The date, time and place for negotiating sessions shall be established by mutual agreement between the parties. Employees shall notify their shift supervisor as soon as possible in advance of their expected absence for the purpose of this section. Such absences shall not hamper the normal operations of the department and the City shall not incur any liability for overtime pay under the provisions of this Article.

Section 3.5 Grievances

The City also agrees to allow time off without loss of pay for employees directly involved in meetings under the Grievance Procedure. No more than two (2) employees shall be off for this purpose at any one time.

Section 3.6 Association Membership and Fair Share

Membership or non-membership in the Association shall be the individual choice of employees covered by this Agreement. However, any employee who chooses not to become a member of the Association, as well as those who are members of the Association, shall make membership dues payments or a fair share payments in lieu of dues, as defined in ORS 243.650(10), beginning on the 30th day following their first day of employment.

Notwithstanding the foregoing, any employee who objects to Association dues or “fair share” payments, based on bona-fide religious tenets or teachings of a church or religious body of which the employee is a member or sincerely held religious beliefs in accordance with applicable law, shall not be required to make dues or “fair share” payments. Any such employee shall pay an amount of money equivalent to regular Association dues to a non-religious charity which has been mutually agreed upon by the employee affected and the Association. The employee must provide written verification of such payments to the City’s Finance Department on a monthly basis.

Section 3.7 Check-off

The City agrees to deduct bi-weekly membership dues or “fair share” payments from the pay of employees covered by this Agreement. Dues and fair share deductions, as well as charitable contributions required under Section 3.6 above, will be automatically deducted from the pay of bargaining unit employees starting with their 30th day of employment. The City will not be held liable for deduction errors, but will make proper adjustments with the Association for errors as soon as is practicable.

Section 3.8 Bulletin Boards

The City agrees to allow wall space, not to exceed three (3) feet by four (4) feet, for a bulletin board within the Police Department to be used exclusively by the Association for the posting of notices and other information relating to the Association activities, meetings and other matters of legitimate interest to Association members. In the event items are posted on the bulletin board that do not fall within this description, or items are posted that violate the City’s anti-harassment/discrimination prohibitions or other legal restrictions, the City will notify the Association and request removal.

Section 3.9 Right of Access

Subject to the due process provision of this Agreement, Association representatives and agents of the Association shall have the right to reasonable access to the Police Department for the purpose of investigating grievances and other business related to the representation of employees for the purpose of employment relations. Prior to admittance to the non-public areas of the Police Department, the Association representative and/or agent of the Association shall obtain permission from the senior, non-bargaining unit member (supervisor) on duty at the time the request is made. Prior to gaining access, the Association or agent of the Association shall advise the duty supervisor of the purpose of the visit, approximate length of time required and the name of the person(s) to whom he/she wishes to

speaking. Such permission shall not be unreasonably withheld and, if withheld, the reasons for the withholding shall be given to the Association agent or representative at that time. Association representatives and agents shall not unreasonably interfere with an employee's work. This Article is not intended to be used for membership drives or recruiting of new members.

Section 3.10 Use of Buildings

The Association may use, in accordance with established City rules applicable to other groups within the community, City facilities during employees' non-work hours (as defined in this Agreement) for Association meetings, provided such space is available. Request for use of facilities within the Police Department shall be approved by the Chief or designee. Such meetings shall not be permitted for Association organizing activities or membership drives of City employees.

The parties agree to the primary principle that Association activities will be normally carried on outside an employee's duty and working hours.

Section 3.11 Association Meetings

Association members shall be permitted to attend regular monthly membership meetings on duty time. On-duty members will be expected to respond to their duty responsibilities during membership meetings. Except for emergency meetings, the Association agrees to schedule these meetings during non-peak periods of the Department's business and such Association meetings shall not conflict with the regularly scheduled Department briefing periods. Members attending Association meetings on duty will limit their attendance to one (1) hour.

Section 3.12 Association Business

The Association agrees that the Chief will be notified in writing of the members of the Association selected to serve as official representatives. The Association agrees that Association business shall not interfere with the operations of the Department or the police duties of certified Association representatives.

ARTICLE 4 – CITY SECURITY

Section 4.1 No Strike

During the term of this Agreement, there will be no strike, slowdown or recognition of any picket line while in the performance of official duties. For purposes of this section, “strike” means an employee’s refusal in concerted action with others to report for duty, or the employee’s willful absence from the position of the employee, or stoppage of work by the employee, or absence of the employee in whole or in part from the full, faithful or proper performance of the duties of employment of that employee for the purpose of inducing or coercing a change in the conditions, compensation, rights, privileges or obligations of employment. In the event of a violation of this provision by the Association, or employees in the bargaining unit, the City may discipline for such cause, including discharge of any employee involved in such activity either on a uniform or selective basis. Nothing in this Agreement shall preclude recourse by the City to such other legal or equitable remedies as may be available to it.

Section 4.2 Productivity

The parties to this Agreement recognize that delivery of essential municipal services, in the most efficient and effective manner is of paramount importance and interest to the City and the Association. In return to the City for the wage rates and conditions herein provided and consistent with the principle of a fair day’s work for a fair day’s pay, the Association pledges agreement with the objective of achieving the highest level of employee performance and efficiency, safety, good health and sustained effort. The parties may agree to meet at mutually convenient times to discuss means of increasing Departmental productivity.

ARTICLE 5 – WORKING CONDITIONS

Section 5.1 Hours of Work

- A. Regular Hours: The regular hours of work each day shall be consecutive except for interruptions for rest periods and unpaid meal periods.
- B. Regular Work Weeks: All employees shall be scheduled to work a regular work week. The City and the Association have recognized the following regular work weeks for employees in the bargaining unit:
 - 1. Louisiana Plan: This schedule shall consist of a consecutive twelve (12) hour workday. This work schedule shall consist of two (2) consecutive twelve (12) hour work days followed by two (2) consecutive days off, three (3) consecutive twelve (12) hour work days followed by two (2) consecutive days off, two (2) consecutive twelve (12) hour work days followed by three (3) consecutive days off. Day Shift shall be 0700 to 1900 hours. Night Shift shall be from 1900 to 0700 hours.
 - 2. Patrol Overlap: The overlap shift is a patrol shift, normally assigned to the night shift team, with a temporary start time as early as 1400 hours as determined by the night shift supervisor. No employee may be involuntarily assigned to an overlap shift without fourteen (14) days written notice. Employees assigned to an overlap shift without such notice will be paid overtime for hours worked outside their previously scheduled shift during the fourteen (14) day notice period.
 - 3. 5/8 Work Schedule: This schedule shall consist of:
 - a. Five (5) consecutive eight (8) hour days followed by two (2) consecutive days off. The workday shall consist of eight (8) consecutive hours of work with a one-half (1/2) hour meal period.
 - b. Five (5) consecutive eight (8) hour days followed by two (2) consecutive days off. The workday shall consist of eight (8) hours of work with a one (1) hour meal period approximately midway through the shift. Members may occasionally request a one-half (1/2) hour meal period, which a supervisor shall endeavor to allow but with priority given to operational needs.
 - 4. 4/10 Work Schedule: The 4/10 work schedule shall consist of four (4) consecutive ten (10) hour days followed by three (3) consecutive days off, with the exception of days off during days-off rotation. The workday shall consist of ten (10) consecutive hours of work.
 - 5. 4/12 Work Schedule: The 4/12 work schedule shall consist of four (4) consecutive twelve (12) hour days followed by four (4) consecutive days off. The workday shall consist of twelve (12) consecutive hours of work. Day Shift shall be from 0600 to 1800 hours followed by Night Shift from 1800 to 0600 hours.

6. Community Response Unit (CRU): The shift hours of the CRU will be in accordance with Article 5.1 (B) of the Collective Bargaining Agreement. While there is an assigned “normal” shift, CRU, by its very nature, may work varied hours and days. Short-term or casual deviations from that normal shift will be determined by the unit supervisor. Long-term or substantial deviations shall be afforded a 14-day notice unless that notice is waived by CRU personnel. Overtime will be in accordance with CBA Article 5.3.
- C. 12-Hour Shift Time: Officers working under a 12-hour work schedule pursuant to Article 5.1 (B) 1 or Article 5.1 (B) 4 may be scheduled to work a total of 168 hours in each 28-day work period. To compensate officers working 12-hour work schedules for being scheduled to work eight (8) hours in excess of the 160 hours in each 28-day work period that officers working on other shifts are regularly scheduled to work, the City will credit each officer working a 12-hour shift with four (4) hours of shift time each pay period. The four (4) hours of shift time will be credited to the officer’s shift time bank. The shift time bank shall not exceed sixteen (16) hours. Consequently, officers working 12-hour shifts will not accrue shift time for any pay period that would result in their accruals exceeding the sixteen (16) hour maximum.

Section 5.3 D and Section 5.3 E do not apply to this Section. Each officer is responsible for monitoring his/her shift time bank to avoid situations where they will exceed their sixteen (16) hour maximum accrual and scheduling shift time off at times which do not disrupt operations or cause the City undue hardship or incur otherwise avoidable overtime expense. Officers are also required to obtain supervisory approval prior to taking shift time off. In the event an officer's shift time bank reaches twelve (12) hours and the officer has not scheduled shift time off to occur within the next twenty-eight (28) day work period, the City will schedule time off for the officer in increments of one or more four (4) hour blocks.

- D. Scheduled Work Weeks: Generally, the following regular scheduled work weeks for bargaining unit members listed will be recognized by the City and the Association:
1. Patrol Units: Pursuant to Article 5.1 (B) 1.
 2. Investigations Unit: A 4/10 work schedule pursuant to Article 5.1 (B) 4. Half of the Unit shall be scheduled to work Monday through Thursday; the other half of the Unit shall be scheduled to work Tuesday through Friday. Detectives shall adjust their schedules to avoid overtime for court and Grand Jury that is scheduled during regular business hours.
 3. Investigative Services Specialist: A 5/8-work schedule pursuant to Article 5.1(B) 3.b.
 4. Traffic Safety Unit: A 4/10 work schedule pursuant to Article 5.1 (B) 4.
 5. School Resource Officer: A 5/8 work schedule pursuant to Article 5.1 (B) 3.a.

6. Police Support Specialist: A 5/8 work schedule pursuant to Article 5.1 (B) 3.b.
 7. Property and Evidence Specialist: A 5/8 work schedule pursuant to Article 5.1 (B) 3.b.
 8. Community Services Officer: A 5/8 work schedule pursuant to Article 5.1 (B) 3.a.
 9. Community Response Unit (CRU): The shift hours of the CRU will be in accordance with Article 5.1 (B) of the Collective Bargaining Agreement. While there is an assigned “normal” shift, CRU, by its very nature, may work varied hours and days. Short-term or casual deviations from that normal shift will be determined by the unit supervisor. Long-term or substantial deviations shall be afforded a 14-day notice, unless that notice is waived by CRU personnel. Overtime will be in accordance with CBA Article 5.3.
 10. Crime Analyst: A 5/8 work schedule pursuant to Article 5.1.B.3.a. or b.
- E. Changes In Work Schedules: After having given fourteen (14) days written notice to the Association, the City may adopt a change from one to another of the regular workweeks recognized in Article 5.1 (B) or may adjust start/stop times for any employee or group of employees for bona-fide operational reasons.
- Prior to making a change in regular workweek recognized in Article 5.1. (B), a committee comprised of up to three (3) Association members and three (3) members of Management will meet for a period of not more than seven (7) days to discuss the change and make recommendations to the Chief. The Association and the City may employ, by written agreement, any other workweek as a regularly scheduled workweek.
- Notwithstanding other language in this section (E), members assigned to a 4/12 or 4/10 work week who, due to illness or injury, have a doctor’s order of no work for a period exceeding seven (7) scheduled work days may be immediately assigned to a 5/8 work schedule pursuant to Article 5.1.B.3(b), without a fourteen (14) day notice. The member will be given written notice of a work week change fourteen (14) days prior to being reassigned back to the 4/12 or 4/10 work week, unless the involved member waives the fourteen day notice. Both sides agree that timing within the pay cycle will be considered when moving injured or ill officers to or from 5/8 work schedules in order to facilitate minimal inconvenience to the City and the member.
- F. Shift Trading: The parties agree that shift trades will continue to be allowed in accordance with current practice. Two (2) employees may agree solely at their option, but with the advance written approval of the supervisor(s) of the affected shifts, to substitute for one another during scheduled hours of work. Every shift trade agreement must be documented, whether on paper or electronically and the documentation must clearly demonstrate the approval of both employees and the supervisor(s).

Substitutions may be denied by a supervisor or by management on a case-by-case basis due to operational or training needs, overtime, or other scheduling impacts.

Even though one employee substitutes for another, each employee will be credited as if he/she worked his or her normal work schedule and as if the substitution had not occurred; nevertheless, the substituting employee is responsible for the shift. For example, if a substituting employee shows up to work but then requests half of the day off, the time off shall be taken from the substituting employee's time accruals. Similarly, if a substituting employee calls in or goes home sick, the sick leave shall come from the substituting employee's time accruals.

The City shall have no obligation to keep track of substitutions or to ensure that a substitution is reciprocated.

The hours worked during the substitution shall be excluded from the hours for which the substituting employee would otherwise be entitled for purposes of overtime and wage computations.

G. Patrol Schedule Rotation:

1. Patrol schedule rotations will occur on a quarterly basis, as near as possible to the months of March, June, September and December or as otherwise agreed to by the City and the Association.
2. Patrol officers are required to work at least one quarter in each fiscal year on a different schedule, i.e. officers who work days will be required to work at least one quarter on nights and vice versa.
3. The new schedule will be posted a minimum of thirty (30) days in advance of scheduled rotations. This schedule is based on no overtime expense to the City by virtue of rotation, and no officer will work more than 168 hours without overtime in the 28-day work period when rotation is affected.
4. Patrol schedule rotations shall be bid and awarded based on classification seniority, as defined in Article 12.1, except in circumstances where the Chief or a designee determines that a different distribution of employees is necessary to meet the reasonable operating needs of the Department. Additionally, between regular patrol schedule rotations, the Chief or a designee may, for good cause and based upon a good faith analysis of the reasonable operating needs of the Department, reassign employees to different shifts.
5. The requirements of section 5.1 G (2) will be suspended from July 1, 2015 through June 30, 2018. The City may continue to suspend 5.1 G (2) annually thereafter, at the discretion of the Chief of Police.

- H. Training: Employees will be scheduled for training in a manner that provides them with at least eight (8) hours off between shifts. The City may adjust the regular work schedule of an employee to enable the employee to attend training that the City requires the employee to attend without incurring overtime, if the scheduled adjustment is made more than fourteen (14) days before the training is attended. No fourteen (14) days' notice is required for employees whose work schedules are changed at their request to attend non-mandatory training.

Time spent traveling to and from (station and back) training during the course of a workday will be considered "time worked" for purpose of computing wages. Time spent traveling directly to and from home to training will also be considered "time worked" unless the distance from the employee's home to training is greater than the distance from the station to the training, in which case the employee will be allowed to count the "time worked" as the time it would have taken to travel from the station to the training. Training will also be considered on-duty time.

- I. In-Service Training: In-service training is training scheduled to be attended by all sworn personnel and conducted with a view toward maintaining or improving their fundamental skills. Examples of in-service include training in firearms, DTs, legal updates, ConSim, policing strategies, and department policies.

In-service training will be scheduled in a manner that provides trainees with at least eight (8) hours off between the training and regularly scheduled work hours and announcements of in-service training will be specifically titled as being in-service training (or, temporarily, All-Hands Skills Maintenance Training).

In-service training days will consist of ten (10) consecutive hours of training, including a paid thirty (30) minute meal period, approximately midway through the training day. Generally, in-service training will be conducted quarterly, providing forty (40) hours of in-service training per year.

Employees who attend quarterly in-service training shall accrue those hours as "adjust time worked." Hours accrued as "adjust time worked" from in-service training shall be taken within three (3) months of accrual.

Employees who were scheduled to attend in-service training during duty hours but who, of their own volition, do not attend (e.g. vacationing instead), may be required to adjust their regular schedules to avoid overtime on a make-up date.

Members of the bargaining unit who are Training Officers are subject to work schedule adjustments in order to present training without incurring overtime. All trainers will be given a minimum of fourteen (14) days notice of any shift adjustments in accordance with Article 5.1.H. All night shift employees who conduct in-service training, as well as employees on any shift who conduct ConSim training, shall be compensated at the rate of 1.5 their regular rate for time spent conducting such training, with the additional pay taken as adjust time.

- J. K9 Training: The K9 handler will be approved to attend the 4-hour, once a week K-9 training and practice sessions. The handler's shift shall be adjusted to allow attendance and to avoid overtime. Adjustments to the shifts should provide at least eight (8) hours off between trainings and shifts. Attendance to K-9 training may be denied by the on-duty supervisor based on staffing needs during the shift.
- K. Reassignments: When an officer is assigned to a different schedule, the officer's hours of work will be adjusted without cost to the City to ensure that the officer does not work in excess of the maximum number of straight-time hours for the shift they are reassigned to fill.

Employees who voluntarily leave a specialty assignment may be placed on the patrol shifts vacated by the employee replacing them, if the employee's replacement is reassigned from the patrol unit.

Employees in specialized assignments who are involuntarily assigned to patrol duties shall be assigned to the new assignment/vacancy for the remainder of the current rotation.

Section 5.2 Rest Periods and Meal Periods

- A. Rest Periods: Except for emergencies, employees shall receive rest periods of fifteen (15) minutes each for every four hours worked during each workday. These periods are compensated as hours of work and an employee shall not be entitled to additional compensation in the event these periods cannot be taken. In the event employees are assigned to a ten (10) or twelve (12) hour shift, employees may take reasonable breaks subject to the operational needs as determined by the shift supervisor.
- B. Meal Periods: Except as required by operational necessity as determined by the shift supervisor, all sworn officers and CSOs shall have an uninterrupted thirty (30) minute meal period on duty time as closely as reasonably possible to the middle of the shift. Meal periods are compensated as hours of work. An employee shall not be entitled to additional compensation in the event these periods cannot be taken.

Other employees shall have regular uninterrupted meal periods up to one (1) hour without pay. If an occasion arises where such members are required to work through meal periods, they shall be paid for that meal period but shall take that break as soon as possible.

Section 5.3 Overtime

No overtime shall be worked unless authorized by the Police Chief, designee or supervisor.

- A. Hours Worked Defined: The following shall be regarded as hours worked for the purpose of computing overtime hours for employees.

1. Time worked, including time spent engaging in Departmental training, briefing, meetings, or conferences, if so directed by the City, and time spent engaging in other activities, as required by law.
 2. Paid leave, excluding non-work related jury or witness duty.
- B. Overtime: Except as otherwise required by this Agreement, overtime shall be compensated for all time worked outside the employee's regularly scheduled shift.
- C. Overtime Compensation: Compensation for authorized overtime shall be paid at the rate of time and one-half per hour computed to the nearest fifteen (15) minutes. Each payment shall be made at the employee's rate of pay that is being earned at the time of payment.
- D. Compensatory Time: The City will not, as a general practice, grant compensatory time in lieu of overtime. The City does, however, reserve the right to permit employees to accrue compensatory time in lieu of overtime payments with approval from the City. Compensatory time will be accrued at the overtime rate and paid at the straight-time rate. Earned compensatory time may be taken off with supervisor approval subject to the following conditions:
1. Employees are encouraged to provide as much advance notice of requests for compensatory time off as possible. If the time off will require overtime coverage, employees must provide a minimum of forty-eight (48) hours' advance notice of the requested compensatory time off. This forty-eight (48) hours' notice will, subject to Subsection 2, below, be considered reasonable advance notice under the Fair Labor Standards Act.
 2. If the Department cannot secure an employee from the same Division to voluntarily cover for an employee requesting compensatory time off to assure that the minimum staffing it considers necessary to assure safe and adequate staffing levels will be maintained, compensatory time off requests will be denied. In such an event, the parties agree that the granting of compensatory time off would unduly disrupt the operations of the Department.
- The parties recognize that accrued compensatory time is compensation and therefore, if such compensatory time hours cannot be taken, the employee shall be allowed to cash in the accrued compensatory time as provided in Section E, below. Any denial to use accrued compensatory time to take off part or all of a shift by the City may be requested in writing with a justification for the denial.
- E. Payment for Compensatory Time or Overtime: The City may purchase, or the employee may cash in, all or any portion of the compensatory balance of any employee at any time. Requests by the employee to receive payment for accrued compensatory time shall be made to the City in writing. Payment for overtime shall be paid no later than the next pay day following the pay period in which the overtime is worked. If an employee is paid for

accrued compensatory time, payment will be at the regular rate earned at the time the employee receives the payment. If the payment is received upon termination of employment, then the unused compensatory time will be paid at the final regular rate earned by the employee.

- F. Notice of Overtime: Overtime work shall be assigned by the Chief or his designee. Whenever possible, the Chief or his designee shall give twenty-four (24) hours advance notice of overtime to be worked. Oral notice shall be sufficient to comply with the advance notice requirement.
- G. Workdays in Excess of Sixteen (16) Hours: Any employee who works sixteen (16) or more hours in the twenty-four (24) hour period commencing at the time the employee reports for duty may be allowed the use of paid administrative leave in lieu of working all or a part of his/her next regularly scheduled consecutive work shift, but these hours off must be approved by the employee's supervisor or his or her designee and are not subject to the fourteen (14) day notice requirement required under Section 5.1 (E), above. This provision is intended to be reserved for those rare times when an employee is too fatigued to continue to safely perform his or her duties.
- H. Workdays in Excess of Twenty Four (24) Consecutive Hours: Any employee who is required to work in excess of twenty-four (24) consecutive hours and is also required to begin working his/her next regularly scheduled work shift without time off (i.e. where the work in excess of twenty-four (24) hours runs into his/her regularly scheduled work shift) shall be paid time and a half (1 ½) for all hours worked during that regularly scheduled work shift or placed on paid administrative leave for the remainder of the shift, at the supervisor's discretion.

Section 5.4 Call-Back Time

An employee called to work outside a regular work schedule shall be paid for a minimum of three (3) hours at the rate of time and one-half.

- A. Exceptions to Call-Back Pay: The obligation to pay the call-back minimum shall not apply in the following situations:
 - 1. When an employee is called in to start work one (1) hour or less before the beginning of his/her regular shift or when the employee's shift is extended;
 - 2. If an employee has completed his/her shift and has departed from the Department for less than thirty (30) minutes;
 - 3. If an employee is recalled to duty to correct a mistake and/or to complete a duty that, in the City's view, must be completed prior to the employee's next duty day.
- B. Emergency Call Out: In an emergency (act of God, natural disaster, civil unrest, major crime or incident, or governmental declaration of emergency with less than eight (8)

hours prior notice), the City may call out members for overtime without regard to seniority.

C. Non-Emergency Call Out:

Overtime shall be offered to members of the Association by seniority and by Division or Unit (i.e. Patrol Unit, Criminal Investigations Unit, Traffic Unit and School Resource Officer Unit) unless the City determines the detail may require a specific skill set (i.e. language fluency, canine handler, etc.) or where a statute requires a specific type of officer.

The City may skip bargaining unit members, if the overtime detail would unreasonably interfere with the member's next regularly scheduled work shift.

The City will make a reasonable attempt to notify members of the Association in the order of seniority when overtime is required.

In the event no members of the Association are available to report for overtime, the City may order a member to report for work. If members are ordered to report for overtime work, those members will not be ordered to report again until the Association Roster has cycled.

If no members of the Association are available to report or long term personnel considerations are an issue (e.g. natural disaster or similar emergency), the City has the option of calling Reserve Officers in for duty to supplement regular officers if those Reserve Officers are presently capable and authorized to perform the overtime duties. The use of Reserve Officers is to supplement or assist regular police officers. It is not the intent of the City to use Reserve Officers to supplant Association members.

D. Call Back from Approved Time Off

1. Call Back from Vacation: A KPA member will not be recalled to duty from an approved vacation day for a non-emergency except for situations involving court of law, grand jury or DMV hearings as outlined in Section 5.5 Court Appearances.
2. Call Back from Compensatory Time: Prior to recalling an off duty employee who has been approved compensatory time off, Section 5.4.C Non-emergency Call Out will be followed. If after reasonable effort no members of the Association are available to report for overtime, the City may recall an off duty employee. The recalled off duty member's compensatory time bank will be charged for the affected day(s) off and the KPA member will be paid time and one half for the hours worked during the cancelled day(s) off. For purposes of this section, an off-duty employee is a member who would be on the master schedule to work if the member had not been approved compensatory time off.

3. Call Back from Floating Holiday: If a member's Floating Holiday is cancelled, Section 10.2.C shall apply.
4. Call Back from Floating Holiday on Recognized Holidays: If a member's Floating Holiday, scheduled to be taken on a recognized holiday (per Section 10.3.A) is cancelled, the member shall be paid for the Floating Holiday in addition to receiving overtime for hours worked.
5. Call Back from Holiday, Not Floating Holiday: For members not receiving floating holiday accruals, work performed on holidays shall be compensated with overtime in addition to holiday pay.

Section 5.5 Court Appearances

Except as set forth below, off-duty employees who are required to appear before a court of law, grand jury or DMV hearing in connection with duties as an employee of the Department shall receive a minimum of three (3) hours overtime pay at that rate of time and one-half for each court appearance when the appearance occurs on the employee's time off on the employee's regularly scheduled workday.

This obligation shall not apply if the scheduled court appearance, grand jury or DMV hearing occurs two (2) hours or less before the beginning of the employee's regular shift or if the appearance extends the employee's regular shift.

Except as set forth below, employees who are required to appear before a court of law, grand jury or DMV hearing in connection with duties as an employee of the Department shall receive a minimum of four (4) hours overtime pay at that rate of time and one-half for each court appearance when the appearance is required on the employee's scheduled day off or an approved day off, unless the employee was notified of the court appearance prior to approval.

In situations where an employee has more than one court appearance, grand jury or DMV hearing on the same day, the employee is only eligible for additional overtime pay for the second appearance when the second appearance occurs outside the time period the employee has already received overtime compensation for. (e.g., an employee who has a court appearance on their regularly scheduled day off at 8:00 a.m. would not be entitled to additional overtime compensation unless the second court appearance occurred after 12:01 p.m.)

Section 5.6 Outside Employment

Employees must receive permission to work at outside employment in writing from the Chief of Police. In order to be approved, the outside employment must:

- A. Be compatible with the employee's City duties;
- B. In no way detract from the efficiency of the employee in City duties;

- C. In no way be a discredit to City employment;
- D. Not take preference over extra duty required by City employment.

However, such approval shall not be withheld arbitrarily.

Section 5.7 On-Call Detective

The following provisions shall apply to on-call detectives:

- A. Each week of seven (7) consecutive days, one (1) Detective association member at a time will be assigned as an On-Call Detective. In the event that members of the CRU or SRO units are assigned temporarily (via Personnel Order) to the Detective Unit they may enter the on call rotation.
- B. A member on On-Call Detective status shall remain ready to respond to work when called upon. Such readiness includes, but is not limited to, sobriety, a well-rested state, constant availability by cell phone (or other prearranged method), and no more than a one-hour response time (to the station).
- C. The On-Call Detective assignment shall begin at 0700 hours on Monday and end at 0659 hours on the following Monday.
- D. A rotation schedule for the On-Call Detective assignment shall be established between Detectives and their supervisor. Establishment of the schedule shall not prohibit the trading of On-Call weeks between the Detectives, nor shall it prevent the trading of mid-week On-Call responsibilities as long as the Detective supervisor or designee approves of the trade.
- E. Generally, On-Call Detectives will not be approved to schedule vacation during their On-Call week, unless the Detective has arranged for a substitute for his or her on-call status and the supervisor is notified.
- F. From July 1, 2015 through June 30, 2016, at the end of each On-Call week, the Detective assigned to the On-Call week shall be compensated with the number of hours commensurate with one regularly scheduled shift (i.e. 8 or 10). Effective 0700 on July 4, 2016, the Detective assigned to the On-Call week shall be compensated with \$350.
- G. Any agreement to trade mid-week On-Call responsibilities shall be communicated to and approved by the Detective supervisor or designee. The affected detectives may request the City to prorate the compensation accordingly; however, prorates shall be figured on a whole-day basis, from 0700 to 0659 hours, regardless of how many hours were traded.

Section 5.8 On-Call Status, Not On-Call Detective

Notwithstanding the provisions of Section 5.7, any member may be placed on on-call status by Command Staff or a designee. Members on on-call status shall remain ready as described in Section 5.7B and shall receive an additional \$50 for each 24 hour period or part thereof that he/she is required to remain in such status. This section shall sunset at the completion of this bargaining agreement unless reaffirmed.

Section 5.9 Definitions

The following definitions shall apply to Article 5:

- A. The terms *regular shift*, *regularly scheduled work shift*, *regular work schedule* and *regularly scheduled workday* refer to those shift hours and days the employee was assigned to work as they appear on the master schedule.
- B. The term *scheduled days off* refers to those days an employee was not assigned to work as they appear on the master schedule.
- C. The term *regular business hours* refers to the work days and hours Monday through Friday, 0800 to 1700.

ARTICLE 6 – FUNDING

The parties of this Agreement recognize that revenue needed to fund this Agreement must be approved annually by established budget procedures and in certain circumstances, by a vote of the citizens of the City of Keizer. All compensation provided for by this Agreement is therefore contingent upon sources of revenue, and where applicable, voter budget approval. The City will not reduce the compensation specified in this Agreement because of budgetary limitations. The City agrees to include in its budget request amounts sufficient to fund the compensation provided in this Agreement. In the event that the City does not receive the required voter approval needed to fund the annual budget, the parties agree to meet to seek the best possible alternatives to layoff and/or cutback of services.

ARTICLE 7 – WAGES

Section 7.1 Wages

- A. Pay Schedule: Each employee covered by this Agreement shall be compensated in accordance with the Pay Schedule attached.

1. Effective July 1, 2015, wages shall be increased by 1.5%.
2. Effective January 1, 2016, wages shall be increased by 1%.
3. Effective July 1, 2016, wages shall be increased by 1.5%.
4. Effective January 1, 2017, wages shall be increased by 1%.
5. Effective July 1, 2017, wages shall be increased by 1.5%.
6. Effective January 1, 2018, wages shall be increased by 1%.

Effective July 1, 2017, through June 30, 2018, wages shall be increased as set forth above, unless the reopener is triggered pursuant to Section 17.2 of this Agreement.

- B. Step 7 Increases for Police Officers: Police officers who complete 10 years of service as a police officer with the City of Keizer will be eligible for step advancement to Step 7 based on a “satisfactory” performance evaluation as described in 7.1.D effective the first pay period after completion of 10 years.
- C. Placement of New Hires: The City reserves the right to place a newly hired employee on any step on the pay schedule based on its review of that employee’s experience and ability.
- D. Step Increases: Probationary employees shall be eligible for a step advancement upon the satisfactory completion of twelve (12) months of employment and eligible for the next step advancement on the July 1st following completion of probation.

Regular employees will continue to be eligible for step increases on July 1st.

Eligibility for step advancements after completion of probation is not automatic, but shall be based on a “satisfactory” performance evaluation by the employee’s immediate supervisor.

- E. Early Step Advancement: An employee, who is performing at a level above satisfactory as determined by a Performance Evaluation by the employee’s immediate supervisor, may be recommended for an early step advancement by the Chief. Such early step advancements shall not change the employee’s eligibility date for future normal step advancements.

- F. Temporarily-in-Charge: An officer who is designated or assigned to serve as Officer-in-Charge will receive a 5% increase in the wage to which the employee would be otherwise entitled for the duration of the assignment. This provision also applies to an employee designated or assigned to serve in the same capacity in Support Services Section (Records).
- G. Retirement Health Savings Account (HSA): The City shall contribute 1% of employee base wage rates into an HSA account for all employees covered by the Agreement.

Section 7.2 Working Out of Classification

Any employee designated by the City as acting in a capacity in a higher position than that employee's regular classification, shall receive the pay for the position designated or a 5% increase above normal salary, whichever is greater, in such assignment for the remainder of the assignment. This section does not apply to employees who are temporarily in charge per Section 7.1(F).

Section 7.3 Incentives and Premium Pay

- A. Premiums: Police Officers shall be eligible for DPSST incentives: bonuses as follows.
 - 1. Intermediate Certificate: Upon submittal of evidence satisfactory to the City that the employee has received DPSST Intermediate Certification, the employee shall receive two and one-half percent (2.5%) over and above his/her monthly base pay; or
 - 2. Advanced Certificate: Upon submittal of evidence satisfactory to the City that the employee has received DPSST Advanced Certification, the employee shall receive an additional two and one-half (2.5%) percent (or a total of five (5%) percent) per month over and above monthly base pay.
- B. Education Incentives:
 - 1. The City shall pay an incentive of two and one-half (2.5%) percent per month over and above monthly base pay for an employee holding an Associate's Degree.
 - 2. The City shall pay an additional two and one-half percent (2.5%) percent or a total of five (5%) percent per month over and above monthly base pay to an employee holding a Bachelor's Degree from an accredited college or university.
- C. Language Incentives: Fluency is to be determined by the City based on a standard and testing program approved by the City.
 - 1. Critical Languages: An employee who is determined to be fluent in the Spanish language shall receive an incentive of five percent (5%) over and above his/her base pay.

2. Non-Critical, Recurring Languages: An employee who is determined to be fluent in Russian or American Sign Language (ASL) shall receive an incentive of five (5%) percent over and above base pay for the shift during which he or she was required to use the language and for which the use has been documented in the CAD system.
- D. Probationary Employees: Except for language fluency, the incentives and premiums required by this Section shall not be paid during an employee's initial probationary period except at the discretion of the Chief.
- E. Special Assignment Premiums:
1. K-9 Handler Pay: To compensate the K-9 handler for the off-duty care of the canine, the handler will be paid five percent (5%) per month of the employee's current pay step when assigned as the Department K-9 officer. The 5% differential is intended to compensate the K-9 Officer for off-duty grooming, feeding and care of the animal at applicable overtime rates. In addition, the handler shall be allowed thirty (30) minutes per shift for these activities on scheduled work days. The parties agree that this section fully compensates the K-9 handler for these activities.
 2. Field Training Officer (FTO): An employee designated by the City as a Field Training Officer shall be paid five percent (5%) above the employee's base pay when the Field Training Officer is assigned to train a recruit officer or a reserve officer who is in the field training process. The FTO will be responsible for reporting the premium pay on their time sheet.
 3. Motor Officer: To compensate the Motorcycle Officer for the hazards of working from a motorcycle and for the off-duty care of the police motorcycle, e.g., daily maintenance, etc., the Motorcycle Officer will be paid five percent (5%) above the employee's normal pay step when assigned to the traffic team as a motorcycle officer.
 4. Interagency Bomb Squad and Interagency SWAT Team: Employee's designated by the City to serve on the Interagency Bomb Squad or the Interagency SWAT Team will be paid an additional five percent (5%) of their regular base pay.
 5. Fleet Manager: Employees assigned as the Fleet Manager for the Department will be paid an additional two and one-half percent (2.5%) of their regular base pay.
 6. Training Officers (TO): An employee designated by the City as a Training Officer shall be paid five percent (5%) above the employee's base pay when the Training Officer is assigned to instruct KPD Department Members during a training process or when attending a "train the trainer" course on behalf of the Department. For purposes of this section, instructing shall also include reasonable set-up and tear-down time, when applicable. The TO will be responsible for reporting the premium pay on the time sheet.

F. Incentives and Special Assignment Pay - Limitations on Cumulative Effect:

A maximum of five (5%) percent may be received by any employee by virtue of education incentives provided for above. A maximum of five (5%) percent may be received by any officer qualifying for DPSST incentives provided for above. A maximum of 10% may be received by any employee for premium pay assignments. The total amount of all incentive and premium pay (education, certification, premium pay assignments) may not exceed 20% per month for any employee, except any employee certified as bilingual in Spanish may receive a maximum of five percent (5%), in addition to the above maximums. Likewise, any employee certified as bilingual in Russian or American Sign Language may receive five (5%) percent, in addition to the above maximums during the shift in which the language was used and documented in the CAD system. All incentives and special assignment pay premiums shall be based on regular base pay.

Section 7.4 Payday

The normal payday for the issuance of paychecks shall be every other Thursday of the month. At the discretion of the City, modifications to the payday schedule may be made where necessary.

Section 7.5 Travel Allowance

- A. Travel Reimbursement: When an employee is authorized to use the employee's own vehicle in the performance of official City duties, the employee shall be compensated at the current Internal Revenue Service rate.
- B. Expense Reimbursement: Employees will be reimbursed actual and reasonable travel expenses pursuant to the City-wide travel reimbursement policy, as it presently exists or is subsequently modified. The policy will not be changed to the detriment of employees without bargaining as required by PECBA.

Section 7.6 Uniforms

- A. Uniforms Provided: The City shall provide all uniforms and equipment as required by the City. The City agrees to provide a duty weapon and all necessary duty rig accessories.
- B. Cleaning: The City shall provide for the care and cleaning of up to eight (8) uniforms per month. If an employee is assigned as a Detective, the employee's clothes worn will be cleaned, up to eight (8) sets per month. The City will pay for the cleaning of up to eight (8) uniforms per month for non-sworn employees
- C. Clothing Allowances:
 - 1. Employees assigned as Detectives requiring business-like attire will be paid six hundred (\$600) dollars per fiscal year clothing allowance.

2. Employees assigned as Police Support Specialist, Investigative Services Specialist, Property and Evidence Specialist, Crime Analyst, and officers assigned to CRU will be paid two hundred (\$200) dollars per year clothing allowance.
 3. These allowances shall be payable to the employee upon appointment and annually on July 1st of each subsequent year. The City reserves the right to prorate the allowances provided to employees during their first and last fiscal years of assignment. When an employee enters an assignment where a clothing allowance is due, it shall be dispensed as follows:
 - a. During the first nine months of the fiscal year (July 1 through March 31), the full clothing allowance shall be paid, or
 - b. During the last three months of the fiscal year (April 1 through June 30), half of the clothing allowance shall be paid.
 4. An employee may receive only one clothing allowance per fiscal year, but shall receive the higher amount if the employee works in an assignment with a higher amount.
- D. Damage: When a uniform is returned to the City because of wear or damage, it shall be replaced within a reasonable amount of time.
- E. Personal Items: The City agrees to repair or replace personal items of the employee damaged or destroyed while the employee is on duty, unless the damage is attributed to the negligence of the employee. The repair or replacement of personal items shall not exceed reasonable costs. Expensive items of jewelry or personal property which are over \$100.00 in value, excluding wedding rings and eyeglasses, will not be worn while on duty without prior approval, and shall not be subject to this Article. Wireless phones will be reimbursed pursuant to City policy.

Section 7.7 Tuition Assistance

- A. Tuition Aid Defined: Tuition aid is defined as full or partial payment or reimbursement of the costs of training sessions, classes or formal academic course work pursued on a part-time basis either during or after normal working hours.
- B. Travel Reimbursement: When an employee is assigned by the City to attend, on a part-time basis, designated courses either during or after regular working hours, the employee shall be reimbursed for all of the costs of course registration and necessary travel expenses. Employees will cooperate in pooling rides when such pooling is available.
- C. Tuition Aid: Contingent upon the availability of funds that have been budgeted for this purpose, tuition aid will be provided for one-half the cost of the course tuition to employees who successfully complete classes with a grade of C or better, for the purpose

of self-development, when such training will also be beneficial to the employer as determined by the City. Presentation of the employee's grades from the school shall be sufficient proof. The petitioning employee shall submit request for tuition aid to the City for approval or disapproval prior to enrollment. The City's obligation shall be limited to one half of the hourly tuition cost for an undergraduate degree course at Western Oregon University, not the promised rate.

Section 7.8 Personal Wireless Phone Allowance

The City policy addressing personal wireless phone allowances (stipends) will become effective July 1, 2015.

Section 7.9 ORPAT Incentive

Employees will be provided the opportunity to participate in the DPSST certified ORPAT course twice per fiscal year. Scheduling of this testing shall be determined by the Chief of Police.

Recognizing that participation in this incentive program is purely voluntary, all ORPAT testing will be done off-duty and without compensation (includes both members taking test and ORPAT instructors conducting test). However, members scheduled to be on duty at the time scheduled for testing will be provided the opportunity to participate while on duty if requested. The City will provide the location and all testing equipment, including a certified ORPAT instructor to facilitate the testing.

Prior to participating in the fitness incentive, employees will be required to sign a waiver indicating they understand the physical challenges of ORPAT and the risks of participating. If at any time, in the opinion of the ORPAT instructor or on scene supervisor, the employee appears to be in physical distress, the testing will be stopped and the employee will not be eligible for an incentive.

Employees who successfully complete the ORPAT course in a time that is considered passing on their first attempt will receive an incentive bonus of two hundred and fifty dollars (\$250.00). An employee may take the ORPAT twice per fiscal year, with a maximum incentive of \$500/fiscal year.

The parties recognize that the City will reflect any and all amounts paid as allowances, bonuses, and/or incentives as subject to the IRS and Oregon payroll tax deduction. For purposes of this Agreement, the minimum standard for passing will be the time established as passing by DPSST for an entry level Police Officer.

If an employee fails to pass the ORPAT on the first date for testing that employee may retake the test at the next scheduled ORPAT testing.

If an employee is unable to participate in the scheduled ORPAT test due to court, bona-fide illness or injury or other reasonable conflict, the employee may make-up the test during any

ORPAT testing conducted at DPSST (with DPSST permission) without penalty so long as the make-up test is completed and passed within a mutually agreed time frame between the employee and the Chief of Police.

Employees who choose not to participate or who seek this incentive, but do not meet the minimum ORPAT passing standard as defined-in this Agreement will not be subject to discipline.

Non-sworn employees who choose not to participate in the ORPAT have the option to participate in the City's Health & Wellness Program. Such employees may request to switch programs at approximately six month intervals based on the ORPAT testing schedule, ensuring they are participating in only one program at a time.

ARTICLE 8 – INSURANCE AND RETIREMENT

Section 8.1 Health Insurance and Dental Insurance

- A. The City will pay ninety-five percent (95%) of the premium to provide medical and dental insurance coverage for full-time members who are participating in the City's current Health Net Plan and Guardian Dental Plan. Employees participating in those plans shall be responsible for paying the remaining five (5%) percent of the premium, irrespective of level of coverage. Employees who elect to be covered by lower cost medical and/or dental plans made available by the City shall receive contributions from the City up to the same amount as required for employees participating in the above plans. Any premium costs in excess of that amount shall be the employee's responsibility.
- B. For regular part-time employees, the City will split the cost of employee-only medical and dental insurance using the same 95%/5% split as described above.
- C. All employee contributions shall be paid through payroll deductions. The City will continue to provide an IRC Section 125 flexible spending account plan.
- D. The City may select a different plan or provider of benefits, which are on the whole substantially comparable to those currently provided. The City and the Association shall consult within fourteen (14) days of the City's written notice to an Association E-Board member, but need not bargain over a change in plan permitted by this Article. If a change in benefits is not substantially comparable, then the Association may demand to bargain over the change.

Notwithstanding the above, the City reserves its right to change carriers without bargaining, consistent with PECBA.

- E. This Section shall be automatically reopened in the event the excise tax will be triggered, in accordance with Article 17 of the Agreement.

Section 8.2 Life Insurance

The City agrees to provide \$60,000 24-hour life insurance protection to all regular and probationary full-time employees covered by this Agreement.

Section 8.3 Retirement

- A. The City agrees to participate in Public Employees Retirement System (PERS) Plans for the classifications of Police Officer, Police Support Specialist, Community Services Officer, Investigative Services Specialist and Property and Evidence Specialist. For those employees working in the classifications of Police Support Specialist, Community Services Officer, Crime Analyst, Investigative Services Specialist and Property and Evidence Specialist, participation will commence on the effective date of the City's 2009

Coverage Agreement with PERS and after the employee serves the six (6) month PERS waiting period. The City shall pay the PERS employee contribution for each employee in the classifications listed above by not reducing the compensation of those employees to generate the funds needed to pay employee contributions.

- B. Employees may contribute voluntarily to the deferred compensation plans administered for the City. The City shall match the employee's contribution up to six (6%) percent of the employee's gross salary. This Article shall not obligate the employee or the City to contribute more than twenty-five (25%) percent of wages or such other amount as is imposed as a maximum contribution by the Internal Revenue Code or the retirement plan.

Section 8.4 Workers Compensation

All employees are covered for on-the-job injuries and occupational illnesses under the state workers' compensation law. When an employee must take time off by reason of an occupational illness or on-the-job injury, the employee will receive workers compensation in accordance with state law.

In addition, for the first one hundred and eighty days following such illnesses or injuries or an aggravation of an original illness or injury, the City agrees to supplement the employee's workers' compensation time loss benefits up to the employee's regular salary after taxes. After one hundred and eighty days following an occupational illness or on-the-job or injury or aggravation, the employee shall use available sick leave to make up the difference between workers' compensation time loss payments and his/her regular salary after taxes, until such time as the employee is eligible to receive disability benefits under PERS or the City's long term disability insurance policy. In the event the employee's sick leave bank is exhausted, his/her accrued compensatory time, vacation time or holiday pay will be used to make up the differential between the employee's workers compensation benefits and the employee's regular salary after taxes until such time as the employee is eligible to receive disability benefits under PERS or the City's long term disability plan. Employees may designate the order in which they want to use other paid leave accruals. In the event an employee fails to make such a designation in advance of issuance of his/her first paycheck following the commencement of the absence, the City will use his/her compensatory time first, followed by holiday banks, then accrued vacation.

Employees may be allowed to use other paid leave accruals, as described above, before depleting sick leave with the City's approval.

Employees who must take time off from work due to on-the-job injuries and occupational illnesses are entitled to reinstatement for up to three (3) years, consistent with applicable law.

Section 8.5 Long Term Disability Insurance

The City will pay the full premium to provide salary protection for long-term disability as a result of illness or injury to full-time employees. Employees shall be eligible for long-term

disability coverage ninety (90) calendar days from the date of injury of disability. Eligibility for benefits is governed by the terms of the City's long-term disability insurance policy.

Section 8.6 Modified Duty

The parties recognize that the nature of law enforcement restricts the City's ability to accommodate employees who, for medical reason, are unable to perform all of the duties of a police officer.

When an employee who is recovering from an injury or illness is certified as fit for modified duty, but not full-duty, the City may assign modified duty work within the employee's medical restrictions, subject to the Department's determination that actual modified duty work suited to employee's medical limitation is available.

Generally, to be eligible for a modified duty assignment, an employee must be temporarily unable to return to his/her regular duties as the result of an injury or illness and not medically stationary. Once an employee becomes medically stationary, that employee is no longer eligible to participate in modified duty assignments. The City will, however, comply with its obligation to assign modified duty work to employees who qualify as disabled due to on-the-job or off-the-job injuries or illnesses, as required under the reasonable accommodation provisions of the ADA and state disability discrimination law.

It is understood that the City may assign an employee who is on modified duty assignment to a different shift without regard to seniority. The City may require a medical verification of the employee's ability to safely perform the modified duties as a condition to placing an employee in a modified duty assignment. The City shall have the right to obtain a second medical opinion at its own expense in order to verify any medical opinion it has received from the employee's healthcare provider.

In the event modified duty assignments are granted the employee will receive his/her regular rate, including incentive pay. During the time an employee is on modified duty, sick leave, holiday pay and vacation pay will continue to accrue at the employee's regular rate. There shall be no charge to the employee's sick leave, holiday or vacation pay banks for the time spent working in a modified duty capacity.

Section 8.7 Continuation of Coverage

Employees shall continue to receive medical, dental, long term disability and life insurance benefits during the time they are on paid leave (holiday, vacation, sick leave, etc.) or during the time they are on FMLA leave, whichever is greater. Benefit coverage through the City's payment of the premiums will continue until the last day of the month in which the employee's paid leave is depleted or FMLA leave expires, whichever occurs later, except as otherwise required by law.

ARTICLE 9 – LEAVE WITH AND WITHOUT PAY

Section 9.1 Sick Leave

- A. Accrual: All employees accrue sick leave as an insurance against the impact of illness or injury. Sick leave shall accrue at the rate of 96 hours per calendar year and will be accrued at the rate of 3.7 hours of sick time per pay period (96 hours divided by 26 pay periods = 3.7). Accrual shall begin upon commencement of employment and shall continue to accrue while an employee is on paid leave, including leave for which an employee is receiving workers' compensation benefits. Paid sick leave benefits do not accrue during periods an employee is on unpaid leaves of absence or long-term disability. Unused sick leave shall accumulate to a maximum of 2520 hours. Part-time employees shall accrue sick leave on a pro-rata basis up to a maximum of 1260 hours.
- B. Use of Sick Leave: Employees may utilize their earned sick leave for the following purposes:
1. When the employee is unable to perform his/her work duties by reason of off-the-job illness, injury or pregnancy, exposure to contagious disease under circumstances which the health of the employees with whom associated or members of the public necessarily deal with would be endangered by attendance of the employee.
 2. When the employee is unable to perform his/her work duties by reason of on-the-job injury or illness in the amount of the differential between the employee's time loss benefits and his/her regular wage.
 3. For medical or dental appointments when, due to the employee's work schedule, the employee is unable to schedule such appointments outside of work hours. In this instance, appointments will be scheduled to minimize interference with the work schedule; it is recognized that each employee has the responsibility to make every effort to schedule appointments during off-duty hours.
 4. When required to provide care for an ill or injured member of the immediate family in order to make arrangements for alternative care. For the purpose of this Section, "immediate family" includes the employee's spouse, parents or children as defined in the federal Family Medical Leave Act, the employee's parents-in-law, grandparents, grandchildren and domestic partner as defined in Article 1, Section 1.3, as well as the parents, children, grandparents and grandchildren of such domestic partner.
 5. When an employee who is eligible for leave under the Oregon Family Leave Act (OFLA) is absent for an OFLA qualifying reason, including caring for a minor child.
 6. When otherwise required by applicable law.
- C. Donation of Sick Leave: An employee may donate up to forty (40) hours of sick leave or vacation leave per calendar year to a donated leave bank administered by the City, as

long as they maintain at least 40 hours in both their sick and vacation leave banks on an ongoing basis. To be eligible to apply for donated leave, an employee must:

1. have a serious illness or medical condition or be caring for a family member with a serious illness or medical condition that requires a prolonged absence from work (anticipate to be absent from work at least two weeks beyond exhaustion of all leave banks);
2. have exhausted all sick leave, compensatory time, vacation and holiday time; and
3. not be eligible for disability benefits under PERS or the City's long term disability benefits prior to receipt of any donated sick leave.

Applications for donated leave must be made to Human Resources, in writing, and must describe the serious illness or medical condition necessitating the leave. All applications for donated leave must be approved by the City in advance. Donated sick leave will be based on a two (2) hours for one (1) hour (2:1) exchange. Donated vacation leave will be based on a one (1) hour for one (1) hour (1:1) exchange. Donations will be made without regard to differences in the pay rate between the employee donating and the employee receiving the donation and will be paid out at the receiving employee's normal rate of pay.

Employees do not accrue sick leave, vacation pay or other benefits during the time they are on donated leave. Donated time cannot be used to extend the employment of an employee who will not be returning to work.

- D. Substantiation: The City may require an employee to submit verification of eligibility for sick leave from an employee's doctor or healthcare professional whenever the employee's sick leave usage exceeds three (3) consecutive workdays or whenever the City can articulate a good faith concern (e.g. questionable patterns of absence, suspicious explanations, etc.), regarding the employee's eligibility to receive sick leave. Receipt of verification may be required as a condition of payment. In the event verification is required, out-of-pocket cost billed by the doctor or healthcare professional to obtain the necessary verification shall be paid by the City to the extent such costs are not covered by insurance. Verification may be required for absences due to illnesses and injuries of the employee or to substantiate that the employee's attendance is needed to care for an ill or injured family member or otherwise when the City determines necessary to ensure compliance with applicable laws regarding time off from work.
- E. Reporting Absence: Any employee who is ill and unable to report to work shall notify the on-duty supervisor or, in the event the on-duty supervisor cannot be reached, his/her immediate supervisor at least one (1) hour prior to the employee's reporting time. In case of a continuing illness or injury, the employee shall keep his/her immediate supervisor advised of his/her inability to report to work on a daily basis. However daily notice will not be required in situations where the employee has submitted written verification from

his/her doctor or health care professional of his/her need to be absent from work for a definite period or as otherwise approved by his/her supervisor.

- F. Sick Leave on Retirement: Upon retirement of an employee, as permitted by applicable law, fifty (50%) percent of an employee's unused sick leave shall be credited to retirement.

Section 9.2 Family Medical Leave

The City will comply with the Family Medical Leave Act (FMLA) and Oregon Family Leave Act (OFLA.) Generally these laws provide leave for the employee's own serious health condition, for the serious health condition of specified family members, for parental leave purposes, to care for a child who needs home care but does not have a serious health condition, to provide care to an immediate family member or next of kin who is recovering from serious injury or illness incurred in the performance of military service or for absences due to "qualifying exigencies" arising out the fact that an immediate family member has been called or notified of a call to active military duty.

The employee may be required to have his/her healthcare provider complete a medical certification form to substantiate eligibility for FMLA and OFLA Leave and as necessary to obtain a second and/or third opinion. Should the employee be required to provide a certification or to obtain a second or third certification for family leave purposes, the employer shall bear the cost of such certifications. Employees may be required to provide a fitness for duty certification before returning from family leave, except in the case of childbirth or adoption, and only if the employee has taken leave for a serious health condition or if the City believes the employee is not fit or may be unable to perform duties as assigned.

When sick leave is used for FMLA/OFLA qualifying purposes, the leave will be counted against the employee's FMLA and/or OFLA entitlement, as permitted by applicable law.

While out on such leave, an employee shall utilize any accrued sick leave he/she is eligible to receive under Article 9.1 (B) above until such time as the employee is eligible to receive disability benefits under PERS or the City's long term disability insurance policy. Employees who are absent from work for FMLA or OFLA qualifying reasons, but who are not eligible receive sick leave benefits or have depleted sick leave benefits may designate the order in which they want to use other paid leave accruals until such time. In the event an employee fails to make such a designation in advance of issuance of his/her first paycheck following the commencement of the absence, the City will use his/her compensatory time first, followed by holiday banks, then accrued vacation time in that order for their absence. After using all paid time, the employee may take leave without pay for the remainder of the family leave year designated by the City. Except as provided by law, family leave shall not exceed twelve (12) weeks within the family leave year specified by the City.

Section 9.3 Other Leaves

- A. Jury or Witness Duty: A regular employee shall be granted a leave of absence with pay for the following.

1. Service with jury;
2. Appearance before a court, legislative committee or judicial or quasi-judicial body; except in any case where the Association or the employee is a complainant against the City, as a witness in response to a subpoena or other direction by proper authority.

Employees who are excused from jury service or court appearance before the end of the workday shall immediately report their availability for assignment to their supervisor and shall tender to the City any jury duty pay.

All monies received for jury duty will be surrendered to the City, as a condition of payment. Pay for jury or witness duty shall be limited to the pay an employee would receive for his/her regular workday. Employees are not entitled to overtime pay for jury or witness duty.

- B. Personal Unpaid Leave: A regular employee may be granted leave of absence without pay when the work of the Department will not, in the view of the City, be handicapped by this absence. Requests for such leaves must be in writing and must establish justification for the approval by the Department Head or City Manager. Leaves of absence up to two (2) weeks without pay may be granted by the Chief. Leaves of absences for longer than two (2) weeks must be approved by the City Manager.
- C. Military and Peace Corps Leave: Military and Peace Corps leave shall be granted in accordance with applicable law.
- D. Bereavement Leave: Following a death in the employee's immediate family, the employee is entitled to a maximum of three (3) days bereavement leave with pay, plus two (2) additional days available chargeable to any accrued leave at the discretion of the Chief. For the purpose of this subsection, immediate family includes: mother, father, son, daughter, siblings, husband, wife, mother-in-law, father-in-law, sister-in-law, brother-in-law, grandchild and grandparent. It also includes domestic partners, as defined in Article 1, Section 1.3, as well as the mother, father, son, daughter, siblings, grandparents and grandchildren of such domestic partners.
- D. Extended Medical Leave: Additional leave without pay may be offered as a reasonable accommodation to an employee who is also a qualified individual with a disability, unless it would be an undue hardship on the City in accordance with the ADA and state law. The City may impose conditions or restrictions as permitted by Oregon or federal law.

Section 9.4 General Rules

- A Failure to Return from Leave: Any employee who has been granted a leave of absence and who, for any reason, fails to return to work at the expiration of said leave of absence shall be considered as having resigned employment with the City and the position shall be declared vacated, except and unless the employee, prior to the expiration of the employee's leave of absence or as allowed by family leave laws, has furnished evidence that the employee is unable to return to work by reason of sickness, physical disability or other legitimate reasons beyond the control of the employee.
- B Absence Without Leave: Except as allowed by family leave laws with respect to unanticipated need for family leave, an absence of an employee from duty, including any absence for a single day or part of a day, that is not authorized or taken pursuant to a leave of absence, shall be deemed to be an unauthorized absence. An employee who has an unanticipated need for family leave must comply with the notice requirements under applicable law. Unauthorized absences shall be without pay and may subject an employee to disciplinary action.

ARTICLE 10 – VACATION AND HOLIDAYS

Section 10.1 Vacation

- A. Accrual of Vacation Benefits: Regular and probationary full-time employees shall accrue vacation time on a monthly basis. The amount of an employee's vacation accrual will be adjusted for the City's bi-weekly payroll periods. Vacation pay is earned from an employee's first day of employment, but cannot be used until completion of twelve (12) months of continuous employment, except at discretion of the Chief or designee. Regular and probationary full-time employees shall earn vacation pay as follows:
1. From one (1) through two (2) years of employment at a rate of six point seven (6.7) hours per month of employment and will be reflected on the employee's bi-weekly pay stub as 3.09 hours.
 2. Commencing with the third (3rd) year of employment at a rate of eight (8) hours per month of employment and will be reflected on the employee's bi-weekly pay stub as 3.69 hours.
 3. Commencing with the fifth (5th) year of employment at a rate of ten (10) hours per month of employment and will be reflected on the employee's bi-weekly pay stub as 4.62 hours.
 4. Commencing with the tenth (10th) year of employment at a rate of twelve (12) hours per month of employment and will be reflected on the employee's bi-weekly pay stub as 5.54 hours.
 5. Commencing with the fifteenth (15th) year of employment at a rate of sixteen point seven (16.7) hours per month of employment and will be reflected on the employee's bi-weekly pay stub as 7.70 hours.
- B. Accrual for Regular and Probationary Part-Time Employees: "Regular part-time" employees shall accrue vacation in accordance with Article 1.2.
- C. Eligibility for Continued Accrual: Regular and probationary full-time and part-time employees will continue to accrue vacation pay, as long as they are actively employed or on paid leave.
- D. Maximum Accrual: An employee may accrue a maximum of 400 hours of vacation time. Any excess hours over 400 will be forfeited without compensation.
- E. Effect of Separation: Any vacation owed to a terminating employee shall be added to the employee's final pay.

- F. Pay in Lieu of Vacation: An employee, subject to availability of budgeted funds and the Chief's approval, may elect to be paid 40 hours of vacation pay in lieu of taking 40 hours of vacation time off, if such pay is taken concurrently with 40 hours of vacation time off.
- G. Vacation Selection: Employees shall be permitted to request vacation time off either on a split or an entire basis. Employees shall have the right to determine the vacation time, subject to scheduling required for public service. The Chief or designee shall make the determination of whether an employee's vacation time off request will be granted based upon the needs of an efficient operation, the availability of vacation relief and the City's right to arrange the schedule so that each employee who is eligible has an opportunity to take vacation time off.

Vacation time shall be selected on the basis of seniority within their work unit provided, however, that employees will be permitted to exercise their right of seniority only once annually for a one (1) block of time period (i.e. member may select one consecutive period, one time), not to exceed four (4) consecutive calendar weeks, unless otherwise approved by the Chief. Thereafter, conflicting requests for the same vacation time shall be resolved on the basis of prior scheduling. Each employee must make a good faith effort to schedule at least one (1) block of time, at least one (1) week off, during each year.

One officer per patrol team will be allowed to be on vacation at any one time, unless more are approved by the Chief or designee. This limitation shall not apply if an officer with previously approved vacation is switched to a different patrol team provided, however, that vacation may be disapproved or canceled in the event of a staff reduction or an unforeseen emergency.

- H. Concurrent Leaves: If the leave is for a qualified state or federal family leave purpose, all leaves of absence, no matter how classified, shall be counted against the employee's family leave entitlement. In such a case, upon request, the employee shall provide health care provider certifications, including second and third opinions and fitness for duty certifications, as provided by family leave laws.

Section 10.2 Floating Holidays

- A. Affected Members. All sworn members, except those assigned as School Resource Officers and those assigned to regular business hours (as defined in Section 5.9) shall accrue floating holidays.
- B. Floating Holiday Accrual Rates. Members accruing floating holidays shall be entitled to take off twelve (12) holidays per year, accrued at the following rates, based on their work schedules:
 - 1. A member assigned to a twelve (12) hour work schedule will earn twelve (12) hours of floating holiday time off per month (5.54 hours per pay period).

2. A member assigned to a ten (10) hour work schedule will earn ten (10) hours of floating holiday time off per month (4.62 hours per pay period).
3. A member assigned to an affected eight (8) hour work schedule will earn eight (8) hours of floating holiday time off per month (3.70 hours per pay period).

C. Floating Holiday Time Off

1. Scheduling, Generally. Scheduling floating holiday time off is a member responsibility, may be requested up to ninety (90) days in advance, and will be granted on a first come, first served basis.

Members will schedule floating holidays in good faith based on days available and must receive their supervisor's approval. Supervisory approval can be withheld only to meet operational and staffing needs. Floating holiday time off not taken in accordance with this Article will be lost, unless it is not taken or is cancelled by the Department for operational reasons, in which case it will be paid. Members may not accrue more than twenty-four (24) hours of floating holiday time.

2. Scheduling 4/10 Work Schedule. Except for members assigned to Patrol, members working a 4/10 schedule shall recognize and observe the holidays identified in Section 10.3.A unless they request and are approved to work during such holidays.

Section 10.3 Holidays for Members Not Accruing Floating Holidays

- A. The following shall be recognized and observed as guaranteed paid holidays. On these holidays, the business office will normally be closed.

- | | |
|-----------------------|---------------------------|
| 1. New Year's Day | 6. Labor Day |
| 2. Martin L. King Day | 7. Veteran's Day |
| 3. President's Day | 8. Thanksgiving Day |
| 4. Memorial Day | 9. Day after Thanksgiving |
| 5. Independence Day | 10. Christmas Day |

- B. Personal Leave: The purpose of personal leave is to give two additional days off to members who work regular business hours and who do not accrue floating holidays. This matches them day-for-day with other members who accrue the equivalent of one holiday off per month.

Members who work regular business hours and who do not accrue floating holidays shall receive 16 hours of personal leave per fiscal year. Personal leave will be granted on July 1 of each fiscal year and must be utilized by June 30 of the same fiscal year. Employees are to request time off with their supervisor in advance. Time off will be granted on the following basis: for each unit of time off requested, an equal amount of time must be given, (For example: for one-hour off, one-hour advance notice must be given, for two-hours off, two-hours advance notice must be given, etc.).

Personal leave may not be carried over to the following fiscal year or credited to another type of leave. Personal leave days are not considered to be vested compensation and are not paid at separation.

- C. Weekend Holiday: For members working regular business hours and who do not accrue floating holidays, whenever a holiday falls on Saturday, the preceding Friday shall be considered to be the holiday. Whenever a holiday falls on Sunday, the following Monday shall be considered to be the holiday.

Section 10.4 Effect of Holidays During Time Taken Off

For members working regular business hours and who do not accrue floating holiday hours, whenever a holiday falls during paid leave (e.g., vacation or sick leave), the holiday shall be observed and no charge shall be made against the employees' paid leave account(s) for that day.

Section 10.5 Holiday Pay

For non-sworn personnel, work performed on holidays which falls within the employee's work week shall be considered as overtime work and shall be compensated in the same manner as overtime. For purposes of holiday compensation, an employee whose shift begins on the holiday shall receive holiday pay for the full regular shift.

ARTICLE 11 – PROBATION

All new hires and rehires shall serve a probationary period. The probationary period for sworn personnel may be any time period up to eighteen (18) months and may be extended to a maximum of twenty-four (24) months, if mutually agreed to by the Chief and the Association. Non-sworn personnel shall serve a probationary period of up to twelve (12) months and may be extended to a maximum of eighteen (18) months, if mutually agreed to by the Police Chief and the Association.

The probationary period shall be a part of the examining process and shall be used to determine the skills and abilities of the newly hired or rehired employee to be assigned to regular status. Probationary employees serve at the will of the City and may be disciplined, suspended or discharged without cause and without appeal through the grievance and arbitration procedures set forth in Article 15 of this Agreement.

ARTICLE 12 – SENIORITY

Section 12.1 Seniority

- A. Seniority Defined: Bargaining unit seniority is determined by the length of an employee's continuous service with the Police Department in the bargaining unit from last date of hire. Classification seniority is determined by the length of an employee's service in the employee's current classification, as described by Section 12.5, below and is used for the purpose of patrol schedule rotation and vacation bidding in accordance with Articles 5 and 10.
- B. Seniority List: The City will make electronic copies of bargaining unit and classification seniority lists available to the Association and employees upon request.

Section 12.2 Layoff and Recall

- A. Layoff: The City may lay off an employee when the City determines it necessary to abolish a position or that a shortage of funds or work exists. Layoff shall be by specific job classification as listed in Appendix A. Probationary employees in the classification(s) affected by layoff will be laid off first. In the event the City determines that it is necessary to layoff regular employees, employees in the classification(s) affected shall be in laid off in ascending order (bottom to top) based on bargaining unit seniority.

An employee shall be given written notice at least fifteen (15) days before the effective date stating the reasons for the layoff.

- B. Recall: Employees shall be recalled from layoff to the classification held at the time of layoff in inverse order of layoff according to their bargaining unit seniority. No new employees shall be hired in one of the classifications until all employees in that classification on layoff status desiring to return to work have been recalled or have otherwise suffered a break in seniority, as set forth in Section 12.3, below.
- C. Layoff List: Layoff status shall be maintained for a two (2) year period. It shall be the obligation of the employee to maintain a current address with the City during this period.
- D. Bumping: A bargaining unit member scheduled to be laid off may utilize his/her bargaining unit seniority to bump the employee with the lowest bargaining unit seniority in a lower classification, if the bargaining unit member is presently qualified and certified to perform, immediately, all of the duties and responsibilities of the different classification. Employees who wish to exercise bumping rights must notify the City in writing within ten (10) calendar days of receipt of layoff notice.

Section 12.3 Continuity of Service

Service requirements for advancement within salary range, extended steps, holidays and vacation shall be based upon continuous and total service as a regular employee.

A. Employees will continue to accrue seniority. Seniority will be broken and the employment relationship will be severed if any of the following events occur:

1. Voluntary resignation or retirement;
2. Discharge of a regular employee for just cause or a probationary employee at will;
3. Layoff or absence from work due to off-the-job illness or off-the-job injury for more than 24 months duration;
4. Failure to notify the City of intent to return to work pursuant to a recall notice sent by certified mail, return receipt requested, to the last address provided to the City through personnel records within ten business days of delivery;
5. Failure to report for work immediately upon expiration of an authorized leave of absence or, in the case of an absence due to off- or on-the-job injury or illness, failure to report for available work within seven days of receipt of notice of a limited or a full medical release to return to work;
6. Absence from work due to an on the-job-injury or on-the-job illness in accordance with Chapter 659A.
7. Failure to return from military leave, in accordance with applicable law.

Section 12.4 Retention of Seniority for Promotions

Employees who are promoted to positions within the Department that are outside the bargaining unit, but are returned to bargaining unit positions by the City will return with the seniority they had accrued at the time of their promotion restored. The time an employee spends in such a position will not, however, be applied toward his/her seniority. Instead, the employee's bargaining unit and classification seniority date will be adjusted by an amount equal to the time he/she served in the non-bargaining unit position.

Section 12.5 Retention of Classification Seniority upon Reemployment

In the event an employee voluntarily resigns from employment with the City, but is rehired within one (1) year from the date of the resignation, the classification seniority the employee had on the date of resignation will be restored.

ARTICLE 13 – COMPLAINTS, INVESTIGATIONS AND DISCIPLINE

All discipline and termination actions shall be only for just cause using the principles of progressive discipline and adhering to the procedure set forth in Appendix B and Appendix C. Appendices B and C shall not be changed without bargaining.

ARTICLE 14 – PERSONNEL RECORDS

Section 14.1 Personnel Record

The City shall maintain a personnel record of each employee in the City service. This record shall be the official record of the City and shall contain copies of all official reports, memos, letters, personnel actions, Guardian Tracking, etc., relating to the employee's performance and employment status.

Section 14.2 Inspection of Record

An employee may inspect the contents of the employee's personnel record, except for confidential reports from previous employers, upon the employee's oral request to do so. An employee's official representative, with the permission of the employee, may inspect all records pertaining to the employee except confidential reports from previous employers. Should the employee's personnel record contain a psychological or psychiatric report which could be harmful for the employee to review, the City may elect to disclose the report to the employee's physician of choice.

Section 14.3 Critical Entries

No disciplinary action, evaluation document, or complaint will be placed into an employee's personnel file without a copy being provided to the employee. Normally, the employee will be asked to acknowledge receipt of a copy by affixing the employee's signature to the file copy. Such a signature is not to be construed as indicating agreement with the contents thereof.

Section 14.4 Rebuttal Material

If an employee believes that there is material in the personnel record which is incorrect or derogatory, the employee shall be entitled to prepare in writing an explanation or opinion regarding the particular material, and this shall be included as a part of the personnel record. If the employee believes that such specific information should be removed entirely from the files, the employee may petition for such consideration to the City.

Section 14.5 Entries Dated

Each entry into the employee's personnel file shall be dated.

Section 14.6 Removal

An employee may request the removal of disciplinary documents from the employee's personnel file at any time. Any such request shall be made to the Chief and may be appealed to the City Manager.

ARTICLE 15 – GRIEVANCE PROCEDURE

Section 15.1 Grievance Procedure

Grievance, for the purpose of this Agreement, is defined as a dispute regarding the meaning or interpretation of a particular clause of this Agreement or regarding an alleged violation of this Agreement. Such grievance shall be settled in the following manner:

Step One: Should an employee believe that an employee's rights under this Agreement have been violated, within twenty-one (21) calendar days of the date of such grievance or knowledge thereof, the employee shall report the matter in writing to the employee's immediate supervisor. The written grievance shall be on a form approved by the City and Association and shall include:

1. A statement of the grievance and relevant facts;
2. Provision of the Agreement violated; and
3. Remedy sought.

Within twenty-one (21) calendar days after receipt of such report, the immediate supervisor shall attempt to resolve the matter and submit an answer in writing to the employee.

Step Two: If the grievance still remains unsettled, within twenty-one (21) calendar days after the reply of the immediate supervisor is received or the date that such reply is due, the Association may submit the grievance in writing to the Police Chief. The Chief shall respond in writing to the employee within twenty-one (21) calendar days.

Step Three: If the grievance still remains unresolved, within twenty-one (21) calendar days, the Association may submit the matter in writing to the City Manager. The City Manager shall respond in writing to the employee within twenty-one (21) calendar days.

Step Four: If the grievance still remains unsettled, within twenty-one (21) days after the reply of the City Manager is due, the Association may serve written notice to the City Manager of the Association's intention to arbitrate the grievance.

After the grievance has been so submitted, the Association may request from the Oregon Employment Relations Board a list of seven (7) Oregon and Washington arbitrators. The parties shall select an arbitrator from the list by alternatively striking a name, with the first strike being determined by lot. The final name left on the list shall be the arbitrator. The arbitrator's decision shall be final and binding, but the arbitrator shall have no power to alter, modify, add to or detract from the terms of the contract. The arbitrator's decision shall be within the scope and terms of the contract and in writing including detailed findings and conclusions, together with an explanation of the reasoning utilized in making the decision. The arbitrator shall be asked to submit the decision within thirty (30) days of the date of the hearing.

Section 15.2 Cost of Arbitrator

Each party shall be responsible for paying the costs of presenting its own case in arbitration, including the payment of witness fees, if any. The cost for the arbitrator, court reporter (if any), and the hearing room shall be borne by the losing party. The arbitrator shall designate the “losing party.” The arbitrator’s designation of the “losing party” shall be final and binding. The cost of a court reporter is contingent on both parties having agreed to utilize the services of a court reporter.

Section 15.3 Time Limits

Any or all time limits specified in the grievance procedure may be waived by mutual written consent of the parties. Failure to submit the grievance in accordance with these time limits without such waiver shall constitute abandonment of the grievance. Failure by the City to respond within the time limit shall permit the grievance to proceed to the next step. The grievance may be terminated at any time upon receipt of a signed statement from the employee that the matter has been resolved through Step Three of the Grievance Procedure.

ARTICLE 16 – SAVINGS CLAUSE

Should any article, section or portion of this Agreement be held unlawful and unenforceable by final order of any court of competent jurisdiction or administrative agency having jurisdiction over the subject matter, or by legislation of the State of Oregon or federal government, such decision or legislation shall apply only to the specific article, section or portion thereof directly affected. Upon issuance of any such decision or legislation, the parties agree immediately to negotiate a substitute, if possible, for the invalidated article, section or portion thereof. All other portions of this Agreement, and the Agreement as a whole, shall continue without interruption for the term hereof.

ARTICLE 17 – TERM OF AGREEMENT

Section 17.1 Term of Agreement

Any specified Article or Articles of this Agreement may be opened for negotiation by mutual written consent of both parties at any time during the life of the Agreement.

Except as set forth in Section 17.2 below, this Agreement commences on July 1, 2015, and terminates on June 30, 2018. The parties will commence negotiations for a successor agreement on or about January 1, 2018. This Agreement will remain in full force and effect during the period of negotiations.

Section 17.2 Insurance Re-opener

In the event the insurance and insurance benefits provided under this Agreement trigger the excise (“Cadillac”) tax under the Affordable Care Act, the parties agree to automatically reopen Sections 7.1 and 8.1 of this Agreement no later than April 1, 2017.

CITY OF KEIZER, OREGON

KEIZER POLICE ASSOCIATION

Chris Eppley **Date**
City Manager

Darsy Olafson **Date**
President

John Teague **Date**
Chief of Police

Kevin DeMarco **Date**
Vice President

APPENDIX A

Keizer Police Association Bargaining Unit Employees Pay Schedule – 1.5% COLA Effective July 1, 2015

Range	Classification	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
15	Police Support Specialist	18.38	18.93	19.50	20.09	20.69	21.31	21.95	22.61	23.29	23.99
		1,470.40	1,514.40	1,560.00	1,607.20	1,655.20	1,704.80	1,756.00	1,808.80	1,863.20	1,919.20
		3,185.87	3,281.20	3,380.00	3,482.27	3,586.27	3,693.73	3,804.67	3,919.07	4,036.93	4,158.27
16	Property & Evidence Specialist	19.31	19.89	20.49	21.10	21.73	22.38	23.05	23.74	24.45	25.18
		1,544.80	1,591.20	1,639.20	1,688.00	1,738.40	1,790.40	1,844.00	1,899.20	1,956.00	2,014.40
		3,347.07	3,447.60	3,551.60	3,657.33	3,766.53	3,879.20	3,995.33	4,114.93	4,238.00	4,364.53
17	Investigative Services Specialist	20.26	20.87	21.50	22.15	22.81	23.49	24.19	24.92	25.67	26.44
		1,620.80	1,669.60	1,720.00	1,772.00	1,824.80	1,879.20	1,935.20	1,993.60	2,053.60	2,115.20
	Community Services Officer	3,511.73	3,617.47	3,726.67	3,839.33	3,953.73	4,071.60	4,192.93	4,319.47	4,449.47	4,582.93
20	Crime Analyst	23.46	24.16	24.88	25.63	26.40	27.19	28.01	28.85	29.72	30.61
		1,876.80	1,932.80	1,990.40	2,050.40	2,112.00	2,175.20	2,240.80	2,308.00	2,377.60	2,448.80
		4,066.40	4,187.73	4,312.53	4,442.53	4,576.00	4,712.93	4,855.07	5,000.67	5,151.47	5,305.73
	Police Officer	25.18	26.44	27.76	29.15	30.61	32.14	*10 Yr 32.94			
		2,014.40	2,115.20	2,220.80	2,332.00	2,448.80	2,571.20	2,635.20			
		4,364.53	4,582.93	4,811.73	5,052.67	5,305.73	5,570.93	5,709.60			

[*Refer to Article 7.1.B](#)

APPENDIX B

Complaints Against Members

1020.1 PURPOSE AND SCOPE

It is essential that public confidence be maintained in the ability of the department to investigate incidents and properly adjudicate complaints against its members, determine the facts, ensure accountability and correct deficiencies. The department explains facts and circumstances determined by the investigation, subject to public disclosure, to assist the citizen complainant and the public to understand proper police procedures when officers are exonerated. Additionally, the Chief of Police has the responsibility to discipline those members whose conduct is determined to be improper, discredits the department, impairs its effective law enforcement operations, or constitutes a violation of department policy, procedure or law.

1020.1.1 POLICY

The department accepts complaints against its members and will fully investigate each. Investigations shall be conducted in a fair and impartial manner with truth as the primary objective. The rights of employees and the public must be preserved. Investigations of complaints and serious incidents are conducted to provide accountability to the public and to provide protection to the falsely accused employee, assess training needs, facilitate re-evaluation, or instigate formulation of departmental policies and procedures. Complaints consist of any allegation of misconduct or improper job performance against any department employee that, if true, would constitute a violation of department policy or federal, state, or local law.

Inquiries about employee conduct which, even if true, would not qualify as a personnel complaint may be handled informally by a department supervisor (including, by definition, an acting-supervisor) and shall not be considered complaints.

Personnel Complaints shall be classified in one of the following categories:

Informal – A matter in which the complaining party is satisfied that appropriate action has been taken by a department supervisor of rank (or acting rank) greater than the accused employee. Informal complaints need not be documented on a *Citizen Complaint Statement* and the responsible supervisor shall have the discretion to handle the complaint in any manner consistent with this policy.

Formal – A matter in which the complaining party requests further investigation or in which a supervisor or member of Command Staff determines that an *Administrative Inquiry* or *Internal Affairs Investigation* is warranted. (See also Policy Manual § 1020.1.2.) Such complaints shall be routed to the appropriate Division Commander who will brief the Chief of Police on the seriousness and complexity of the complaint.

Incomplete – A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or

the Division Commander, such matters need not be documented as personnel complaints, but may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

1020.1.2 ADMINISTRATIVE INQUIRIES AND INTERNAL AFFAIRS INVESTIGATIONS DEFINED

Initially, each investigation will be categorized by the Chief of Police as either an Administrative Inquiry or an Internal Affairs Investigation. All internal investigations shall be treated as confidential.

- (a) **Administrative Inquiries:** Administrative Inquiries involve investigations into violations or alleged violations of policy or procedure and which concern matters that, if sustained, experience and common sense indicate will be subject to disciplinary resolution at the supervisor level. Administrative Inquiries shall not be considered Internal Affairs Investigations.
- (b) **Internal Affairs Investigations:** Internal Affairs Investigations involve investigations into significant or continued violations or alleged violations of policy or procedure, which, if sustained may lead to discipline by the Chief of Police or, if designated, another member of Command Staff, up to and including suspension, demotion, or termination.

1020.2 SOURCES OF COMPLAINTS

Complaints may come from the following non-exclusive list of sources:

- (a) Complaints may be received by telephone, letter or in person. It is preferred, however, that complaints be received in person by a supervisor. Supervisors shall attempt to resolve complaints that fall within their scope of responsibility.
- (b) Non-members who wish to file a complaint against a department member shall not be dissuaded from doing so and shall be informed of the manner in which this can be done.
- (c) *Citizen Complaint Statement* and Procedures
 1. When a non-member wishes to file a complaint, a supervisor receiving the complaint shall ask the complainant to complete a *Citizen Complaint Statement*.
 2. If complainant declines or is unable to complete the *Citizen Complaint Statement*, the supervisor receiving the complaint shall document all relevant facts.
- (d) Third-party and anonymous complaints shall be accepted if, after review by the supervisor, it is decided that there is reasonable suspicion to believe that a violation of policy or procedure has occurred. Command Staff shall be advised of all third-party or anonymous complaints whether accepted or not.

- (e) Other members. Members who become aware of alleged misconduct shall notify a supervisor without delay.

1020.2.1 ACCEPTANCE OF COMPLAINTS

The following should be considered before moving a complaint on for further investigation:

- (a) Generally, complaints will not be further investigated unless the alleged misconduct or job performance is of a nature which, if true, would normally result in disciplinary action.
- (b) When the complainant is satisfied that his or her complaint required nothing more than an explanation regarding the implementation of department policy or procedure, a complaint need not be further investigated.
- (c) When the complainant's credibility can be documented as unreliable a complaint need not be further investigated; nevertheless, unless excepted elsewhere, if the complainant's lack of credibility is the only reason not to investigate, then the complainant's contact information shall be collected and command Staff shall be advised of the complaint.
- (d) Depending on the urgency and seriousness of the complaint, a complaint from a juvenile should generally be taken only with his or her parents or guardians present and after the parents or guardians have been informed of the circumstances surrounding the complaint.

1020.3 SUPERVISOR RESPONSIBILITY UPON RECEIVING A COMPLAINT

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor. The Chief of Police or authorized designee may, however, direct another supervisor to investigate a complaint.

Supervisors are responsible for the following:

- (a) If a complaint is an informal complaint, the supervisor shall investigate it and respond to the complainant appropriately and shall counsel the member as necessary.
- (b) If a complaint is such that it requires an Administrative Inquiry, the supervisor shall notify the member's immediate supervisor and Division Commander and shall commence the investigation.
- (c) A supervisor receiving a complaint that may require an Internal Affairs Investigation shall notify the member's immediate supervisor and Division Commander as soon as practicable and shall await direction from the Division Commander or Chief of Police.
- (d) A supervisor shall respect the accused member's due process and procedural rights.

1020.4 ASSIGNMENT TO ADMINISTRATIVE LEAVE

At the discretion of a supervisor or the Chief of Police, members may be relieved from duty with pay pending the outcome of the complaint process. This action is administrative and does not constitute discipline.

1020.4.1 ADMINISTRATIVE LEAVE

A member placed on administrative leave may be subject to the following:

- (a) Under such circumstances, a member placed on administrative leave shall continue to receive regular pay and benefits pending the imposition of any discipline.
- (b) A member placed on administrative leave may be required to relinquish any badge, issued identification, weapon(s), and other equipment.
- (c) A member placed on administrative leave may be ordered to refrain from taking any action as a department member or in an official capacity; however, the member shall be required to continue to comply with all policies and procedures and all orders from a supervisor.
- (d) A member placed on administrative leave may be temporarily assigned to a different assignment or shift (generally, normal business hours) during the investigation and the member may be required to remain available for contact at all times during such shift and report as ordered.
- (e) If a supervisor puts a member on administrative leave, he or she shall promptly notify the member's Division Commander.
- (f) At such time as any member placed on administrative leave is returned to regular duty, the member shall be returned to his regular assignment and shift with all issued equipment returned.

1020.5 MEMBER RESPONSIBILITIES

Any member interviewed pursuant to any complaint shall cooperate fully with the investigation and shall completely and truthfully answer all questions.

It is noteworthy that members shall not be deprived by the City of Keizer of the rights and freedoms afforded to other citizens by the U.S. and State of Oregon Constitutions and, if the member is an employee, of those rights specific to public employees.

1020.6 INTERNAL AFFAIRS INVESTIGATION PROCEDURES

Only the Chief of Police may initiate an Internal Affairs Investigation.

- (a) The Chief of Police, or the investigator at the Chief's direction, shall cause the accused member to be notified of the Investigation in a timely manner. This will be done by distribution of one copy of the complaint, provided the allegations are not criminal in nature and such notification will not hinder the investigation. It will also include any other witness statements or reports, which state facts on which the charges are based, unless to do so will compromise the investigation. This notification shall include the nature of the investigation and the member will be informed of other information necessary to reasonably describe the nature of the allegations under investigation. Information will be provided at least 24 hours prior to the interview.
- (b) Prior to the interview, if there is the potential for discipline against the member, the investigator shall advise the member of the following:
1. The nature and circumstances of the subject matter of the interview.
 2. That an employee may have a union representative present to witness the interview, provided the representative does not interfere with the interview, asking only clarifying questions. See also Policy Manual §1020.63, *Union Representation*.
 3. That the member may suggest witnesses and evidence favorable to the member.
 4. That the member under investigation may record any and all portions of the interview.
 5. That failure to cooperate with the investigation may subject the member to disciplinary action.
- (c) Interviews will be conducted when the member is on duty unless the seriousness of the investigation or other circumstances dictates otherwise.
- (d) Ordinarily, interviews will take place at the police department office, but the nature of the situation or the need for a walk-through or reenactment may necessitate another location.
- (e) Interviews shall be conducted under circumstances conducive to obtaining an accurate account of what occurred and with respect for the member interviewed.
- (f) The complete interview of a member may be recorded consistent with applicable laws. If a recording is made of the interview, a member under investigation shall have access to the recording. If a transcription of the interview is made, the member under investigation shall be provided a copy of the transcription.
- (g) A member of the department shall not be subject to having his or her residence, private place of business, or personally owned private vehicle searched without the member's consent unless a valid search warrant has been obtained.

1020.6.1 ADMINISTRATIVE SEARCHES

A member may be administratively ordered to submit to a blood, breath, or urine test for alcohol and drugs under any of the following circumstances:

- When the member, whether on or off-duty, is involved in a shooting or duty-related death
- When the member is involved in an injury or fatal accident while on duty
- When the member is involved in an injury or fatal accident while operating any City-owned vehicle whether on or off-duty
- When the member is found to be exhibiting objective symptoms of intoxication or drug influence while on duty

The use of compelled testing results shall be restricted to the administrative investigation.

A member may be compelled to disclose personal financial information pursuant to proper legal process, if such information tends to indicate a conflict of interest with official duties or if the member is assigned to or being considered for an assignment with a potential for financial malfeasance.

Members shall have no expectation of privacy in or while using offices, desks, lockers, vehicles, telephones, computers, radios, or other communications provided by the Department.

Assigned lockers, offices, desks, vehicles, and storage spaces are the property of the City and may be administratively searched by a supervisor for work-related purposes (e.g., obtaining a needed report or radio); however, an investigative search of such areas should only be conducted with the approval of the Chief of Police or a designee upon reasonable suspicion that a violation of policy or procedure has occurred.

All other non-assigned areas (e.g., shared desks, common office space, and shared vehicles) may be searched at any time for any reason.

1020.6.2 ADVISE OF RIGHTS

If the facts of a complaint might involve criminal activity conducted by the member, the member shall be advised of that and shall be read his Fifth Amendment rights. If such a member, exercising his or her Fifth Amendment right not to incriminate him- or herself, is ordered to submit a report or answer questions, the responses may not be used against the member in criminal proceedings (*Garrity v. New Jersey*, 385US 493 (1967)). The member shall be advised of such with a *Garrity* Admonition.

When a statement is obtained based on *Garrity*, care shall be taken to ensure that confidentiality of the statement is maintained. It shall not be shown or communicated by the investigator to any person except the Chief of Police or other member of Command Staff for so long as the criminal investigation is ongoing.

1020.6.3 UNION REPRESENTATION

An investigation of a department member is an administrative matter, but if the member is also a member of the Keizer Police Association, the member has the right to meet with or seek advice from a union representative prior to an interview if the member reasonably believes he or she may be subject to discipline.

(a) In such a case, if the member appropriately requests the union representative and does not waive that right, the investigator may:

1. Grant the request and defer the interview until a union representative is present.
2. Give the member a choice of having the interview without the union representation or having no interview at all.

(b) The role of the union representative, if present at an interview, is limited as follows:

1. The representative may inquire at the outset of the interview regarding its purpose, including inquiring about the general subject matter of the questioning to follow.
2. During the questioning of the member, the representative may participate only to the extent of seeking clarification of questions.
3. After the investigator has finished interviewing the member, the representative may ask the member questions designed to clarify previous answers or to elicit further relevant information.
4. Before the end of the meeting, the representative may suggest to the investigator other witnesses to interview and may describe relevant practices, prior situations, or mitigating factors that could have some bearing on deliberations concerning discipline.

Members who refuse to participate in an interview or fail to cooperate with other aspects of the investigation will be subject to discipline, up to and including termination.

1020.7 DISPOSITION OF PERSONNEL COMPLAINTS

Each allegation shall be classified with one of the following dispositions:

Unfounded – When the investigation discloses that the alleged act(s) did not occur or did not involve department members. Complaints which are determined to be frivolous will fall within this classification.

Exonerated – When the investigation discloses that the alleged act occurred, but that the act was justified, lawful, or proper.

Not Sustained – When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.

Sustained – When the investigation discloses sufficient evidence to establish that the act occurred and that is constituted misconduct.

Policy Issue – When the complaint is determined to be accurate, including the member's actions, but the issue appears to require a modification of policy. The finding for the officer will be exonerated. The apparent need for policy modification shall be directed to the appropriate Division Commander.

1020.8 INVESTIGATION REPORTS

All information developed during an investigation is to be treated by the investigator with strict confidence. Upon completion of the investigation, a written report shall be submitted to the appropriate Division Commander. That report shall include but not be limited to:

- (a) A summary of the complaint and investigation.
- (b) The original and all subsequent statements of the complaint.
- (c) Statements of involved persons, including witnesses.
- (d) Description and analysis of all evidence.
- (e) Copies of any attachments.

Upon assurance that the investigation is complete and appropriately documented, the report shall be forwarded to the Chief of Police for his disposition. Upon making his disposition, a copy of the report shall be given to the investigated department member, if he is a member of the Keizer Police Association.

1020.8.1 CONFIDENTIALITY OF PERSONNEL INVESTIGATIONS

All investigations of personnel complaints shall be considered confidential. The contents of such files shall not be revealed to persons other than the investigated member or authorized personnel as allowed by law.

In the event that an accused member (or the representative of such member) makes false representations regarding any internal investigation and such false representations are communicated to any media source, the Department may disclose sufficient information to refute the false representations.

Disciplinary action resulting from sustained complaints shall be maintained in the member's personnel file. Complaints and the subsequent reports shall be maintained by the Command Staff in a designated location apart from the member's personnel file.

1020.8.2 ANNUAL REVIEW OF PERSONNEL COMPLAINTS

During the first quarter of each year, the Support Division Commander shall provide to the Chief of Police an annual report of personnel complaints from the preceding year. The report will focus on complaint trends as well as training needs and needed policy changes. A copy of the report shall be maintained with each year's completed complaint file. Specific detail including items such as officer names and case numbers shall be not included in this process.

1020.9 BOARD OF INQUIRY

A Board of Inquiry may be established at the discretion of the Chief of Police for the purpose of investigating incidents in which department members are involved, the purpose of which is to evaluate policies and procedures.

The composition of the board will be determined by the Chief of Police based upon expertise, objectivity, and other traits deemed desirable. Objectives, operational guidelines, and the necessary authority to complete the assignment will be provided to the board in writing by the Chief of Police.

APPENDIX C

DISCIPLINE PROCEDURES

340.1 PURPOSE AND SCOPE

The purpose of this policy is to provide an understanding of what discipline is and how it might be exercised with regard to member conduct as it relates to the mission and values of this department.

Depending upon a members' employment status or membership in a bargaining unit, some sections of this policy are not specifically applicable to all members; however, it is the practice and policy of this department that all members be treated honorably and with respect; consequently, to the degree that it is reasonable, this policy shall apply to all members, including part-time and volunteer members.

This policy is intended for internal use only and shall not be construed to increase or establish a member's civil or criminal liability. Nor shall it be construed to create or establish a higher standard of safety or care. A violation of any portion of this policy may only serve as the basis for internal disciplinary and/or administrative action.

340.2 DISCIPLINE POLICY

In order to protect the rights of the citizens and department members, it is the policy of the police department to thoroughly investigate complaints alleging misconduct, lack of performance, or improper performance of any department member. At the conclusion of an inquiry, appropriate action will be taken. Discipline of a member is but one of a number of alternatives which may be appropriate.

341.2.1 DISCIPLINARY SYSTEM AND THE CONCEPT OF DISCIPLINE

Aspects of department administration which have an impact on discipline within the police department include selection, training, direction, supervision and individual accountability. These elements are interdependent. The department's view of discipline involves a system-wide approach including positive as well as punitive elements of discipline.

340.2.2 CAUSES FOR DISCIPLINE

Generally, causes for discipline are violations of the *Uniform Standards of Conduct* presented in Policy Manual § 341.

340.2.3. DISCIPLINARY ACTION

Violation of any of the directives and rules contained in this manual, violations of any general or special order, or failure to meet standards which the department may reasonably expect of a professional police officer or other department member may be cause for disciplinary action.

The type and severity of disciplinary action depends on the nature of the offense, the totality of circumstances, the number and frequency of previous acts of misconduct, the quality of overall performance, the need to maintain discipline and public trust, and other relevant factors.

340.2.4 DEPARTMENT RESPONSIBILITY

Any member of the department who commits an offense contrary to law or violates the rules and policies of the department, who is incompetent to perform duty as a member of this department, or demonstrates unsuitability for further service is subject to appropriate disciplinary action.

340.2.5 RESPONSIBILITY OF THE CHIEF OF POLICE

Final disciplinary authority and overall responsibility for personnel administration rests with the Chief of Police. Except for oral and written reprimands, disciplinary actions must be taken or approved by the Chief of Police. Supervisors have shared responsibility to ensure that training, counseling and appropriate punitive measures occur.

340.2.6 SUPERVISOR RESPONSIBILITY

Supervisors are responsible for the performance and conduct of subordinates and their adherence to department directives, policies and procedures.

Supervisors are authorized to take disciplinary action up to and including written reprimand. Supervisors may suspend with pay where the suspension is administrative and not as discipline.

Imposition of other disciplinary action may be recommended and will be reviewed and approved in advance by the Chief of Police.

340.3 FUNCTION OF POSITIVE DISCIPLINE

In the interest of discipline, it is the policy of the Chief of Police to reward, train and counsel members in order to motivate desired behavior and performance or whenever it is appropriate to ensure that desired standards are understood. Such action is referred to as corrective action. Rewards include letters of recognition and/or commendation and other awards identified and determined by the Chief of Police. More severe action may be taken in those instances where warranted under the tenets of just cause.

340.4 TRAINING AS A FUNCTION OF DISCIPLINE

Training may be employed by itself or in conjunction with one or more other components of the discipline system. Remedial training, using training as a function of discipline, shall be fashioned as appropriate to assist the member in overcoming a perceived deficiency.

340.5 COUNSELING AS A FUNCTION OF DISCIPLINE

Counseling by a supervisor may be employed by itself or in conjunction with one or more other components of the disciplinary system. Counseling will occur when a supervisor reasonably believes that the employee has an existing problem or is experiencing difficulty understanding, adjusting to or responding to matters which are job related and pertain to assigned tasks, personnel or department policies, interpersonal relations with co-workers or matters which are largely personal but affect the employee's work performance.

Counseling generally occurs when a deteriorating effect on work performance is noted and there is reason to believe that counseling will assist the member in a supportive way or otherwise have a positive impact on work performance.

Counseling may be utilized by a supervisor and it may be initiated by a supervisor or a member. If, in the initial counseling effort, a remedy cannot be found then the member may be referred to the Division Captain or the Chief of Police and may be referred outside the department as appropriate, i.e. to the City Human Resources Director, a chaplain or other counselor, or an employee assistance provider.

340.6 MEMBER RESPONSE

The pre-discipline process is intended to provide the accused member with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The member shall consider the following:

- (a) This response is not intended to be an adversarial or formal hearing.
- (b) Although the member may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The member may suggest that further investigation could be conducted or the member may offer any additional information or mitigating factors for the Chief of Police to consider.
- (d) In the event that the Chief of Police elects to cause further investigation to be conducted, the member shall be provided with the results of such subsequent investigation prior to the imposition of any discipline.
- (e) The member may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issue(s) of information raised in any subsequent materials.
- (f) Once the member has completed his/her response or, if the member has elected to waive any such response, the Chief of Police shall consider all information received in regard to

the recommended discipline. The Chief of Police shall thereafter render a timely written decision to the member imposing, modifying or rejecting the recommended discipline. In the event of a termination, the final notice of discipline shall also inform the member of the reason(s) for termination and the process to receive all remaining fringe and retirement benefits.

- (g) Once the Chief of Police has issued a written decision, the discipline shall become effective.

340.7 DISCIPLINARY ACTION AGAINST PROBATIONARY EMPLOYEES

In the event that a probationary employee is terminated solely for unsatisfactory performance or the failure to meet department standards, the employee shall have no right to appeal and the following shall be considered:

- (a) Termination of a probationary employee for such failure to pass probation shall be so reflected in the employee's personnel file.
- (b) In the event that a probationary employee is disciplined or terminated for misconduct, the employee shall only be entitled to appeal the decision in the manner as set forth in the procedure as set forth in § 340.6. This appeal process may be held prior to or within a reasonable time after the imposition of discipline.
- (c) At all times during any investigation of allegations of misconduct involving a probationary employee, such employee shall be afforded all procedural rights set forth in Department policies.
- (d) A probationary employee's appeal of disciplinary action shall be limited to an opportunity for the employee to attempt to establish that the underlying allegations should not be sustained. Nothing in this policy or procedure, however, should be construed to establish any sort of property interest in or right to the employee's continuation of employment.
- (e) The burden of proof for any probationary employee's appeal of disciplinary action shall rest with the employee and will require proof by a preponderance of the evidence.
- (f) In the event that a probationary employee meets his or her burden of proof in such a disciplinary appeal, the Department shall remove all reference to the underlying allegations of misconduct from the employee's personnel file.
- (g) In the event that a probationary employee fails to meet his or her burden of proof in such a disciplinary appeal, the employee shall have no further right to appeal beyond the Chief of Police.

340.8 DISCIPLINARY SUSPENSIONS

A member relieved from duty or suspended for discipline shall have no Department authority, nor shall any such member engage in any police or duty-related function while suspended, except for court appearances. A member relieved from duty or suspended for discipline shall not be permitted to wear the uniform of the Keizer Police Department nor permitted to use or wear any Department clothing, equipment or other items except as otherwise directed by the Chief of Police and shall immediately surrender the badge, identification card, and other issued equipment as directed.

340.9 EMERGENCY SUSPENSIONS

Supervisory/command officers have the authority to impose an emergency suspension, with pay, when it appears that such action is in the interest of the department. The emergency suspension shall be effective until the next business day. Any member receiving suspension shall report to the Chief of Police at 0900 hours the following business day unless otherwise directed by the Chief of Police or his designee.

340.10 DISCHARGE

After the probationary period is completed, (non-probationary) employees of the department shall not be discharged except as provided for in this directive and in the applicable union agreement(s) or City personnel policies. This directive provides for disciplinary procedures and shall not be construed as conferring on any employee any right or expectation of continued employment. Such rights are found in the City personnel policies and union agreement exclusively.

340.10.1 JUST CAUSE

When a member is entitled by virtue of a union agreement or City personnel policies not to be disciplined except for “cause” or “just cause”, the determination shall be made by the supervisor imposing or recommending the discipline and reviewed by the Chief of Police. A number of factors may be taken into account and given appropriate weight. They include:

- (a) To what extent has the member been trained in the proper conduct or manner of performance?
- (b) Has the member had the same kinds of performance problems in the past (the repeat offender)?
- (c) Has the member been disciplined for the same or similar conduct in the past?
- (d) If the member has been disciplined in the past, how has the member responded to the discipline?
- (e) How serious is the offense? Is it just an annoyance? Has the member caused personal injury or property damage? Has the member done something illegal?

- (f) Have other members had similar performance problems? If so, how have their situations been addressed?
- (g) Are there acceptable explanations for the member's conduct which should be taken into account?
- (h) How has the member performed in the other aspects of employment?
- (i) Are there personal problems that account for the conduct?
- (j) Has the department taken reasonable steps to help the member correct the problem?

340.10.2 PRE-DISCIPLINARY DUE PROCESS PROCEDURES

The following procedures shall apply to all disciplinary actions.

- (a) **Suspension with pay:** Due process is not a factor when considering this type of discipline. Action of this nature shall be based on "just cause" as determined by the supervisor or Chief of Police. Suspension with pay may be taken administratively and not as discipline whenever the circumstances warrant, i.e. when a member is involved in a traumatic incident or is suspected of misconduct which warrants discharge or relief from duty. Under such circumstances, a member may be suspended with pay for the member's welfare or until sufficient facts have been obtained in order to provide written notice and schedule an informal meeting with the person who has authority to investigate further or impose discipline. After the meeting and depending upon the outcome, it may be appropriate to restore the member to duty status or charge the suspension to one without pay if the facts warrant such action.
- (b) **Suspension without pay/reduction in pay/reduction in rank/any combination of these actions/and dismissal.** Prior to taking action involving loss of pay, reduction in pay/rank or dismissal, the Chief of Police or designated supervisor shall:
 1. Notify the member in writing the nature of the charges which will include a copy of the complaint against the member and any other witness statements or reports which state facts on which the charges are based, unless confidential and disclosure would compromise another investigation. The Chief of Police shall identify the directives, policies, procedures, work rules, regulations or other order of the department which appears to have been violated.
 2. State the range of discipline that is being considered.
 3. Afford the accused member an informal opportunity to respond to the charges orally or in writing normally within three days from receiving such written notice, which shall be extended upon request up to two additional days. The opportunity to respond may occur at a meeting conducted and presided over by the Chief of Police or supervisor with authority to impose or recommend that proposed disciplinary action. The meeting shall be informal and sufficient to assure the member full opportunity to be heard, refute the charges, and have his/her position considered prior to the imposition of discipline. The meeting may be tape recorded or a written record may

be made of the proceedings. The Chief of Police or other person having authority to preside over the meeting will determine when the conference is concluded and who may be present, may request further documentation, and may consider any information deemed pertinent and necessary to assist in reaching a logical determination. The member may provide written statements. Testimony or cross-examination of witnesses will not occur at this conference. The member shall have the right to answer the charges against him/her. The answer may include written or oral evidence and statements by the member. Members may make any presentations they believe relevant to their case. However, the meeting is not a full hearing and witnesses are not subject to call or examination. The Chief of Police will issue a written decision exonerating the member, imposing discipline, or taking any other action deemed appropriate.

340.10.3 COMPLAINTS OF CRIMINAL ACTIVITY

Complaints against members, which allege criminal violation(s), may be grounds for investigation or bringing criminal charges. Criminal proceedings are unrelated to discipline and will not serve to prevent the internal disciplinary process from dealing with the same matter.

340.10.4 DUTY TO REPLY AND COOPERATE

Members will answer all questions which a supervisor may ask regarding the performance of duty of any other department member and will cooperate with the internal disciplinary process.

340.10.5 APPEAL OF DISCIPLINARY ACTION

- (a) **Bargaining unit.** Members of the bargaining unit have the right to appeal as is specified in the collective bargaining agreement. The union agreement provides the sole and exclusive appeal procedure for covered bargaining unit employees.
- (b) **Non-Bargaining Unit.** Members who are not covered by the collective bargaining agreement may appeal discipline in the following manner and sequence:
 - 1. A complaint, if not settled satisfactorily with the supervisor imposing discipline, and shall be reduced to writing and signed by the member. The complaint shall include at least the following information:
 - (a) A statement of the complaint and the facts upon which it is based;
 - (b) The remedial action requested;
 - (c) A statement of the reasons why remedial action is appropriate; and
 - (d) A statement of any rules or regulations which the member believes the department has not adhered to or should follow. The written complaint shall be delivered to

the supervisor who will, except in extraordinary circumstance, respond within five working days.

2. If the complaint is not settled satisfactorily by the supervisor, it may be submitted to the Chief of Police with a request for review of the complaint and shall include a written statement of any deficiencies in the supervisor's response. The Chief of Police will respond to all such complaints.
3. If the member's complaint follows his/her discharge from employment, the member shall be entitled to a post-discharge due process review.

340.10.6 POST-DISCHARGE REVIEW

Following a hearing presided over by City Manager or designee, the City Manager shall determine whether the Chief of Police has cause to support the discharge, make findings, and issue a determination to the Chief of Police which will be adhered to. The City Manager will address relevant issues raised by the discharged member and may consider any issue relevant to whether cause exists for the discharge. The City Manager will issue a written decision, which sustains, modifies or sets aside the discipline imposed. A record of the hearing will be made by electronic recording and a copy of the tape may be made for any requesting party of their expense. All documents and other exhibits considered by the City Manager will constitute a part of the record, which shall be maintained in an appropriate file. Witnesses will be administered an oath or affirmation and cross-examination will be permitted. Each party shall be responsible for arranging for the appearance of witnesses upon which it intends to rely. The City will make its own members available on showing that they are necessary and have relevant testimony to offer. Should the discharged member require the presence of any City member at the hearing, that member must be identified not later than five days prior to the date of the hearing. The order of procedure at the post-discharge hearing will be as follows:

- (a) The Chief of Police or designee will set forth the reasons for the discharge and the facts on which it is based. The discharged member may conduct cross-examination if appropriate.
- (b) A terminated member may present evidence in support of the appeal with or without the assistance of legal counsel or other representative.
- (c) The Chief of Police or designee may cross-examine or submit evidence in rebuttal or both.
- (d) Opening statements, if any, will be brief and confined to the issues. Closing arguments, if any, will be first by the Chief of Police or designee then by the member or the member's representative. The Chief of Police may offer rebuttal evidence if desired.
- (e) Evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible. Irrelevant, immaterial or unduly repetitious evidence may be excluded. Affidavits and counter-affidavits are acceptable as evidence.

If either party intends to rely on an affidavit, it shall provide the other party with such affidavit together with the name, address and telephone number of the affiant at least ten days prior to the hearing or such affidavit shall be inadmissible.

340.10.7 INFORMAL PROBLEM/COMPLAINT RESOLUTION PROCESS

To facilitate communication between the member(s) and administration of the department, any member who feels they are not being treated fairly may report the problem to a supervisor or the Chief of Police. Members are encouraged to talk with their supervisor as soon as possible and seek informal resolution of problems which arise. If a problem is not resolved at that level, a written statement containing all pertinent information can be filed with the Chief of Police who will make a timely and appropriate response.

APPENDIX D

DRUG AND ALCOHOL POLICY

PURPOSE. The City considers its employees to be its most valuable asset and is concerned about their safety, health and wellbeing. The misuse of alcohol and other drugs can impair employee performance and general physical and mental health and may jeopardize the safety of co-workers and the general public. The City is committed to maintaining a safe and health work place for all employees by identifying the misuse of alcohol and drugs and assisting employees to overcome these problems through appropriate treatment and, if necessary, disciplinary action. The presence or treatment of a substance use problem will not excuse an employee from meeting performance, safety or attendance standards or following other City instructions.

The parties also recognize the City's responsibilities pursuant to the Drug Free Work Place Act of 1988. The Association and the City acknowledge that employees shall not report to work under the influence of intoxicating liquor or illegal drugs. All employees understand that the use, sale, possession, manufacture, distribution and/or dispensing by an employee of an intoxicating liquor, controlled or illegal substance as defined by federal law, or a drug not medically authorized, or any other substances which impair job performance or pose a hazard to the safety and welfare of the employee, other employees or the public is strictly prohibited, except for alcohol or medically prescribed controlled substances off-duty, and possession of controlled substances while in the course and scope of employment and the possession of seized evidence while on-duty. The parties recognize that conduct in violation of this policy may result in disciplinary action and/or criminal investigation if appropriate. This policy will be enforced and administered in a manner which is consistent with the value statements set forth in this section.

PROHIBITED CONDUCT. The following conduct is strictly prohibited:

- A. The buying, selling, distributing, transporting, possessing, manufacturing, consuming or using illegal drugs per federal law, including marijuana, or alcohol while on City property or in City vehicles or equipment or during work hours, including paid rest and meal periods, except as necessary in the performances of duties (confiscated evidence; approved undercover operations, etc.)
- B. Reporting to work or returning to duty under the influence of alcoholic intoxicants, except as necessary in the performance of an official special assignment or if directed otherwise. For the purpose of this Policy, an employee will be considered to be under the influence of alcohol if his/her blood or breath tests .02% BAC or higher. The City may also consider other evidence in determining whether an employee is "under the influence."

It is recognized that employees may be called back to duty during normal off-duty hours. To ensure compliance with this Policy and safety standards, employees who have consumed alcoholic beverages within four (4) hours of responding to the callback or, for

any reason, believe they may be impaired from performing the duties of the callback are required to notify the supervisor upon being contacted for callback and provide the supervisor with complete information regarding such consumption. The supervisor will determine whether the employee can safely report for work. The callback of employees who have consumed alcoholic beverages during off-duty hours to perform patrol duties is prohibited, unless the employee's blood alcohol content is less than .02%.

- C. Being at work under the influence of illegal drugs, including marijuana. An employee shall be deemed to be "under the influence" of cannabinoids (marijuana or hashish) and will be considered to have tested "positive" for cannabinoids (marijuana or hashish), if the employee's urine test indicates fifty (50) or more Nano grams THC metabolites/ml. An employee shall be automatically presumed to be "under the influence" of other illegal drugs, if such substances are "present in the body" (excluding any substance lawfully prescribed for the employee's use which has not been obtained for the purpose of abuse.) The City may also consider other evidence in determining whether an employee is "under the influence."
- D. Failing to fully cooperate with any aspect of the City's enforcement of this Policy, including but not limited to, refusing to promptly submit to required testing, giving false, diluted or altered urine samples, failure to authorize the release of information to the City and failure to comply with rehabilitation conditions imposed by the City or rehabilitation counselors.
- E. Failure to promptly report conviction, arrest or plea-bargaining for an alcohol or drug related criminal offense. All drug and alcohol related convictions, arrests and plea-bargaining arrangements must be reported to the Chief on the workday immediately following the conviction, arrest or plea-bargaining arrangement.

For purposes of this Policy, the term "drug" shall be defined in accordance with the definition of "controlled substance" set forth in ORS 475.005(6).

Employees who engage in any prohibited conduct will be subject to discipline including discharge.

MEDICAL MARIJUANA

In addition to the above, employees must comply at all times with all federal and state statutes and regulations regarding the illegal use of drugs. It is important to note that marijuana is an illegal drug under the federal Controlled Substances Act, which means that it has no acceptable medical use under federal law. Therefore, any on or off duty use of marijuana which is inconsistent with the "prohibited conduct" listed above will be considered a violation of this policy, even if an employee has a prescription for the use of marijuana under the Oregon Medical Marijuana Act. If the City determines that the employee using medical marijuana is disabled under applicable disability discrimination statutes, the employee will be asked to enter into an interactive discussion with designated representative(s) to determine whether a reasonable accommodation can be made that would allow the employee to continue to be employed without violating Departmental standards.

DISCLOSURE OF MEDICATIONS

Employees are responsible for consulting with their physicians and carefully reviewing medication warnings, including any warnings pertinent to the effects of use of a combination of medications. Each employee who is using over-the-counter or prescribed medications under circumstances where he/she knows or should know that the use of the medication may produce side effects that will affect his/her ability to safely perform all essential job duties must notify the Human Resources Director of the substance taken and the side effects before reporting to work or returning to duty. Medical verification of ability to safely perform job duties may be required before the employee is allowed to work. Employees are eligible to utilize sick leave benefits pending receipt of acceptable verification. In the event sick leave benefits are depleted, the employee may utilize paid holiday, vacation or compensatory time. In the event the employee does not designate a paid leave account, compensatory time will be utilized first, followed by holiday and vacation accounts.

Although the use of prescribed drugs or non-prescription medications, which contain controlled substances as part of a prescribed medical treatment program, is not grounds for disciplinary action, failure to report the use of such substances as described above, illegally obtaining the substance or use which is inconsistent with a prescription or label, may subject the employee to discharge.

MANDATORY TESTING. Employees will be required to undergo mandatory testing as follows:

- A. Reasonable Suspicion Testing Where the City has a reasonable suspicion that an employee has reported to work or returned to duty under the influence of any alcoholic intoxicants or controlled substances, including marijuana, or has a control substance including marijuana present in the body, the City may require that the employee immediately submit to field impairment tests, blood, urine or breathalyzer test or any combination thereof. The City shall pay for the costs of the tests.

“Reasonable suspicion” will be based on observations of an employee’s other reliable indicators that would cause a reasonable person to believe that an employee has reported to work or returned to duty with alcohol or drugs in his/her system. Whenever practicable, reasonable suspicion will be established by the observations of two or more supervisors or managers.

Employees who are required to submit to reasonable suspicion testing are prohibited from transporting themselves to the collection site. A supervisor or management employee will provide transportation.

- B. Random Testing: The City may test no more than three (3) Police Officers for drugs on a random basis. Testing shall be conducted twice yearly at unannounced times. Employees subjected to random testing will be selected from a pool of identification numbers by the City’s contract testing service and tested in accordance with Random Drug Testing Protocols set forth below.

In the event that an employee who is randomly selected for testing is on vacation, sick leave, FMLA/OFLA leave or is absent from work due to training or other reasons, that employee's random testing may be deferred by the City. However, any employee whose test is deferred may be required to submit to unannounced testing at any time within ninety (90) days of the date he/she would otherwise have been required to submit to testing.

- C. Individualized Suspicionless Testing: The City may also require an employee who has requested assistance to address a drug and/or alcohol dependency or who has been placed on a "Last Chance" or "Rehabilitation and Return to Work Agreement" to undergo rehabilitation assistance to submit to individualized, suspicionless testing.

When the employee is notified that the employee is required to consent and submit to such tests or searches as set forth in this Policy, the employee may request the presence of an Association representative to witness the tests or searches. The test or searches may not be unduly delayed in order to wait for a representative. In the event the City reasonably believes that a delay may affect test results, the right to an Association representative to witness the test or search may be denied. The absence of a representative shall not be grounds for the employee to refuse to submit to such tests or searches. The presence of a representative shall not disrupt or interfere with the tests or searches.

Urinalysis testing will be conducted for all types of drug testing. Breathalyzer or blood testing will be conducted for all types of alcohol testing, with the employee selecting the testing option. In the event the employee does not specify a testing option, the City may make the selection.

SAFEGUARDS. In the event that the blood or urine test results are positive for controlled substance(s) including marijuana, the City shall require that a second confirmatory test from the same sample be conducted, using gas chromatography mass spectrograph techniques or equivalent, which also must be positive before concluding the employee has such substance(s) present in the employee's body.

If a blood or confirmed urine test is positive, the City will instruct the laboratory to retain the blood or urine sample for a period of not less than thirty (30) calendar days from the date the tests are complete for the purpose of allowing the employee to conduct an independent test at the employee's own expense at a laboratory approved by the City.

The procedure followed under this Article to obtain, handle and store blood and urine samples and to conduct laboratory tests shall be documented to establish procedural integrity and chain of evidence. Such procedures shall be administered with due regard for the employee's privacy and the need to maintain the confidentiality of test results to an extent which is not inconsistent with the needs of this policy. The employee shall be notified of the results of all tests conducted pursuant to this policy.

VOLUNTARY REHABILITATION. The primary objectives of the City's drug and alcohol policy are to maintain employee performance and good health and a safe work environment. Although the City will support voluntary treatment efforts for employees with drug and/or alcohol dependency problems, it is up to each employee to pursue treatment *before* dependency problems result in unsatisfactory performance, attendance, violations of safety or other standards and *before* the employee violates this policy. If, an employee notifies a supervisor that he/she has drug or alcohol problem that requires treatment *prior* to violating Departmental standards or this Policy, the employee may, as recommended by a Substance Abuse Professional (SAP), be placed on a leave of absence or adjusted work schedule to allow for in-patient or out-patient rehabilitation.

Employees who voluntarily inform the City *prior* to a Policy violation or testing requirement that they have a drug or alcohol-related problem will be removed from their duties to allow for rehabilitation and treatment. The employee will not be permitted to return to their regular duties until such time as the authorized Substance Abuse Professional provides the City with appropriate documentation verifying that the employee is complying with all rehabilitation and after care requirements. The City may also require written documentation from a Health Care Provider confirming that the employee can safely perform his/her job duties.

Employees who claim drug or alcohol dependencies *after* violating this Policy are subject to discipline, consistent with this policy, irrespective of such dependencies.

The City may, however, at its discretion, allow an employee to undergo evaluation and rehabilitation in lieu of discharge, or other disciplinary action, provided the employee agrees to all treatment, rehabilitation, testing and other conditions as set forth in a written Rehabilitation and Return to Work Agreement required by the City. Such Agreements will be effective for no longer than five (5) years from the date signed. Any employee who violates the terms of the Agreement is subject to immediate termination.

An employee may be required to participate in a drug and/or alcohol treatment program and follow-up care because of disciplinary action arising from a drug and/or alcohol problem, or as a condition of continued employment. A Substance Abuse Professional (SAP) must first evaluate an employee who is so required and determine any necessary assistance.

SEARCHES. The City reserves the right to conduct searches for any reason of City equipment or facilities generally; and may search anything or area in which the employee has an expectation of privacy (i.e. desk or locker or clothing or personal property) to the extent permitted by the law. Refusal by the employee to submit to a lawful search can result in termination.

CONSEQUENCES OF SEARCH RESULTS. Searches which do not reveal the presence of alcohol or controlled substances, including marijuana (but excluding any substance lawfully prescribed for the employee's use which has not been obtained for the purpose of abuse), shall result in no further action against the employee related to an alleged violation. The employee shall be informed of such search results.

Searches which reveal the presence of alcohol or controlled substances, including marijuana (but excluding any substance lawfully prescribed for the employee's use which has not been obtained

for the purpose of abuse), shall result in those consequences specified in this Policy, as though a positive blood or confirmed urine test had been administered.

RANDOM DRUG TESTING PROTOCOLS.

The procedures for random drug tests required pursuant to this Policy are as follows:

- A. A listing of all participating employees will be sent to the City's contract testing service.

Each employee will be issued a unique identifying number and identification card. Corresponding numbers will be entered into a database at the testing facility.

- B. At semi-annual intervals, the computer program will randomly select from the KPA EMPLOYEE (KPA) POOL who are to be tested. Names are not "drawn" only the identifying number. At that time, the HR office is notified of these employees who have been randomly selected for testing.
- C. HR will provide notice to the employee who has been selected for a random test advising them to report to the testing facility to provide a urine sample. Those employees who have been selected will have 24 hours after receiving notification to report for testing. When they report to the testing facility they will be required to show the notice and photo identification to ensure that they are the person whose name has been drawn. In addition, they will be required to provide a phone number(s) where they can be contacted. If they fail to appear within the 24 hour testing period HR will be notified. Testing shall be conducted on City paid time.
- D. The sample is handled under strict chain-of-custody requirements and is sent to an independent laboratory for analysis using a Gas Chromatography Spectrometry (G.C./M.S) testing process (the laboratory that is used is certified by the Federal Substance Abuse and Mental Health Services Administration (SAMHSA). If the test is "negative," the laboratory notifies the testing facility who in turn notifies the City of the negative results.
- E. Same scenario as D, except the laboratory detects a questionable substance. The laboratory sends the sample to a Medical Review Officer (MRO). An MRO is defined as, a person who is a licensed physician (Doctor of Medicine) and who is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results. The MRO acts as an independent and impartial "gatekeeper." He/she is an advocate for the accuracy and integrity of the drug testing process. The MRO contacts the employee and discusses the test. If the employee is for instance, taking a prescription medication, the MRO will obtain the name of the prescribing physician and verify the prescription. Upon verification, the testing facility is advised of a "negative" test result. The City does not know any more than the fact that a "negative" result was obtained.

- F. Same scenario as D, except employee does not have a valid reason for the substance (i.e. took spouse's pain medication or . . .). After the MRO has or repeatedly tried to contact the employee, the MRO will notify the City's designated representative that this employee has tested positive for substance.
- G. A confirmatory test can be done- same sample – not a different one. In addition to the confirmatory test, if there is enough sample, it is possible for the testing facility to send a portion of the sample to another independent lab for testing. The City will pay for the initial screening test and one (1) required confirmation test. If an employee wants additional verification test conducted, the employee is responsible for payment of all associated costs. Should the employee-ordered verification test produce a false positive, the employee will be reimbursed for the cost of said test.

CITY COUNCIL MEETING: October 19, 2015

AGENDA ITEM NUMBER:_____

TO: MAYOR CLARK AND COUNCIL MEMBERS

THROUGH: CHRISTOPHER C. EPPLEY, CITY MANAGER

FROM: E. SHANNON JOHNSON, CITY ATTORNEY

SUBJECT: BOWDEN/JDC HOMES *SUBDIVISION (CASE NO. 2015-11)*

This matter came before the Council for public hearing on September 21, 2015. The Council directed staff to prepare an appropriate order for approval of the subdivision. Such Order is attached for your review.

RECOMMENDATION:

Adopt the attached Order.

Please let me know if you have any questions. Thank you.

ESJ/tmh
attachment

1 CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

2
3 ORDER

4
5 **IN THE MATTER OF THE APPLICATION OF**
6 **TRADEMARK ENTERPRISES, LLC, ROBERT**
7 **BOWDEN, DOUG HARNER, AND JDC HOMES, LLC**
8 **FOR APPROVAL OF A 32 LOT SUBDIVISION**
9 **LOCATED AT 5447 BURBANK STREET N, 5457**
10 **BURBANK STREET N, AND AN UNADDRESSED FIELD**
11 **DIRECTLY TO THE WEST OF THOSE ADDRESSES IN**
12 **KEIZER, OREGON (CASE NO. 2015-11)**
13

14 The City of Keizer orders as follows:

15 Section 1. THE APPLICATION. This matter came before the Keizer City
16 Council on the appeal of Mark Grenz, Multi/Tech Engineering Services of the Hearings
17 Officer's denial of the subdivision application for a 32 lot subdivision on property
18 located at 5447 Burbank Street N, 5457 Burbank Street N, and an unaddressed field
19 directly to the west of those addresses in Keizer, Oregon. Mark Grenz has appealed such
20 decision because he feels the Hearings Officer erred in denying the application on the
21 grounds that the criteria under Section 2.302 pertaining to street standards was not met.
22 In summary, the Hearings Officer denied the application based on safety issues
23 associated with the proposed alignment of Burbank Street and Trent Avenue. The
24 property is identified on the Marion County Tax Assessor's Map as Township 6 South;
25 Range 3 West; Section 33; Tax Lot #1600 and Township 6 South; Range 3 West; Section
26 33DA; Tax Lots #1500 and 1600.

1 Section 2. JURISDICTION. The land in question in this Order is within the city
2 limits of the City of Keizer. The City Council is the governing body for the City of
3 Keizer. As the governing body, the City Council has the authority to make final land
4 use decisions concerning land within the city limits of the City of Keizer.

5 Section 3. PUBIC HEARING. A public hearing was held on this matter before
6 the Keizer City Council on September 21, 2015. The following persons either appeared
7 at the City Council hearing or provided written testimony on the application:

- 8 1. Nate Brown, Community Development Director
- 9 2. William I. Peterson, City of Keizer Engineer
- 10 3. Doug Harner, Applicant
- 11 4. Marilee Teller, Citizen
- 12 5. Mark Farrow, Trademark enterprises, Applicant
- 13 6. Mark Grenz, Multi/Tech Engineering Services, Applicant
- 14 Representative

15 Section 4. EVIDENCE. Evidence before the City Council in this matter is
16 summarized in Exhibit "A" attached.

17 Section 5. OBJECTIONS. No objections have been raised as to notice,
18 jurisdiction, alleged conflicts of interest, evidence presented or testimony taken at the
19 hearing.

20 Section 6. CRITERIA AND STANDARDS. The criteria and standards relevant
21 to the decision in this matter are set forth in Exhibit "B" attached.

1 Section 7. FACTS. The facts before the City Council in this matter are set forth
2 in Exhibit "C" attached.

3 Section 8. JUSTIFICATION. Justification for the City Council's decision in this
4 matter is explained in Exhibit "D" attached.

5 Section 9. ACTION. The decision of the City Council is set forth in Exhibit "E"
6 attached.

7 Section 10. FINAL DETERMINATION. This Order is the final determination in
8 this matter.

9 Section 11. EFFECTIVE DATE. This Order shall become effective thirty (30)
10 days after its passage.

11 Section 12. APPEAL. A party aggrieved by the final determination in a
12 proceeding for a discretionary permit or a zone change may have it reviewed under ORS
13 197.830 to ORS 197.834.

14 PASSED this _____ day of _____, 2015.

15
16 SIGNED this _____ day of _____, 2015.

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23

Mayor

City Recorder

EXHIBIT "A"

Evidence

Official notice has been taken of the Planning Department files and reports in this matter, including the application and exhibits contained therein.

City Attorney Shannon Johnson, suggested that the reading of the applicable substantive criteria set forth in the staff report be waived due to size and asked if anyone objected. There were no objections. He added that testimony, arguments and evidence must be directed to the criteria or other criteria in the Comprehensive Plan or land use regulations believed to apply to this decision. Failure to raise an issue accompanied by statements or evidence sufficient to afford the Council and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue. In addition, any failure by the applicant to raise constitutional or other issues related to the proposed conditions of approval with sufficient specificity to allow the local government to respond to that issue precludes an action for damages in Circuit Court. He noted that if anyone had any objection as to conflict of interest, bias, jurisdiction, notice and opportunity to be heard, it should be brought up at the time of testimony and any Council members wanting to disclose conflict of interest, bias or prejudice on this case should do so at this time.

Councilor Parsons announced a potential conflict of interest because she owns a home on Trent Avenue.

Community Development Director, Nate Brown, reviewed documents that were made available to the Council and explained that the Hearings Officer found that the application failed to meet the standards of the City under the alignment of the connection to Trent Avenue.

Mr. Brown explained that the developer's engineer and the City's engineer met to identify how the intersection could be made safe and meet City standards. Two alternatives were developed and Alternate B is recommended.

Mayor Clark opened the public hearing.

Doug Harner asked the Council to approve the appeal.

Marilee Teller voiced concern regarding the south border of the proposed subdivision and asked who would be responsible for paying for the proposed barricade and gate at her property line.

Mr. Brown replied that it would be the responsibility of the developer as part of the construction. He noted however, that a typical barricade would only restrict vehicular traffic, not pedestrian traffic, but that Council could strengthen the language to include a “non-climbable” fence.

Mark Farrow, Trademark Enterprises, announced that he agreed with the staff report and findings and was available to answer questions.

With no further testimony, Mayor Clark closed the public hearing.

Councilor Smith requested that the hearing be reopened so that he could ask Mark Grenz a question.

Mayor Clark reopened the public hearing.

Mark Grenz, Multitech Engineering, responded to Councilor Smith’s question if the addition of a stop sign at the Trent/Burbank intersection caused him concern, stating that the stop sign was in the original proposal and the clients do not object to one or three stop signed.

With no further testimony, Mayor Clark closed the public hearing.

EXHIBIT "B"

Criteria and Standards

The criteria and standards relevant to this application are found in the Keizer Development Code (KDC). The specific criteria are set forth below:

1. KDC 2.102 (Single Family Residential)
2. KDC 2.301 (General Provisions)
3. KDC 2.302 (Street Standards)
4. KDC 2.303 (Off-Street Parking and Loading)
5. KDC 2.306 (Storm Drainage)
6. KDC 2.307 (Utility Lines and Facilities)
7. KDC 2.309 (Site and Landscaping Design)
8. KDC 2.310 (Development Standards for Land Divisions)
9. KDC 2.316 (Infill Development Standards)
10. KDC 2.405 (Manufactured Home Parks)
11. KDC 3.108 (Subdivisions, Planned Unit Developments, and Manufactured Home Parks)
12. KDC 3.202 (General Procedures – Types I, II, and III Actions)
13. KDC 3.204 (Public Notice Requirements)
14. Section 902.2.2.4 “Dead End” of the Uniform Fire Code, 1994 Edition.

No other specific criteria and standards were identified at the hearing.

EXHIBIT "C"

Facts

FINDINGS: GENERAL

1. The applicant is Mark Farrow on behalf of Trademark Enterprises, LLC for property owned by Robert Bowden and Doug Harner on behalf of JDC Homes, LLC.
2. The subject property is located at 5447 and 5457 Burbank Street N, and an unaddressed field directly to the west of these two parcels. The Marion County Tax Assessor's office identifies the property as Township 6 South; Range 3 West; Section 33; Tax Lot 1600, and Section 33DA Tax Lots 1500 and 1600.
3. The subject property contains approximately 5.73 acres.
4. The subject property is currently undeveloped.
5. The subject property is designated as Low Density Residential and zoned Residential Single Family (RS).
6. The properties to the east contain single-family homes on lands that are zoned Residential Single Family (RS). The properties to the south and to the west are outside the city's urban growth boundary and are zoned Marion County Exclusive Farm Use (EFU). The properties to the north of the property are within the city limits and are zoned City of Keizer EFU.
7. The proposal is to subdivide 5.73 acres into 32 lots. In 2008, the City approved a Comprehensive Plan / Zone Change / Lot Line Adjustment / Subdivision application affecting the subject property. The result of the application was that the large property involved in this application was created as result of the Lot Line Adjustment process; the Comprehensive Plan designation was changed to Low Density Residential and the zoning on the property was changed to RS. While the concurrent subdivision application was approved, it was not implemented and so that approval became null and void. While the Lot Line Adjustment was implemented with the creation of the larger parcel it appears that the additional property line adjustment that would have resulted in the previously approved street alignment with the intersection of Trent Ave and Burbank Street was not implemented.

8. The Keizer Public Works Department submitted comments which contain development requirements regarding sanitary sewer, water system, street and drainage improvements and other general development requirements.
9. The Marion County Surveyor's Office commented that the subdivision must be surveyed and the plat must be submitted for review with appropriate fees for compliance with State surveying requirements.
10. Salem-Keizer School District provided comments related to the estimated impacts to the school system as a result of the proposed development.
11. Keizer Fire District provided comments related to access, dead end streets, water flows, and no parking in fire lanes. It should be noted that the Fire District's comments that the applicant will construct streets that will be 26 feet wide and so would require no parking on either side and to be signed as a fire lane is based on a typographical error within the applicant's written statement. The applicant's site plan and clarifying email express that the streets will be constructed to a paved width of 32 feet which will meet city standards and will allow parking on both sides and so will not need to be signed as being fire lanes. Emails sent to the Fire District seeking clarification were not responded to.
12. PGE provided written comments that development cost per current tariff and service requirements and that a 10 foot wide Public utility easement is required on all front street lots.
13. Keizer Police Department, and the City of Salem Community Development Department each commented that they had reviewed the proposal and had no comments.
14. Written comments were received from Mary Banfield, 5426 Burbank St N, who commented that she had no objections to the proposed application provided that it is not a mobile home park.
15. Written comments were received from Kristin Solo, 5437 Burbank St N, who commented that a tree on the applicant's property that is adjacent to her property is causing damage to her property.
16. Written comments were received from Karen Bajpai, 5397 Burbank St N, who commented on concerns related to increased traffic; impacts on schools; other recent developments; impacts on wildlife; odors from the Willow Lake Wastewater Treatment Plant; and suburban sprawl resulting from the proposed development.

17. Written comments were received from Doug Harner, 901 N. Brutscher St, Newberg, who supports the application.

18. Written testimony was received from Marilee Teller, 525 Bowden Ln; George and Violet Baldwin, 645 Bowden Ln; and Barbara Knighton, 615 Bowden Ln who provided concerns related to proposed stubbing of streets to the south and west property lines; previous requirement for fences; prohibition on the use of adjacent property for drainage, construction etc.

19. The Hearings Officer held a public hearing on this application on July 16, 2015.

20. The City Council held a public hearing on the appeal of this application on September 21, 2015.

FACTS: SUBDIVISIONS AND RELATED FINDINGS.

21. The Review Criteria for a Subdivision are listed in Section 3.108.06 of the Keizer Development Code (KDC). KDC Section 3.108.06.A. states that the proposal shall comply with the applicable development standards in Section 2.405 and Section 2.3 as appropriate, including provisions for streets and utilities. KDC Section 2.405 contains development standards for manufactured home parks and is therefore not applicable in this situation. Section 2.3 contains the standards which guide all development approvals within the City of Keizer. Listed below are the development standards contained in Section 2.3 that are pertinent to this subdivision review:

A. Application of Public Facility Standards. KDC 2.301.03.

FINDINGS: In order to promote and maintain healthy, safe environments and to minimize development impacts upon surrounding properties and neighborhoods the public facilities improvement requirements specified in the table found in Section 2.301.03 are found to be the minimum necessary. The applicant will be required to provide the following public facilities: water hook-up, sewer hook-up, and storm drainage to each of the lots within the proposed subdivision. With these items placed as conditions of approval this request can meet this criterion.

B. Street Standards – General Provisions. KDC 2.302.

1. General Requirement. The location, width, and grade of streets shall be considered in their relation to existing and planned streets, topographical conditions, public convenience and safety, and the proposed use of the land to be served by the streets. KDC 2.302.03.A.

FINDINGS: The intent of this provision is to require that the layout of new streets in subdivisions and streets along the subdivision take into consideration their relationship to other streets and other factors such as topography so as to develop a safe and efficient street system. The side by side properties which are proposed to be subdivided are each flat. The applicant proposes to develop the site with 32 lots that will each then be available to be developed with a single family dwelling. The subject property has frontage along the west side of Burbank Street at its intersection with Trent Ave. The applicant proposes that a new street system, with the required street improvements, will provide direct access for the proposed lots. The existing street along the frontage of the property is level with no significant topographical problem that would otherwise constrain it from providing access to the site. However, the design as initially submitted, particularly the alignment of the new street at the existing Trent Ave / Burbank Street intersection contains public safety concerns. The proposed subdivision will be served by a new street connected to the intersection of Trent Ave. N. and Burbank St. N. The proposed new intersection shall be as close to a "T" intersection as possible. The plan initially submitted to the Public Works Department needed to be revised at the proposed new intersection to meet the Public Works Department requirements. A previously approved subdivision, (Bowden Estates), of the subject property provided for access to the Trent Ave. N. - Burbank St. N. intersection in a manner that was acceptable to the City of Keizer Public Works Department. The proposed new subdivision will be required to provide a similar access. The applicant submitted a new design that includes stop signs, no parking areas, and yellow bi-directional raised pavement markers that is acceptable to the Public Works Department. The Public Works Department commented that prior to submitting construction plans for the proposed subdivision a pre-design meeting with the developer's engineer and the Department of Public Works is required. With this placed as a condition of approval, along with the conditions of stop signs, no parking areas, and yellow bi-directional raised pavement markers, this proposal can satisfy this criterion.

2. Continuation of Street. Development proposals shall provide for the continuation of, and connection to, existing streets where necessary to promote appropriate traffic circulation in the vicinity of the development. Where necessary to give access or permit a satisfactory future division of lane, streets and utilities shall be extended to property boundaries to allow the future extension of streets and infrastructure. A temporary turnaround shall be constructed for stub streets in excess of 150 feet in length. Exemptions from these street extensions can be found in Section 2302.03.B.1 – 5. KDC 2.302.03.B.

FINDINGS: The intent of this provision is for new developments to incorporate the continuation of a street as a means to avoid creating new subdivisions which do not provide for any street connectivity. Fragrant Street is shown extended to the south property line of the site. An extension to the south property line allows for the potential for a street to be extended in the future if it is ever determined to be needed and is found to be in accordance with all applicable state and local land use regulations. On the revised plans a connection to the west property line is shown off the end of Aroma Ct and will allow for emergency ingress and egress if necessary. The two cul-de-sac streets each have a turnaround and because the southern portion of Fragrant Ave is less than 150 feet in length a turnaround will not be required. This provision is satisfied.

3. Alignment. All streets other than minor streets or cul-de-sacs, as far as practical, shall be in alignment with existing streets by continuation of the existing centerlines. The staggering of street alignments resulting in "T" intersections shall, wherever practical, leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction and otherwise shall not be less than 100 feet. KDC 2.302.03.C.

FINDINGS: The purpose of this provision is to require that new streets in subdivisions meet the city's alignment and spacing standards so as to ensure safe vehicle travel. The proposed street system within the subdivision will utilize new street right of ways which will result in new street intersections that will be constructed. The site plan indicates that each of these new intersections will be constructed so that it aligns in a "T" intersection and will meet with this provision. Public Works has commented that the alignment of the initially proposed extension of Trent Ave westward from the Trent Ave / Burbank Street intersection does not

align in a manner that would allow for the safe use of the intersection by vehicles and pedestrians. This intersection needed to be redesigned to meet with this provision and also with Public Works concerns. The applicant has redesigned the intersection to include stop signs, no parking areas, and yellow bi-directional raised pavement markers. These elements being placed as a condition of approval will ensure compliance with this provision.

4. Future extension of streets. When it appears possible to continue a street, bicycle path and/or pedestrian accessway into a future subdivision, adjacent acreage or area attractors such as schools and shopping centers, streets, bicycle paths and/or pedestrian accessway facilities shall be platted and built to a boundary of the subdivision. The street may be platted without a turnaround unless the Public Works Department finds a turnaround is necessary for reasons of traffic safety. Any street extension exceeding 150 feet in length shall be provided with an approved turnaround as set forth in Section 902.2.2.4 "Dead Ends" of the Uniform Fire Code, 1994 edition. KDC 2.302.03.D.

FINDINGS: The intent of this provision is to require new developments to allow for street connections onto adjacent properties so that the street system may result in a logical and efficient manner thereby avoiding non-connected developments. New streets will be required to be constructed within the subdivision. The applicant's revised site plan shows one street extending to the south (Fragrant Street) property line and one emergency connection to the west property off of Aroma Ct. Lands to the south and west of the proposed subdivision are outside of both the city limits and also the city's urban growth boundary. While the city has completed a housing needs and an economic opportunities analysis which documents that there is a need for approximately 380 acres of land to meet the city 20 year population projection, there has not been any further detailed Goal 14 analysis to determine whether any lands adjacent to this site would be appropriate locations for any future urban growth boundary expansion. Without that detailed analysis, it is not possible and not within the scope of this review of this proposed subdivision to support, or reject, any possible expansion of the city limits beyond its present location. Allowing a street to stub out to the property line is not intended to imply any commitment on behalf of the city with regard to any future determination of whether or not the city should expand its boundary locations. Keizer Fire District commented that since there is only one

point of ingress and egress serving the proposed subdivision that a second access point will be needed to provide at a minimum emergency ingress and egress. The allowance for a connection off of Aroma Ct to the southwest corner of the site will allow for a connection onto Bowden Lane. The connection will be required to be barricaded and gated to allow for only emergency vehicles use. It is also recommended that Fragrant Street extend to the south property line and will also be barricaded and while it will not serve the concerns of the Fire District it may allow for a future extension. Any such extension will of course have to be consistent with state and local regulations. Until such time it shall be barricaded. This will meet Keizer Fire District requirements and avoid having any other vehicles access onto either private property or an access easement.

There are few adjacent attractors such as shopping areas, schools, or parks that might otherwise attract pedestrians within the immediate area. The closest school is Keizer Elementary School located about 2/3 mile to the northeast. There is no shopping opportunities within the immediate area, although about a mile to the east there are a variety of shopping opportunities along the River Road corridor. The closest park is Keizer Rapids Park, located about 3/4 mile to the southwest. The developer will be responsible for providing sidewalks along the frontage of the lots within the subdivision. The sidewalks will allow for a pedestrian connection to the sidewalk system that connects with sidewalks along the streets in the general area. This as a condition of approval will assure compliance with this provision.

5. Intersection angles. Streets shall be laid out to intersect at angles as near to right angles as practical, except where topography requires lesser angles. Intersections of less than 60 degrees shall require special intersection designs. Streets shall have at least 50 feet of tangent adjacent to intersections unless topography requires lesser distances. Intersections that are not at right angles shall have minimum corner radii of 15 feet. Major arterial intersections shall have curb radii of not less than 35 feet. Other street intersections shall have curb radii of not less than 20 feet. KDC 2.302.03.E.

FINDINGS: The purpose of this provision is to require that new public street intersections are constructed consistent with city standards. The proposed extension of Trent Ave does not conform to this requirement. As a condition of approval, stop signs at the intersection of Burbank

Street and Trent Avenue will need to be installed, no parking areas will be marked as required by Public Works, and yellow bi-directional raised pavement markers indicating the new centerline for Trent Avenue will need to be installed. Such requirements will comply with Public Works requirements and with this provision. The new public streets that will be constructed will result in two new intersections within the subdivision (Fragrant St / Aroma Ct and Trent Ave / Fragrant St) and each appear to be designed so that they will be constructed to meet with this provision. As conditioned, the application meets this criterion.

6. Existing Streets. Whenever existing public streets adjacent to or within a tract are of a width less than the street design standards, additional right-of-way shall be provided at the time of subdivision, partitioning, or development. KDC 2.302.03.F.

FINDINGS: The intent of this provision is to require that the developers of new residential subdivisions be responsible for making needed improvements to the existing street system that are either within, or adjacent to, a proposed subdivision in order to avoid having streets that are inadequate to handle the increased traffic from the new subdivision. The subject property has frontage along the west side of Burbank Street which is classified in the city's Transportation System Plan as a local street and has an approximate 34 foot wide paved travel lane within a 46 foot right of way along the frontage of the property. The applicant submitted a Traffic Impact Analysis (TIA) that was done by Associated Transportation Engineering and Planning, Inc that analyzed the impacts of the proposed development on the nearby street system. It also estimated the impacts of this development combined with estimated population growth for the year 2025. The analysis was developed consistent with the methodology derived from the 9th Edition of the Trip Generation manual of the Institute of Transportation Engineers which estimates that a single family home generates 0.75 AM peak trips and 1.0 PM peak trip per day. The TIA projects that the development will generate 23 AM peak hour trips and 31 PM Peak hour trip. It was estimated that 60% of the trips will travel north to and from Lockhaven Drive as the single largest travel path of direction, with the remainder headed south to Chemawa Road, or past either Chemawa Road or Lockhaven Drive. The TIA looked at 4 intersections to determine the level of impact that the development might have on these intersections. The existing conditions at Trent/Windsor Island were Level of Service

(LOS) B/B for AM and PM Peak Hour; Lockhaven/Windsor Island A/B; Chemawa/Windsor Island A/B; and Trent/Willow Leaf A/A. The development will result in no change to the LOS at these intersections in either the AM or the PM peak hour trips. With the development and general population growth the only change to the operation of the intersection is anticipated at only the Lockhaven/Windsor Island intersection which will have an LOS of B/B. Policy 1 in the City's TSP states that signalized intersections will operate at LOS D or better and signalized intersections will operate at LOS E or better. These all will operate well within the city of Keizer's LOS standards. No significant mitigation measures resulting from the increased traffic from the new development onto the existing street system and studied intersections will be required. Public Works originally commented that the alignment of the proposed Trent Ave at the west side of the Trent Ave / Burbank Street intersection does not meet city standards and will have conditions of approval to mitigate concerns. However, additional requirements as stated elsewhere have mitigated these concerns. With conditions of approval, this section is satisfied.

7. Half-streets may be approved where essential to the reasonable development of an area and when the City finds it to be practical to require the dedication of the other half when the adjoining property is developed. When a $\frac{3}{4}$ width street can reasonably be developed, as determined by the Department of Public Works, a half street will be constructed with an additional 10 feet of pavement on the opposite side of the street from full improvement. KDC 2.302.03.G.

FINDINGS: No half streets will be constructed, so therefore this section is not applicable.

8. Cul-de-sacs. The maximum length shall be 800 feet. KDC 2.302.03.H.

FINDINGS: On the revised site plan two cul-de-sac streets are proposed. One (Aroma Ct) has a length of approximately 185 feet and the other which is shown as Trent Ave, but will need to be re-named to be Trent Ct is approximately 420 feet in length and so each complies with this section.

9. Street names and numbers shall conform to the established standards and procedures in the City. KDC 2.302.03.I.

FINDINGS: The purpose of this provision is to ensure that streets are named in accordance with City procedures to avoid duplicate or confusing street names. The site plan indicates that the names of the streets are proposed to be Trent Avenue (although it will actually be Trent Court since it is now a cul-de-sac), Fragrant Street, and Aroma Court. The street names shall be named in accordance with city street naming procedures and the approved street names shall be shown on the plat. All houses within the proposed subdivision will be required to be numbered to conform with the City's street numbering procedures. With this being placed as a condition, this proposal can satisfy this criterion.

10. Grades shall not exceed 7 percent on arterials, 10 percent on collector streets or 15 percent on any other street. Street grades of 15 percent shall not exceed 200 feet in length. To provide for adequate drainage, all streets shall have a minimum slope of 0.5 percent. On arterials there shall be a tangent of not less than 100 feet between reversed curves. KDC 2.302.03.J.

FINDINGS: The purpose of this provision is to ensure that new streets are constructed consistent with the city's established street grade standards and avoid having new streets that may be too steep and potentially endanger public safety. The existing street system that is proposed to provide access to the site is flat in the area of the proposed subdivision. The proposed street improvements will have no grades or slopes that will constrain or impact the development of the property. Nor will the development of the property affect the grade of the existing street. A preliminary grading and drainage plan was submitted and indicates that the site is flat and that drainage will be handled on-site. A final grading and drainage plan will be required as a condition of approval to ensure that adequate drainage is provided, as well as construction permits for the widening and improvements to the existing streets. With these placed as a conditions of approval, this proposal can satisfy this criterion.

11. Frontage Streets. If a development abuts or contains an existing or proposed arterial or collector street, the City may allow frontage streets,

or may require reverse frontage lots with suitable depth, screen planting contained in a non-access reservation along the rear or side property line, or such other treatment as may be necessary for adequate protection of residential properties, to afford separation of through and local traffic, and to preserve the capacity and safety of the collector or arterial street. KDC 2.302.03.K.

FINDINGS: The purpose of this provision is to minimize impacts that a new development may have on arterials and collector streets. Both Burbank Street and Trent Ave are classified in the city's TSP as local streets, therefore this section is not applicable and a frontage street will not be required.

12. Alleys. Alleys shall be provided in commercial and industrial zones unless other permanent provisions for access to off-street parking and loading facilities are provided. The corners of alley intersections shall have radii of not less than 10 feet. KDC 2.302.03.L.

FINDINGS: No alleys are proposed therefore, this provision is not applicable.

13. Street Landscaping. Where required as part of the right-of-way design, planting strips shall conform with the following standards:

1. Street trees shall be planted at a ratio of no less than one tree per 30 feet of property frontage. Street trees shall conform with the list of acceptable trees included in the City's Street Tree Ordinance. Installation of street trees shall be included in any improvement agreement covering the installation of public facilities and services on a property.

2. Planting strips shall be planted and maintained in predominantly living groundcover materials with hard surfaces consisting of bricks, pavers, rocks, decorative concrete work, etc., only being included as part of an overall landscape design where living plant material is predominant. In no case shall asphalt be used within the planting strip.

KDC 2.302.03.M.

FINDINGS: The purpose of this provision is to outline the standards relating to providing street landscaping. The applicant will be required to provide trees along the frontage of the lots along all public streets consistent with the spacing requirements within Section 2.302. Information regarding the care and maintenance of the street trees must be included in the CC&R's, Homeowners' Association Agreement or other similar type of agreement approved by the Community Development Department. With these placed as conditions of approval, the application can comply with this provision.

14. For streets serving infill development as defined under Section 2.316.03, the Infill Street and Access Easement Standards of Section 2.316.06 may be applied. KDC 2.302.03.N.

FINDINGS: The property to be subdivided is more than 2 acres in size and does not meet the definition of infill development so this section is not applicable.

C. General Right-of-Way and Improvement Widths Section. KDC 2.302.04.

The standards outlined in this section shall be the minimum requirements for all streets, except where a variance is requested as permitted under Subsection 2.202.05.

FINDINGS: The applicant does not request any modification to the right-of-way or improvement width for public streets and the street along the frontage of the site, or within the site, and all streets will be constructed to Public Works requirements. This proposal meets this criterion.

D. Construction Specifications. KDC 2.302.06.

1. Construction specifications for all public streets shall comply with the standards of the most recently adopted public works street standards of the City of Keizer.

FINDINGS: The intent of this provision is to ensure that new residential subdivisions design and construct new streets that are needed to serve the lots within the subdivision to meet all City standards for street construction. All of the proposed lots within the proposed subdivision will be served by either the city's existing public street system or by the new public streets that will be constructed as part of the development of the proposed subdivision. Since this will require the applicant to make necessary improvements, it will require that improvement construction drawings are submitted to the Public Works Department for their review and approval consistent with all applicable adopted construction specifications and standards adopted by the city. With this being placed as a condition of approval will ensure that this provision is met.

E. Private Access Easements. A. Width; B. Maintenance; C. Turn-around; D. Parking. KDC 2.302.08.

FINDINGS: The intent of this provision is ensure that lots that are served by a private access easement is constructed in a manner that is consistent with city standards thereby avoiding the creation of a substandard access easement which might be unusable for vehicular traffic. The submitted revised site plan indicates that two private access easements are proposed. One is shown off the end of Trent Ave and appears to be more than 20 feet wide and since it will provide access for Lots 7 and 8, it will serve 2 of the lots and will be required to be a paved 16 foot wide access easement within a 20 foot wide access easement area. A turnaround will not be needed if the access is less than 150 feet in length. The turnaround dimensions may need to be increased to meet with Public Works approval. Other than that, the private access easement conforms with the city's dimensional specification requirements. As a condition of approval a maintenance agreement will be required in order to ensure that a mechanism is in place that will allow for any improvements or general maintenance to occur. Since parking will be prohibited along the access easement, it will be a requirement that each lot being served by the access easement provide three on-site parking spaces. With these placed as conditions of approval will assure that this provision is complied with. The second access easement is limited to emergency use for the Keizer Fire District and will be required to be barricaded to eliminate any other use.

F. Off-Street Parking and Loading. KDC 2.303.

For single family residences, 2 parking spaces per dwelling unit shall be provided on-site.

FINDINGS: The intent of this provision is to ensure that new development meets the city's established minimum off-street parking requirements as listed within Section 2.303 of the Keizer Development Code, and thereby avoid creating a parking problem that results when less than the determined minimum level of off-street parking spaces is provided. With the proposal for the property to be developed with a subdivision where each lot will be available for development with a single family dwelling will require that each lot that has direct access onto a public street to provide a minimum of two on-site parking spaces as is required in the Development Code. Since parking will be prohibited along the access easement, it will be a requirement that each lot being served by the access easement provide three on-site parking spaces as required in Section 2.302.05.D. This has been determined by the City to be the minimum needed to meet both the needs of the residences within the new dwellings as well as serving the needs of visitors to the new residences. With this placed as a condition of approval will assure that this proposal meets this criterion.

G. Storm Drainage. KDC 2.306.

No construction of any facilities in a development included in Subsection 2.306.02 shall be permitted until a storm drainage and erosion control plan for the project is prepared by a professional engineer, and approved by the City. These provisions shall also apply to any cut or fill on a property, which may impact the velocity, volume, or quality of surface water on adjacent property, or may impact any permanent natural body of water.

FINDINGS: The intent of this provision is to minimize, and avoid, storm drainage and erosion runoff problems that may be associated with development by requiring that a storm drainage and erosion control plan be submitted for review and approval prior to any development occurring on the site. The site has little, to no change, in elevation. The applicant has submitted a preliminary site grading plan. However, the submitted site plan does not indicate the amount of impervious area that will be on each lot. The plan does indicate that the storm water that is generated by the development will be kept and treated on-site. The grading plan shows that a 10 inch perforated pipe will be located in the roadway so the storm drainage will not be leaving the site and will be detained and treated

on-site. The applicant will be required to comply with City storm drainage requirements.

The developer's engineer shall submit an overall storm drainage plan that will provide service to this development consistent with the City's Master Storm Drain Plan for this area of Keizer. Storm water detention will be required and storm water quality improvements will be required in conformance with the City of Keizer Public Works Department Design Standards. The developer's engineer shall conduct on-site percolation tests, (the location and frequency of tests to be determined by the City of Keizer) to determine the suitability of the soils for the proposed disposal system. The percolation test and soil analysis shall be performed by a qualified geotechnical engineer. Storm Water calculations shall be submitted to the City of Keizer Public Works Department, prior to or with the project design drawings, indicating how the development complies with the Public Works Design Standards for the basin. All storm water runoff from the proposed streets are to be connected to an approved system. Depending on the storm water quality improvements that are proposed by the developer may result in the need for some additional dedication along the frontage of the street. A grading and drainage plan shall be developed for the subject property. Details shall include adequate conveyance of storm water from adjacent property across the subject property. This plan shall be submitted and approved by the Department of Public Works prior to the issuance of any permits for street or storm drainage for the subject property. Grading and drainage plans shall be in conformance with the City of Keizer Public Works Standards. Additional information regarding street grades, site grading, inverts, etc, will be required for review prior to any plan approval. With these requirements placed as conditions of approval, this application complies with this provision.

H. Utility Lines and Facilities. KDC 2.307.

FINDINGS: To provide adequate services and facilities appropriate for residential development, the applicant shall meet the standards set forth in Section 2.307 of the Keizer Development Code relating to water, sanitary sewer, private utilities, street lights and easements. This is a development requirement and compliance will be ensured during review of the construction and engineering drawings.

1. The location, design, installation and maintenance of all utility lines and facilities shall be carried with minimum feasible disturbance of soils and site. KDC 2.307.02.A.

FINDINGS: The intent of this provision is to require that the design and installation of all utility lines does not disturb any more of the soil and the site than is necessary and to avoid creating large scale disturbances which might impact adjacent properties through run-off and erosion of the site. The proposal to subdivide the site will require utility lines to serve the new lots. A preliminary subdivision utility plan was submitted with the application proposal which shows the utilities that will be located within the streets. It does not detail the individual services to each lot. However, as a condition of approval, a detailed engineer's plan will be required to be submitted for review and approval by city Public Works staff. As part of the grading plan, an erosion control permit will be required to be obtained from the City of Keizer Public Works Department detailing the erosion control measures that will be required to ensure that the construction and installation of these facilities will not result in more than the minimum amount of disturbance of soils on the site. With this placed as a condition of approval, this proposal can satisfy this criterion.

2. All development that has a need for water service shall install water facilities and grant necessary easements pursuant to the requirements of the City. KDC 2.307.02.B.

FINDINGS: The intent of this provision is to ensure that water lines are installed to city specifications and, if a water line is located outside of public right-of-ways that they are located within an easement so as to avoid any potential conflicts. The applicant's statement indicates that each of the proposed lots will be served by the public water system. The site plan indicates that an 8 inch ductile iron water line will be installed within the right of way of each of the streets within the proposed subdivision. There is an 8 inch water main located in Trent Ave, and also in Burbank Street with capacity to serve the proposed lots. The Keizer Development Code requires that water service installed outside of the right-of-way shall be placed within an easement, and that the easement is shown on the final plat. Keizer Public Works Department commented that the developer shall prepare a master water system plan showing proposed routes of public water mains, fire hydrants and individual services shall be prepared prior to submission of construction plans for

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the development. Appropriate easements for all public water mains and fire hydrants will be required if construction is to be outside of public right of ways. Any system development charges for water system improvements will be those in place at the time of individual service connections. Final development plans shall be reviewed by the Keizer Fire District with regard to access and adequate location of fire hydrants prior to any issuance of building permits by the City of Keizer. All required fire hydrants shall be served by an 8 inch water main. Any existing wells on the subject property are to be abandoned. The developer shall provide evidence that any abandonment of existing wells has been completed in accordance with the rules of the Oregon State Water Resources Department. Location of all meters to be approved by Keizer Water Department. With these requirements placed as conditions of approval, this request can meet this criterion.

3. Private Utilities. All development that has a need for electricity, gas and communications services shall install them pursuant to the requirements of the district or company serving the development. Except where otherwise prohibited by the utility district or company, all such facilities shall be underground. KDC 2.307.02.C.

FINDINGS: The purpose of this provision is to place private utilities which provide service to the new homes underground and avoid above ground, or at grade placement of utilities. The applicant's written statement does not indicate if all utilities will be placed underground. Unless otherwise prohibited this is a development requirement. The Department of Public Works commented that to minimize utility line conflicts, a master utility plan including all proposed power, telephone, gas and cable lines shall be submitted for review prior to issuance of construction permits for the proposed project. PGE provided written testimony that they will require that development cost per current tariff and service requirements and that a 10 foot wide public utility easement on all lots along a public street will be required. The intent of this easement is to provide space for the underground placement of PGE utilities on each lot. There is an existing overhead electric transmission line that is located along the eastern portion of the site. A 45 foot wide easement is shown on the eastern portion of Lots 24 thru 31, and also on the eastern 45 feet of Lot 1, excluding the southeast "tail" of this lot. As with any easement, permanent structures will be prohibited from

being placed within this easement area. While the location of this easement will certainly limit the development potential of each of these lots, it will not result in any of the lots being unbuildable since each lot will still have a building envelope of approximately 45 feet of depth and 35 feet of width in which to locate a dwelling which is adequate to be able to situate a new house approximately 1,600 square feet in size. Any use of land within this easement area will need to be consistent with any restrictions that may be outlined within the recorded easement. With this placed as a condition of approval, this request can satisfy this criterion.

4. Sanitary Sewers. All development that has a need for public/private sanitary sewers shall install the facilities pursuant to the requirements of the city. Installation of such facilities shall be coordinated with the extension of necessary water services and storm drainage facilities. KDC 2.307.02.D.

FINDINGS: The intent of this provision is to require that all of the lots in a new subdivision connect to city's approved sanitary sewer system thereby eliminating the need for the installation of any on-site private septic systems which require additional land and increase the potential for ground water contamination. The applicant will be required to connect each of the proposed lots to the sanitary sewer system consistent with all applicable requirements. The site plan indicates that an 8 inch PVC sanitary sewer line will be located within the right of way of each new street within the proposed subdivision. There is an existing 8 inch sanitary sewer line located in Trent Ave and also within Burbank Street. The Public Works Department submitted comments addressing this criterion. The subject property is not located within the original Keizer Sewer District. Therefore, a sanitary sewer trunk line acreage fee will be required. City of Salem approval for local sewer permits will need to be issued prior to construction. Prior to submitting plans to the City of Salem for approval, the developer's engineer shall submit plans to the City of Keizer for review and determination of compliance with the City's Master Sewer Plan for the area. Connecting to existing sewers that serve the general area will be the responsibility of the developer of the property. Appropriate easements for any public sewer mains located within the subject property if located outside platted right of ways will need to be recorded which meets the City of Salem Design

Standards and must be shown on the subdivision plat. It will be the responsibility of the developer's engineer to locate any existing wells (including on adjacent properties) in the vicinity of the proposed new sanitary sewer lines for the subject property. The developer, prior to platting the proposed subdivision, shall remove any conflicts between existing wells and proposed sanitary sewers.

As previously indicated, a grading and drainage plan shall be developed for the subject property. Details shall include adequate conveyance of storm water from adjacent property across the subject property. This plan shall be submitted and approved by the Department of Public Works prior to the issuance of any permits for street or storm drainage for the subject property. Grading and drainage plans shall be in conformance with the City of Keizer Public Works Standards. Additional information regarding street grades, site grading, inverts, etc, will be required for review prior to any plan approval. The drainage plan for the development shall comply with the Keizer Development Code, particularly surface drainage and storm sewer system requirements. Drainage facilities shall be provided within the subdivision and to connect the subdivision drainage to drainage-ways or to storm sewers outside the subdivision. Design of drainage within the subdivision shall take into account the capacity and grade necessary to maintain unrestricted flow from areas draining through the subdivision and to allow extension of the system to serve such areas. Drainage shall be designed to avoid impacts on adjacent property. A construction site pollution prevention plan for each newly created lot shall be submitted, and an Erosion Control permit obtained, prior to issuance of any building permits. As conditioned, this request can satisfy this criterion.

5. Street Lights. When required, installation of street lights shall be pursuant to the requirements of the city and the company serving the development. KDC 2.307.02.E.

FINDINGS: The intent of this provision to require that new developments provide for adequate night-time illumination along public streets to avoid dark streets which could potentially become a safety hazard to pedestrians, motorists, and homeowners. A street lighting plan was not included as part of the proposed subdivision plan. Street lights

currently exist along Burbank Street and Trent Ave. Street lights will be required to be able to provide adequate coverage within the subdivision. As such, a street lighting district will be required to be formed with the new property owners of lots within the subdivision assessed for the costs of providing this service. Therefore, with this section placed as a condition of approval the proposal will meet this criterion.

I. The City may require significant trees that are removed (including trees that are removed within the year prior to the application) be replaced at the rate of up to two new trees for each significant tree removed. KDC 2.309.04(B)(7)(f).

FINDING: The intent of this provision is to encourage the planting of new trees to replace trees that are cut down as part of the development of a subdivision. In particular, this provision aims to replace trees that are identified as being “significant trees”, which are trees that are either 50 feet in height or trees that are 12 inches in diameter. While the site (the field) has no trees on it there is at least one tree (possibly a Cottonwood) located on the southwest corner of Lot 32 which is part of the proposed subdivision. It does not appear that it is located within a potential building envelope so it is not known whether the applicant intends to keep or remove this tree. Since it appears to be greater than 50 feet in height if it is removed it will need to be replaced at a 2:1 ratio consistent with this requirement. No trees have been removed in the past two years. Therefore, the requirement that if this tree is removed, or any other significant trees on the site is removed, they be replaced at a 2:1 ratio which will ensure compliance with this provision.

J. Screening and buffering shall be used to eliminate or reduce the impacts between a number of uses listed within this section, an in particular to provide for compatibility between dissimilar adjoining uses. KDC 2.309.05.

FINDING: The property is designated the same as lands to the east (RS), and is proposed to be developed with single family homes which is similar to the uses along the west side of Burbank Street. With there being a 45 foot wide PGE easement along the east property line of the subdivision will result in the homes on Lots 24 thru 31 having a greater rear yard setback than the RS rear building setback requirement. This will ensure a greater building to building separation than might typically be found. Given this fact and that the proposed subdivision and the uses to the east are considered to be not dissimilar, no additional

screening and buffering will be required. Written testimony from adjacent property owners to the south and west commented on the need for fencing along the property lines with lands that are in farm use. This had previously been a condition of approval in the earlier approval. This fencing will both screen the adjacent dissimilar uses and help to reduce trespass onto these lands from the new residents of this subdivision. In order to provide a buffer to the surrounding agricultural farm uses on properties that are located to the south, north, and west a 6 foot fence will need to be placed along the rear of Lots 1 thru 9, 18 thru 21, 23, and 24. In addition, there shall be a condition requiring the applicant to install a non-climbable fence at the intersection of Fragrant Street and the city limits in an exact location and style as approved by the Public Works Department. This requirement will also restrict access onto these lands as well as onto nearby properties that are in various stages of gravel production. With this as a condition of approval, this application can satisfy this criterion.

K. Development Standards for Land Divisions. KDC 2.310.

1. Minimum lot area. Minimum lot area shall conform to the requirements of the zoning district in which the parcels are located. KDC 2.310.03.A.

FINDINGS: The purpose of this requirement is to allow for the development of the property in a manner consistent with that of the underlying zone district. The subject property is zoned Residential Single Family (RS) and so will be bound by the requirements within Section 2.102 of the Keizer Development Code. The RS zone designation is similar to that of the properties to the east. Within the RS zone, the minimum lot size for detached single-family dwellings is 5,000 square feet and 4,000 square feet for zero side yard development. The applicant's site plan indicates that the lots within the proposed subdivision range in size from 5,000 square feet (Lots 13 and 14) to 10,856 square feet (Lot 1). The flag lot is also required to maintain the minimum lot size excluding the pole portion of the lot and appears to meet this provision. The lots have an average lot size of 6,033 square feet, although there is no requirement that all of the proposed lots achieve this particular size, only that they meet or exceed the city's minimum lot size of 5,000 square feet within the RS zone in Section 2.102.05 for construction of detached single family dwellings. All of the proposed

lots conform to the minimum lot size requirement of the RS zone district. This proposal satisfies this criterion.

2. Lot width and depth. The depth of a lot or parcel shall not be more than 3 times the width of the parcel. KDC 2.310.03.C.

FINDINGS: The purpose for establishing lot width-to-depth ratios is to provide for the orderly, safe, efficient and livable development of land. The lot width-to-depth ratio also prevents lots from being created that would be practically unbuildable. With the exception of lots that are at the bulb of the cul-de-sac street and are “pie shaped” all other lots (excluding Lot 1 which has a “tail” that runs to the southeast) are rectangular shaped lots which have depth to width ratios that are less than the 3:1 ration within this section. The lots have widths that range from 45.5 feet to 95.5 feet and depths that range from 88 feet to 110 feet. All lots within the proposed subdivision are shown to meet this criterion.

3. Access. All lots and parcels shall provide a minimum frontage, on an existing or proposed public street, equal to the minimum lot width required by the underlying zone. Cul-de-sac lots shall have a minimum frontage of 25 feet and Flag lots shall have an access strip of no less than twenty (20) feet. The following exceptions shall apply: residential lots or parcels may be accessed via a private street or access easement developed in accordance with the provisions of Section 2.303 when the City finds that a public street is not necessary to provide for the future development of adjoining property. KDC 2.310.03.D.

FINDINGS: The intent of this provision is to ensure that all lots have a minimum frontage along a street so that an access to serve the lot will meet city standards and that the lot can be developed in a manner that will ensure that all building setback requirements will be met. The proposed lots have frontages that range from slightly more than 45.5 feet to 95.5 feet, which exceeds the minimum 40 foot frontage requirement for lots in the RS zone as indicated in Section 2.102.05. Two cul-de-sac streets are proposed and the lots along the bulb of the cul-de-sac have frontages that range from 30.8 feet to 66 feet, exceeding the minimum 25 foot standard and so meet this provision. One flag lots is proposed and has a frontage that meets with this provision. No private streets are proposed. Given the surrounding pattern of development having a private street continue

to serve any adjacent property would not serve any practical purpose and is not warranted. Therefore, this proposal satisfies this criterion.

4. Flag Lots. Flag lots shall only be permitted if it is the only reasonable method by which the rear portion of a lot being unusually deep or having an unusual configuration may be accessed and when in compliance with Section 2.302.03.B. If a flag-lot is permitted, the following standards shall be met:

1. The access strip shall not be less than 20 feet wide. The access strip shall be improved with a minimum 12 foot wide paved driveway and paved encroachment which meet applicable City standards.
2. The access strip shall not be included in the calculation of lot area for purposes of determining compliance with any minimum lot size provision of this Ordinance.

KDC 2.310.03.E.

FINDINGS: On the revised site plan one flag lot (Lot 8) is proposed. It is shown with approximately 30 feet of frontage and so meets with this section.

5. Through Lots. Through lots shall be avoided except where essential to provide separation of residential development from major traffic arteries, adjacent non-residential activities, or to overcome specific disadvantages of topography and orientation. Through lots shall be no less than 100 feet in depth. Screening or buffering, pursuant to the provision of Section 2.307, may be required by the City during the review of the land division request. KDC 2.310.03.E.

FINDINGS: No through lots are proposed, so this section is not applicable.

6. Lot Lines. The side lines of lots, as far as practicable, shall run at right angles to the right-of-way line of the street upon which the lots face. The rear lot line shall be no less than 1/2 the dimension of the front lot line. KDC 2.310.03.G.

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FINDINGS: The intent of this provision is to avoid the creation of odd-shaped lots which may meet minimum lot size, but owing to its shape may result in a lot that is too difficult to build on without a variance to requirements within the code. The intent is to avoid these types of lots in favor of the creation of lots that can be readily developed. The proposed subdivision will result in the creation of the majority of the lots being regular shaped lots. The exception is Lot 1, which has a portion of it that runs to the southeast and the lots at the bulb of the cul-de-sac streets which have angled side property lines owing to the fact that they are at the terminus of the cul-de-sac and adjacent to the western exterior property line. The remainder of the proposed lot lines run at right angles to the street right-of-way lines. The rear lot lines are all not less than one-half the dimension of the front lot lines, in fact most of the lots have the same rear property line width as the front property line. The application complies with this criterion.

7. Utility Easements. Utility easements shall be provided on lot areas where necessary to accommodate public utilities. Such easements shall have a minimum total width as specified in Section 2.302.04 of this Code. KDC 2.310.03.H.

FINDINGS: The intent of this provision is to ensure that utility easements are provided and avoid the situation where they may be needed but since no easements were provided as part of the platting of the subdivision it creates problems after the platting of the subdivision. There will be underground utility lines located along the frontage of each of the lots. This will require a 10 foot wide public utility easement along the front of each lot and that this easement is shown on the final plat consistent with PGE requirements. This is a development requirement and shall be placed as a condition of approval of this subdivision application. There is an existing overhead electric transmission line that is located on the eastern portion of the site. A 45 foot wide easement is shown on the eastern portion of Lots 24 thru 31, which are the lots on the east side of Fragrant Street, and also on the eastern 45 feet of Lot 1, excluding the southeast "tail" of this lot. As with any easement, permanent structures will be prohibited from being placed within this easement area. With this placed as a condition of approval the application can comply with this criterion.

L. Additional Design Standards for Subdivisions. Section 2.310.04.

1. Standards for Blocks:

1. General: The length, width, and shape of blocks shall be designed with regard to providing adequate building sites for the use contemplated; consideration of needs for convenient access, circulation, control, and safety of street traffic; and recognition of limitations and opportunities of topography.

2. Sizes: Blocks should not exceed 600 feet in length between street lines, except blocks adjacent to arterial streets, or unless the previous adjacent development pattern or topographical conditions justify a variation. The recommended minimum distance between intersections on arterial streets is 1,800 feet.

KDC 2.310.04.A.

FINDINGS: The intent of this provision is to require that when blocks are created as the result of the platting of subdivisions that they adhere to the city's standards. The proposed subdivision will not result in the creation of any blocks within the proposed subdivision, and so therefore this provision is not applicable.

2. Traffic Circulation. The proposed subdivision shall be laid out to provide safe and convenient vehicle, bicycle and pedestrian access to nearby residential areas, transit stops, neighborhood activity centers such as schools and parks, commercial areas, and industrial areas; and to provide safe and convenient traffic circulation. At a minimum, "nearby" is interpreted to mean uses within ¼ mile which can be reasonably expected to be used by pedestrians, and uses within 1 mile of the subdivision boundary which can reasonably be expected to be accessed by bicyclists. KDC 2.310.04.B.

FINDINGS: The intent of this provision is to allow for safe vehicle, pedestrian, and bicycle access from the lots within the subdivision to nearby attractors. There is no sidewalk along the frontage of the property with the street fronting the site (Burbank Street). As a condition of

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approval the applicant will be required to provide a 5 foot wide sidewalk along the frontage of all of the lots within the subdivision. This will result in greater opportunities for pedestrians not only in the subdivision, but also within the immediate area who may choose to walk along the streets within this subdivision. There are no adjacent attractors such as shopping areas, schools, or parks that might otherwise attract pedestrians within the immediate area. The closest school is located about ½ mile away. There is no shopping within the immediate area, although approximately a mile to the east is the River Road commercial corridor which contains a variety of shopping opportunities. The closest park is Keizer Rapids Park, located about a 2/3 mile to the southwest. Also, while two streets will be stubbed out to the west and south property lines they will both be barricaded to prohibit access onto the adjacent properties. With the improvements as outlined within the conditions of approval the proposal complies with this provision.

M. Improvement Requirements. KDC 2.310.06

1. Frontage Improvements. Street improvements to full City Standards shall be required for all public streets on which a proposed subdivision fronts in accordance with Section 2.303 of this Code. Such improvements shall be designed to match with existing improved surfaces for a reasonable distance beyond the frontage of the property. Additional frontage improvements shall include: sidewalks, curbing, storm sewer, sanitary sewer, water lines, other public utilities as necessary, and such other improvements as the City shall determine to be reasonably necessary to serve the development or the immediate neighborhood. KDC 2.310.06.A.

FINDINGS: The intent of this provision is to ensure that lots within the proposed subdivision include street improvements in accordance with city standards so as to avoid having substandard streets which could become a safety hazard. The subject property has frontage along the west side of Burbank Street which is classified in the city's Transportation System Plan as a local street. This street has a 34 foot wide paved street within a 46 foot right of way along the frontage of the property. Public Works has commented that no additional dedication will be needed along the frontage of Burbank Street, however as noted previously the design of the proposed new street at the intersection of Trent Ave and Burbank

Street will need to be designed as conditioned. With this as a condition of approval, this application can satisfy this criterion.

2. Walkways for Private Streets. Sidewalks shall be required in accordance with applicable provisions in Sections 2.302 and 2.316 only if sidewalks currently exist along the connecting street. KDC 2.310.06.B.

FINDINGS: There will be no private streets that will be constructed as part of the proposed subdivision, so this section is not applicable.

3. Project Streets. All public or private streets within the subdivision shall be constructed as required by the provisions of Section 2.302. KDC 2.310.06.C.

FINDINGS: The intent of this provision is to ensure that lots within the proposed subdivision include street improvements in accordance with city standards so as to avoid having substandard streets. There will be no private streets that will be constructed as part of the proposed subdivision. Public Works has provided comments related to the design and construction of the proposed streets within the subdivision. The public street improvements will be required to be consistent with Section 2.302. With this placed as a condition of approval, this application can satisfy this criterion.

4. Monuments. Upon completion of street improvements, centerline monuments shall be established and protected in monument boxes at every street intersection and all points of curvature and points of tangency of street center lines. KDC 2.310.06.D.

FINDINGS: The applicant will be responsible for placing appropriate monuments at the street intersection and with this as a condition this application complies with this criterion.

5. Bench Marks. Elevation bench marks shall be set at intervals established by the City Engineer. The bench marks shall consist of a brass cap set in a curb or other immovable structure. KDC 2.310.06.E.

FINDINGS: The applicant will be responsible for placing appropriate bench marks at the street intersection and with this as a condition, this application complies with this criterion.

6. Surface Drainage and Storm Sewer System. Drainage facilities shall be provided within the subdivision and to connect the subdivision drainage to drainage-ways or to storm sewers outside the subdivision. Design of drainage within the subdivision shall take into account the capacity and grade necessary to maintain unrestricted flow from areas draining through the subdivision and to allow extension of the system to serve such areas. Drainage shall be designed to avoid impacts on adjacent property. KDC 2.310.06.F.

FINDINGS: The intent of this section is to require that new developments make use of a drainage system that is in accordance with city requirements and which will handle the storm drainage from the site and avoid any adverse impacts onto adjacent properties. The site has virtually no change in elevation change across the frontage of the site. According to information supplied by the applicant the site has an elevation that ranges between 133 and 134 MSL. The city has floodplain regulations that govern the placement of structures within identified 100-year floodplains. According to FIRM map 41047C0193G, dated January 19, 2000, the majority of the property is not located within an identified 100 year floodplain. Based on a review of floodplain maps it appears that perhaps a small portion of the property appears to be in Zone X, which is defined as being an area of 500 year flood. This zone is also defined as being an area of a 100-year flood with average depths of less than 1 foot or with drainage areas less than 1 square mile and also being areas that are protected by levees from 100-year flood. Any development within this portion of the site will need to be in accordance with floodplain regulations so there will be no issues associated with floodplain hazards for this property. The applicant has submitted a preliminary site grading plan; however the submitted site plan does not indicate the amount of impervious area that will be on each lot. The developer's engineer shall submit an overall storm drainage plan that will provide service to this development consistent with the City's Master Storm Drain Plan for this area of Keizer. Storm water detention will be required and storm water quality improvements will be required in conformance with the City of Keizer Public Works Department Design Standards. The developer's engineer

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shall conduct on-site percolation tests, (the location and frequency of tests to be determined by the City of Keizer) to determine the suitability of the soils for the proposed disposal system. The percolation test and soil analysis shall be performed by a qualified geotechnical engineer. Storm Water calculations shall be submitted to the City of Keizer Public Works Department, prior to or with the project design drawings, indicating how the development complies with the Public Works Design Standards for the basin. All storm water runoff from the proposed streets are to be connected to an approved system. Depending on the storm water quality improvements that are proposed by the developer, it may result in the need for some additional dedication. A grading and drainage plan shall be developed for the subject property. Details shall include adequate conveyance of storm water from adjacent property across the subject property. This plan shall be submitted and approved by the Department of Public Works prior to the issuance of any permits for street or storm drainage for the subject property. Grading and drainage plans shall be in conformance with the City of Keizer Public Works Standards. Additional information regarding street grades, site grading, inverts, etc, will be required for review prior to any plan approval. With these requirements placed as conditions of approval, this application complies with this provision.

7. Sanitary Sewers. Sanitary sewer shall be installed to serve the subdivision and to connect the subdivision to existing mains both on and off the property being subdivided. KDC 2.310.06.G.

FINDINGS: The intent of this provision is to require that all of the lots in a new subdivision connect to a sanitary sewer system thereby eliminating the need for the installation of any on-site private septic systems which require additional land and increase the potential for ground water contamination. The applicant has indicated that each of the proposed lots will be connected to the sanitary sewer system consistent with all applicable requirements. There is an 8 inch sanitary sewer line located in Trent Ave and also within the Burbank Street right of way. The applicant's site indicates that an 8 inch PVC sanitary sewer line will be placed within the right of way of each street within the proposed subdivision. The Public Works Department submitted comments addressing this criterion. The subject property is not located within of the original Keizer Sewer District. Therefore, a sanitary sewer trunk

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line acreage fee will be required. City of Salem approval for local sewer permits will need to be issued prior to construction. Prior to submitting plans to the City of Salem for approval, the developer's engineer shall submit plans to the City of Keizer for review and determination of compliance with the City's Master Sewer Plan for the area. Connecting to existing sewers that serve the general area will be the responsibility of the developer of the property. Previously the City of Salem had commented that an 8 inch sanitary sewer line will be required to be constructed in the new street right of way to serve the new lots. Appropriate easements for any public sewer mains located within the subject property if located outside platted right of ways will need to be recorded which meets the City of Salem Design Standards and shown on the subdivision plat. It will be the responsibility of the developer's engineer to locate any existing wells (including on adjacent property) in the vicinity of the proposed new sanitary sewer lines for the subject property. The developer, prior to platting the proposed subdivision, shall remove any conflicts between existing wells and proposed sanitary sewers. This is a development requirement and shall be placed as a condition of approval of this subdivision application.

The property is located within an area that is designated Special Policy Area – Odor/ Noise Impact Overlay. This is a unique designation owing exclusively to the proximity of the Willow Lake Sewer Treatment Plant. The designation is directly related to concerns that nearby property owners might have over odors coming from the treatment plant. This overlay designation is applied to properties which are located nearby to the sanitary sewer treatment facility. Since the adoption of this designation a number of significant events have occurred that affect this designation. These include recent upgrades at the sanitary sewer treatment facility that have resulted in a reduction in the amount of odors being emitted from the plant, and also an agreement being reached between the City of Keizer and the City of Salem, which operates the treatment plant. With the adoption of Ordinance 2001-451 the impacts associated with this designation have largely been eliminated. The result of the Dual Interest Area Agreement is that property that is within this designated area can be developed with the requirement that a document be recorded acknowledging that the property owner knows that there is a sewer treatment facility nearby and that this type of facility can produce odors

and noises that are associated with its operation. With this as a condition of approval, this application can satisfy this criterion.

8. Water System. Water lines with valves and Fire District approved fire hydrants serving the subdivision and connecting the subdivision to the City mains shall be installed and operating prior to start of combustible construction. The design shall take into account provisions for extension beyond the subdivision to adequately grid the City system and to serve the area within which the development is located when the area is ultimately developed. However, the developer will be responsible for water main sizes necessary to meet minimum fire flow requirements per Uniform Fire Code. KDC 2.310.06.H.

FINDINGS: The intent of this provision is to ensure that in addition to a safe potable water supply that adequate water flow and fire hydrants are provided to ensure fire protection service is provided for each new lot in the proposed subdivision. The applicant has indicated that each of the proposed lots will be served by the public water system. There is an 8 inch water main located in the Trent Ave and also in Burbank Street. The applicant's site plan indicates that an 8 iron ductile waterline will be placed within the right of way of each street within the proposed subdivision. The Keizer Development Code requires that water service installed outside of the right-of-way shall be placed within an easement, and that the easement is shown on the final plat. Keizer Public Works Department commented that the developer shall prepare a master water system plan showing proposed routes of public water mains, fire hydrants and individual services shall be prepared prior to submission of construction plans for the development. Appropriate easements for all public water mains and fire hydrants will be required if construction is to be outside of public right of ways. Any system development charges for water system improvements will be those in place at the time of individual service connections. Final development plans shall be reviewed by the Keizer Fire District with regard to access and adequate location of fire hydrants prior to any issuance of building permits by the City of Keizer. All required fire hydrants shall be served by an 8 inch water main. Any existing wells on the subject property are to be abandoned. The developer shall provide evidence

that any abandonment of existing wells has been completed in accordance with the rules of the Oregon State Water Resources Department. Location of all meters to be approved by Keizer Water Department. With these requirements placed as conditions of approval, this request can meet this criterion.

9. Sidewalks. Sidewalks shall be installed along both sides of each public street and in any pedestrian ways within the subdivision. The City may defer sidewalk construction until the dwellings or structures fronting the sidewalk are constructed. Any required off-site sidewalks (e.g., pedestrian walkways) or sidewalks fronting public property shall not be deferred. KDC 2.310.06.I.

FINDINGS: The intent of this provision is to require that sidewalks are required by new developments such as subdivisions in an effort to enhance the mobility of pedestrians who both will reside in the proposed subdivision, as well as those who may use this facility but will not reside in the new subdivision. Along the frontage of the site with Burbank Street there is a curb but no sidewalk. Sidewalks along lots within the subdivision will be required as part of the construction of each lot and not required prior to the actual building construction in an effort to minimize damage to the sidewalk that might otherwise occur during the building construction phase of development. With the applicant required to provide 5 foot wide sidewalks meeting city specifications along the frontage of all lots will result in sidewalks that will eventually be constructed along both sides of the proposed new streets within the proposed subdivision and which will ensure compliance with this section.

10. Street Lights. The installation of street lights is required at locations determined to be appropriate by the City and shall be of a type required by City standards. KDC 2.310.06.J.

FINDINGS: The intent of this section is to require that new developments provide street lights that will provide for an adequate level of night-time illumination. There are existing street lights along Burbank Street and also along Trent Ave. The applicant will be required to provide new street lights along the new streets within the proposed subdivision as determined where they are needed and located in

accordance with city and PGE standards. A street lighting district will be required to be formed with city council authorization and with this placed as a condition of approval and will ensure compliance with this section.

11. Street Signs. The installation of street name signs and traffic control signs is required at locations determined to be appropriate by the city and shall be of a type required by City standards. Each street sign shall display the one hundred block range. Street signs shall be installed prior to obtaining building permits. KDC 2.310.06.K.

FINDINGS: The intent of this provision is to require that the installation of street name signs and traffic control signs be placed at locations determined to be appropriate by the city and shall be of a type required by City standards so as to avoid signs that are in wrong locations or a design that are not consistent with city standards. A street name sign will be required at each of the three street intersections. The location, placement, and type of street signs shall be in accordance with city requirements.

12. Public Works Requirements. All facility improvements shall conform to the requirements and specifications of the Keizer Department of Public Works. KDC 2.310.06.L.

FINDINGS: The intent of this provision is to ensure that all facility improvements shall conform to the requirements and specifications of the Keizer Department of Public Works. The application can meet this criterion. This is addressed as a condition of subdivision approval.

13. Curb Cuts. Curb cuts and driveway installations, excluding common drives, are not required of the subdivider, but if installed, shall be according to the City standards. KDC 2.310.06.M.

FINDINGS: Driveway permits will be required at the time of building permit approval. With this as a condition of approval, the application can comply with this criterion.

14. Street Trees. Street tree planting is mandatory where a planting strip is part of the street design. Plantings shall conform to Section 2.302.03(M). KDC 2.310.06.N.

FINDINGS: The intent of this provision is to allow for street trees to be planted along streets to improve the streetscape appeal of the street. As such, tree planting consistent with the city's requirements will be required. With a condition of approval requiring street trees, this application can comply with this criterion.

15. Grading & Fills. All grading which results in fills in excess of 3 feet located within the identified building envelope on a subdivision lot or parcel must be engineered. KDC 2.310.06.O.

FINDINGS: The property is flat and shall require only minimal grading and placement of fill. However, the placement of any fill prior to construction of any dwellings will need to be done in accordance with State Building Code requirements. This is intended as an advisory at this point of the subdivision review.

16. Financial Requirements. All improvements required under this Section shall be completed to City standards or assured through a performance bond or other instrument acceptable to the City Attorney, prior to the approval of the Final Plat of the subdivision. KDC 2.310.06.P.

FINDINGS: This requirement will be placed as a condition of approval.

N. Each lot shall satisfy dimensional standards and density standards of the applicable zoning district, unless a variance from these standards is approved. KDC 3.108.06.B.

FINDINGS: The intent of this provision is to ensure that new residential subdivisions meet the established dimensional and density provisions of the city to assure that the development is done consistent with this standard. The applicant has indicated that each of the lots will be developed with single-family homes. The subject property is zoned RS which will permit single family development on each of the proposed new lots. Section 2.102.05.A of the Keizer Development Code requires that each lot to be developed with a single-family dwelling have a minimum average width of 40 feet. The site plan indicates that the proposed lots have widths that range from 45.5 feet to 109 feet, and so each lot satisfies this requirement. Section 2.102.05 requires that each lot have a depth of 70 feet. The proposed lots have depths that will range from 88 feet to 110 feet. All of the proposed lots will exceed this provision. Section

2.102.06.I specifies a minimum density of 4 dwelling units per acre and a maximum density of 8 dwelling units per gross acres, although areas north of Barnick Road are limited to a maximum of 6 dwelling units per acre. The proposed subdivision is located south of Barnick Road and will have a density of 5.69 dwellings units per gross acre. This complies with the minimum density requirements of this section of the code and so the proposal meets with this provision.

O. Adequate facilities shall be available to serve the existing and newly created parcels. KDC 3.108.06.C.

FINDINGS: As previously discussed, public sanitary sewer and water are available and can serve the newly created lots within the proposed subdivision and the applicant will be responsible for complying with the applicable conditions governing the design, construction and installation of these public facility improvements and connections. While schools are technically not a public facility like sanitary sewer and water facilities they do in a real sense provide a public service and so be included as part of this discussion. The school district has commented that the impact on the local system as a result of the proposed development is that there will be an estimated change in the student enrollment of 14 students. The estimated impact on elementary schools is 6 students with the elementary schools at 90% capacity; the subdivision is estimated to result in 3 new students to the middle schools for an 89% capacity; and the high school can anticipate an increase of 5 new students resulting in an over capacity of 105%. The school district has certain options such as re-districting, adding additional structures to accommodate this projected growth that are beyond the scope of this review. With the requirement that the applicant be responsible for providing adequate public facilities as addressed in this report will result in this application complying with this criterion.

P. Infill Development Criteria. KDC 2.316.

1. An infill development parcel is any residential parcel not more than two (2) acres in size that is a lot of record, and which meets any two of the following criteria:

1) A parcel with less than 250 feet of frontage along a public street;

2) A Parcel with an existing structure;

3) A parcel that is irregular in shape, such that it cannot be partitioned or subdivided to meet the maximum density of the underlying zone without a variance;

4) A parcel that is bounded on two or more sides by existing development or natural constraints (i.e., waterways, steep slopes, resource protections areas).

KDC 2.316.03.

FINDINGS: The subject parcel is more than 2 acres in size so the provisions in this section are not applicable.

P. Rough Proportionality. Improvements or dedications required as a development approval, when not voluntarily accepted by the applicant, shall be roughly proportional to the impact of development. Findings in the development approval shall indicate how the required improvements or dedications are roughly proportional to the impact. KDC 3.108.06.D.

FINDINGS: The City has a legitimate governmental interest in assuring the development does not cause a public problem of inadequate, unsafe and inefficient public transportation facilities. This is done by ensuring that adequate streets that logically continue the City's street system are provided in order to avoid traffic generation that exceeds the street system's carrying capacity, which then causes dangerous or hazardous traffic conditions.

The applicant proposes a thirty-two (32) lot subdivision for single family residential development. The development features access onto Trent Ave / Burbank Street. The proposed lots will be served by public streets. The necessary improvement of a street is identified in Keizer Development Code Section 2.302.04. The table set forth in such section indicates the minimum improvements and right of way widths required. The applicant has proposed streets which comply with the standards within this section of the development code.

The improvement of streets adjacent to subdivisions is necessary to provide a safe and convenient transportation network to serve the residents of the applicant's subdivision. The Keizer Development Code requires that new development make road improvements to bring their road frontage up to the

EXHIBIT "C"

Page 36 of

road classification and construction standards. The legislative adoption of the street standards require road improvements and the road construction to be provided by the development as it occurs in proportion to its impacts. The residents of the subdivision will utilize road systems constructed by other developments at no cost to them or the applicant. Other benefits which necessarily flow to the future residents of this development from the completion of the street improvements include access for vehicles, bicyclists and pedestrians to the arterial road system serving this area of the City and improved access for emergency vehicles to the subject property and its residents.

The functional classification of the fronting streets is based on the cumulative traffic impacts from the development of properties in the area which will use the streets. Both Trent Ave and Burbank Street are classified in the city's TSP as a local streets. Functional classification is established in order to ensure that the streets have adequate carrying capacity for the traffic which will utilize it to avoid traffic generation that would cause dangerous or hazardous traffic conditions. The proposed development will generate additional vehicle trips per day that will contribute to the cumulative traffic impact of the streets.

Burbank Street has a 32 foot wide paved street within a 60 foot right of way along the frontage of the property. Public Works has commented that no additional dedication will be needed along the frontage of the site. It will be requirement that the applicant provide stop signs, no parking areas, and yellow bi-directional raised pavement markers in order to correct a public safety issue related to the design of the new Trent Ave (to be renamed Trent Court) alignment with the Trent Ave / Burbank Street intersection. The requirement for this area to be improved is directly related to concerns over the alignment of the proposed street at the existing intersection.

The City of Keizer has traditionally required developers to dedicate property for and construct standard street, sidewalk, sanitary sewer, storm drain and water supply improvements in subdivisions to meet the basic needs created by the development. The absence, in this instance, of the required street improvements would be cause for denial of the application on the basis that adequate street facilities are not available to serve the site. These traditional street improvements have been imposed to avoid excessive congestion, negative safety impacts and provide basic services to preserve the health of the community and the residents of the proposed development. Such street

improvements and dedications are now, and have traditionally been, part of the cost considered in the developer's reasonable investment-backed expectations for constructing the subdivision. The applicant will be required to dedicate to the public for the construction of the new street within the subdivision. The right-of-way dedication will allow for the improvement of the roadway within the applicant's property with curb, gutter, and 5 foot wide sidewalk along each side of the street. The applicant will be responsible for dedicating to the public and improving the full extent of the new streets within the subdivision. The new streets will serve the new residents within the subdivision. Construction shall be to City of Keizer Street standards. This analysis concludes that the improvements are roughly proportional to the impacts associated with the development of the property.

EXHIBIT "D"

Justification

The applicant has the burden of proving that the application meets relevant standards and criteria to be applied in the particular case.

In this case, the applicant is requesting to subdivide property located at 5447 Burbank Street N, 5457 Burbank Street N., and an unaddressed field directly to the west of those addresses in Keizer, Oregon comprised of 5.73 acres into 32 lots.

The applicant has appealed the Hearings Officer's decision which denied the 32 lot subdivision. The applicant believes the Hearings Officer erred in denying the application on the grounds that with proper conditions the application can meet the standards of the City and make the intersection safe.

After full review, the City Council finds that the proper interpretation of relevant code sections that apply to street standards is that the subdivision of this property into 32 lots will comply with safety and City standards, if conditioned by the following: 1) the Trent Avenue, Burbank Street intersection have two stop signs installed; 2) no parking areas be designated where necessary; and, 3) yellow bi-directional raised pavement markers be placed indicating the new centerline for Trent Avenue.

Consequently, the applicant has demonstrated that when the conditions set forth in Exhibit "E" are imposed and complied with, the proposal meets the applicable criteria set forth in the Keizer Development Code. As conditioned, the application should be granted.

EXHIBIT "E"

Action

The City of Keizer hereby ORDERS as follows:

The requested subdivision is hereby GRANTED subject to the following conditions and requirements:

General:

1. Mailbox details indicating proposed locations and approved by the U.S. Post Office shall be submitted to the Public Works Department.
2. In certain circumstances, Exhibit "C" (Facts) contain conditions or clarification of conditions set forth in this Exhibit. In such cases, the conditions or clarifications of conditions are incorporated herein as if fully set forth.
3. A Pre-design meeting with the City of Keizer Public Works Department will be required prior to the Developer's Engineer submitting plans to either the city of Keizer or the City of Salem for review.
4. The developer will be required to obtain U.I.C. permits (Underground Injection Control) from the Oregon State Department of Environmental Quality and each individual lot will be required to furnish evidence that a Registered U.I.C. has been obtained for all roof drains.

Prior to Public Improvement Plan Approval:

5. A master water system plan showing proposed routes of public water mains, fire hydrants and individual services shall be prepared prior to submission of construction plans for the development. Appropriate easements for all public water mains and fire hydrants will be required if construction is to be outside of public right of ways. Any system development charges for water system improvements will be those in place at the time of individual service connections.
6. Location of all meters to be approved by Keizer Water Department.
7. The developer's engineer shall submit and the Public Works Department shall approve an overall storm drainage plan that will provide service to this development consistent with the City's Master Storm Drain Plan for this area of Keizer.

EXHIBIT "E"

Page 1 of 8

8. Final development plans shall be reviewed by the Keizer Fire District with regard to access and adequate location of fire hydrants prior to any issuance of building permits by the City of Keizer. All required fire hydrants shall be served by an 8 inch water main.

9. Erosion control permits shall be obtained from the City of Keizer prior to the disturbance of any soil on the subject property. Additionally, if required by the Oregon Department of Environmental Quality, a 1200-C permit will be required from the Oregon Department of Environmental Quality and furnished to the City of Keizer by the developer prior to issuance of an erosion control permit.

10. A grading and drainage plan shall be developed for the subject property. Details shall include adequate conveyance of storm water from adjacent property across the subject property and shall include existing elevations and proposed lot corner elevations. This plan shall be submitted and approved by the Public Works Department prior to the issuance of any permits for street or storm drainage for the subject property. Grading and drainage plans shall be in conformance with the City of Keizer Public Works Standards. Additional information regarding street grades, site grading, inverts, etc., will be required for review prior to any plan approval.

11. Storm water detention will be required and storm water quality improvements will be required in conformance with the City of Keizer Public Works Department Design Standards. The developer's engineer shall conduct on-site percolation tests, (the location and frequency of tests to be determined by the City of Keizer) to determine the suitability of the soils for the proposed disposal system. The percolation test and soil analysis shall be performed by a qualified geotechnical engineer. Storm Water calculations shall be submitted to the City of Keizer Public Works Department, prior to or with the project design drawings, indicating how the development complies with the Public Works Design Standards for the basin. All storm water runoff from the proposed streets are to be connected to an approved system.

12. The proposed subdivision will be served by a new street connected to the intersection of Trent Ave. N. and Burbank St. N. The proposed new intersection shall be constructed in substantial conformance to the attached site plan (Exhibit E-1).

13. The plans shall show a private access easement for emergency vehicles only at the west end of Aroma Ct. N. which will furnish access to the existing Bowden Lane to the west of the subject property. The width and structural depth of the proposed access easement shall meet the requirements of the Keizer Fire District, along with

EXHIBIT "E"

Page 2 of 8

any signage and access control features. The west end of the access easement shall be gated with an improvement acceptable to the Fire District.

14. Connecting to existing sewers that serve the general area will be the responsibility of the developer of the property. Appropriate easements for any public sewer mains located within the subject property, if located outside platted right of ways, will need to be recorded in a form which meets the City of Salem Design Standards and shown on the subdivision plat.

15. It will be the responsibility of the developers engineer to locate any existing wells (including on adjacent property) in the vicinity of the proposed new sanitary sewer lines for the subject property. The developer, prior to platting of the proposed subdivision, shall eliminate any conflicts between existing wells and proposed sanitary sewers.

Prior to Preliminary Plat Approval:

16. A detailed preliminary subdivision plat shall be submitted to the Marion County Surveyor's office for review. Marion County Surveyor's office will then submit the plat to Keizer for review and approval. The Preliminary Plat must be submitted for review prior to submittal of a final plat. Title transfer instruments accomplishing the property adjustments shall be recorded with the Marion County Clerk within 1 year from the date of final decision on this application or a one year extension must be requested and approved by the Community Development Director prior to the one year time period.

- a. A checking fee and second Mylar fee is required.
- b. A current or updated title report must be submitted at the time of review. Title reports shall be no less than 15 days old at the time of approval of the plat by the Surveyor's Office, which may require additional updated reports.
- c. Subdivision name must be approved per Oregon Revised Statute 92.090.
- d. Must be surveyed and platted per Oregon Revised Statute 92.050.

- e. Per Oregon Revised Statute 92.065 remaining monumentation bond may be required if some of the plat monuments have not been set and/or the installation of street and utility improvements has not been completed, or other conditions or circumstances cause the delay (or resetting) of monumentation.
- f. Include all engineering elements as required by the Department of Public Works.
- g. For all public water mains, fire hydrants and any public sewer mains located within the subject property (if located outside platted right of ways) easements will be required and will need to be recorded. These easements shall meet the City of Keizer or City of Salem (where applicable) Design Standards and shall be shown on the subdivision plat.
- h. 10 foot wide public utility easements (PUE) shall be shown along all dedicated right of ways.
- i. All lots shall conform to lot dimension standards within the RS zone.
- j. Street and access easement names to be shown on plat.
- k. PGE easement to be shown on plat.

17. With the Preliminary plat a copy of the proposed CC&R's, Owners Agreements, Articles and By-Laws shall be submitted to the Community Development Department for review as outlined in Section 3.108.07 of the Keizer Development Code. The following information should be included within the instrument(s):

- a. Information regarding care and maintenance of street trees.
- b. Existence of all easements on the property that may affect use of lots.
- c. Language indicating that the property is near lands that are in agricultural production and acknowledges that farm uses can result in noise, dust, odors.
- d. Language indicating that property is near the Willow Lake Sewer Treatment Plant and acknowledges that this facility can produce noise and odors.

18. Applicant shall submit and have approved a Tree Replacement Plan showing the approximate location of all trees to be planted to replace any trees that are removed.

Prior to Issuance of Construction Permits by the Department Of Public Works:

19. The subject property is located outside the original Keizer Sewer District. Therefore a sanitary sewer trunk line acreage fee will be required unless the applicant can provide evidence that an acreage fee has been previously paid.
20. City of Salem approval for local sewer permits will need to be issued prior to construction. Prior to submitting plans to the City of Salem for approval, the developer's engineer shall submit plans to the City of Keizer for review and determination of compliance with the City's Master Sewer Plan for the area.
21. Construction permits are required by the Public Works Department prior to any public facility construction.
22. A Pre-construction conference shall be required prior to commencement of any construction under permits issued by the city.
23. An improvement agreement shall be executed between the developer and the City of Keizer prior to recording of the subdivision plat.

Prior to Final Plat approval (Mylar):

24. A street lighting district shall be created at the expense of the applicant to provide for adequate street lights along the frontage of all proposed new lots.
25. Upon approval of the preliminary agreement, a final copy of any CC&R's, Homeowner Agreements, or other instrument shall be submitted to the Community Development Department which conforms to the agreements submitted during preliminary plat approval.
26. Upon approval of the detailed preliminary plat and engineering plans, a final plat for the subdivision, which conforms to the preliminary plat approval, must be submitted for review to Marion County Surveyor's Office.
27. An easement/waiver regarding potential wastewater treatment plant impacts shall be developed and recorded prior to the final plat being recorded. This document shall be approved by the City Attorney.
28. Any existing wells on the subject property are to be abandoned. The developer shall provide evidence that any abandonment of existing wells has been

completed in accordance with the rules of the Oregon State Water Resources Department.

During Public Improvements:

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

30. Appropriate elevation bench marks shall be set at intervals established by the City Engineer at the street intersection and will be placed by the developer.

Prior To Obtaining Building Permit(s):

31. No building permits shall be issued until the plat is recorded and all conditions of any construction permits are completed to the satisfaction of the Department of Public Works.

32. The access easement for Lots 7 and 8 shall be a minimum of twenty (20) feet of unobstructed width; with a minimum paved width of sixteen (16) feet which shall be located substantially within the center of the access easement. Turn around to comply with turn around standards. No parking shall be permitted within the twenty (20) foot minimum required width. The construction and paving of the access easement, installation of the street addressing signage, and any required no parking signage shall be completed prior to approval of the final plat. In lieu of this, the applicant may obtain a performance bond, improvement agreement or other instrument acceptable to the City as outlined in Section 3.202.02.F.3 and 3.202.05.B of the Keizer Development Code. Improvement agreements may be obtained from the Community Development Department. A copy of reciprocal cross access easement agreement shall be provided to the city.

33. The maintenance and replacement of the access easements, “no parking” signage, and address display signage shall be provided in the form of a maintenance agreement, homeowners association, or other instrument acceptable to the City and shall be recorded with the Marion County Clerk. A copy of the agreement shall be submitted to the Community Development Department for review and approval. The agreement shall also include language stipulating that the agreement cannot be extinguished without written approval of the City of Keizer.

Prior to Obtaining Building Permit Final for each dwelling within the Subdivision:

34. The residential address requirements found in the Oregon Uniform Fire Code shall be completed as approved by Keizer Fire District and Community Development Department. Access easement sign shall be provided and placed by the applicants in accordance with city standards.
35. Sanitary sewer permits must be received and/or sewer taps and system development charges must be paid due and payable to the City of Salem.
36. The trees designated as replacement trees from the Tree Replacement Plan are to be planted within the subdivision shall be planted prior to final inspection approval for each individual lot as shown on the Tree Replacement Plan.
37. Applicant or any contractors building on lots shall comply with all applicable city regulations regarding noise, dust, times of construction, etc.
38. A 6 foot high fence shall be located along the rear property line of all lots that are adjacent to lands designated EFU that are to the south, west, and north of the proposed subdivision.
39. A non-climbable fence shall be located at the intersection of Fragrant Street and the city limits. The exact location, style and design of the fence shall be approved by the Community Development Director.
40. Each lot with direct access onto a public street shall provide two parking spaces per lot and any lot served by an access easement shall provide 3 on-site parking spaces.
41. The developer shall provide five-foot pedestrian sidewalks along the frontage of the lots within the subdivision.

Prior to Acceptance of Public Improvements:

42. The connection off of Aroma Ct. to Bowden Lane shall be barricaded and gated to allow emergency vehicle use only.
43. The south property line at the end of Fragrant Street shall be barricaded.
44. Developer will be required to install three stop signs and stop bars at the intersection of Burbank Street and Trent Avenue. All stop signs and stop bars shall meet the requirements outlined by the City of Keizer Department of Public Works.

EXHIBIT "E"

Page 7 of 8

45. Developer will be required to install no parking signs and visibly surface mark no parking areas on the south side of Trent Ave/east side of Burbank Street and on the north side of Trent Avenue/west side of Burbank Street as determined by the City of Keizer Public Works Director and/or City Engineer.

46. Developer will be required to install raised, reflectorized, bi-directional pavement markers with no greater than 10' spacing to indicate the new centerline for Trent Avenue.

CITY COUNCIL MEETING: October 19, 2015

AGENDA ITEM NUMBER:_____

TO: MAYOR CLARK AND COUNCIL MEMBERS

THROUGH: CHRISTOPHER C. EPPLEY, CITY MANAGER

FROM: E. SHANNON JOHNSON, CITY ATTORNEY

SUBJECT: ABANDONED SHOPPING CART ORDINANCE

This matter was initially heard by Council on September 8, 2015. A copy of the previous staff report is attached.

The Ordinance has been revised to eliminate the toll-free telephone number requirement, while still retaining the requirement for a posted notice on both the cart and in the store with a non-toll-free number. In addition, the fines (Section 13) are suggested to be reduced. I have attached both a redlined copy and a clean copy of the Ordinance.

RECOMMENDATION:

Consider the matter and, if appropriate, pass a motion adopting the abandoned shopping cart Ordinance.

Please let me know if you have any questions. Thank you.

ESJ/tmh

CITY COUNCIL MEETING: September 8, 2015

AGENDA ITEM NUMBER: _____

TO: MAYOR CLARK AND COUNCIL MEMBERS

THROUGH: CHRISTOPHER C. EPPLEY, CITY MANAGER

FROM: E. SHANNON JOHNSON, CITY ATTORNEY

SUBJECT: ORDINANCE RELATED TO ABANDONED SHOPPING CARTS

Though not numerous, the City has received complaints about abandoned shopping carts in the neighborhoods. The majority of shoppers do not take the shopping carts off the owner's premises, but some shoppers do. Some shoppers take the shopping carts off the premises to take their purchases home, while other shopping carts are taken for other purposes.

Shopping carts that are taken off the premises usually become abandoned and become a nuisance to the immediate neighborhood. State statutes sets up a process for notice and eventual seizure of the shopping carts, but requires the local government to adopt an Ordinance if they want to use this process.

The process allows for a toll-free number to be placed on the carts along with signs at the stores with the toll-free number indicating that removing the carts from the premises is illegal and providing a toll-free telephone number on the cart to allow people to call to report an abandoned cart. The process then contemplates calls being made and the store or stores' representative picking up the abandoned carts. If they do not do so, the Code Compliance Officer may give notice and if it is not retrieved, the Code Compliance Officer can secure the cart for safekeeping. The store must pay a \$50.00 administrative fee when it picks up the cart from the Code Compliance Officer. If the store fails to provide the signs or fails to maintain the toll-free line, there is a provision for an infraction and fine.

A proposed Ordinance establishing regulations for the process for notification and shopping cart retrieval is attached for your consideration.

RECOMMENDATION:

Adopt the attached Ordinance.

Please contact me if you have any questions in this regard. Thank you.

ESJ/tmh

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A BILL
FOR
AN ORDINANCE
RELATING TO ABANDONED SHOPPING CARTS

ORDINANCE NO.
2015-_____

The City of Keizer ordains as follows:

Section 1. SHORT TITLE. This Ordinance shall be known as the “Abandoned Shopping Cart Ordinance” and shall be so cited and pled.

Section 2. PURPOSE, POLICY, AND SCOPE. It is declared policy of the City of Keizer, in furtherance of the protection of the public health, safety and welfare of the people of the City of Keizer, to enact an ordinance regulating the presence of abandoned shopping carts within the City of Keizer, declaring the presence of abandoned shopping carts as a public nuisance, providing a means to allow for voluntary abatement of the nuisance by the owners of shopping carts through a notification and retrieval process, and providing means for abatement of the presence of abandoned shopping carts when voluntary compliance is not achieved. The City Council finds and declares that the presence of abandoned shopping carts tends to create a condition reducing private property values, promotes blight and deterioration, creates a hazard to the health, safety and general welfare of the public, and reduces the aesthetic value of the City as a whole. Such presence of abandoned shopping carts within the City of Keizer is hereby declared to be a public nuisance. In addition, the collection of shopping carts by the City is done

1 as part of the City’s Community Caretaking function and not as a penalty. The shopping
2 carts are otherwise subject to theft or damage.

3 Section 3. DEFINITIONS. Unless the context otherwise specifically requires,
4 the following mean:

5 (a) “Abandoned shopping cart” means any shopping cart that has been removed
6 from the owner’s premises without written consent of the owner and which is
7 located on either public or private property.

8 (b) “Code Compliance Officer” means the person charged with the enforcement of
9 city codes by the City Manager.

10 (c) “Owner” means a person that, in connection with the operation of a business,
11 makes a shopping cart available to a customer.

12 (d) “Person” means a natural person, corporation, partnership, limited liability
13 company, limited liability partnership, co-operative, trust, or other entity in law or
14 fact.

15 (e) “Premises” means the entire area of the real property owned, occupied or
16 utilized by an owner, including any parking lot or other property provided by or on
17 behalf of an owner for customer parking or use.

18 (f) “Shopping cart” means any device that is mounted on wheels and used for the
19 transportation of goods, or any other similar device, that is provided by an owner
20 for use by a customer.

1 Section 4. ADMINISTRATION. The City Manager or his designee shall be
2 responsible for the administration of this Ordinance.

3 Section 5. SHOPPING CART INFORMATION REQUIRED. Every owner
4 shall have a permanent sign affixed to every shopping cart with the following
5 information:

6 (a) The identity of the owner of the shopping cart.

7 (b) A ~~toll-free~~ telephone number of the owner for shopping cart return.

8 (c) A statement that the unauthorized removal of the shopping cart from the
9 premises is a crime under ORS 164.015.

10 Section 6. POSTED NOTICE. Every owner shall conspicuously post a
11 sufficient number of signs on the owner's business premises stating that unauthorized
12 appropriation of a shopping cart is a crime under ORS 164.015. Such signs must provide
13 the ~~toll-free~~ telephone number that persons may use to report abandoned shopping carts.

14 ~~Section 7. — TOLL-FREE TELEPHONE LINE REQUIRED. Every owner must~~
15 ~~establish, maintain, and make available to the public, at the owner's expense, a toll-free~~
16 ~~telephone line for the purpose of reporting abandoned shopping carts. The agreement~~
17 ~~between the owner and the toll-free telephone provider shall provide that the operator of~~
18 ~~the toll-free telephone line forward a report of each call concerning an abandoned~~
19 ~~shopping cart to the owner and to the Code Compliance Officer, within one business day~~
20 ~~of receipt of the call, and that such report be provided through electronic mail or by fax.~~

~~More than one owner may use the same toll-free telephone number to share expenses.~~
~~Any agreement by two or more owners to share a toll-free telephone number shall~~
~~comply with the requirements herein.~~

Section 78. NOTIFICATION AND RETRIEVAL OF ABANDONED
SHOPPING CARTS.

(a) The Code Compliance Officer or any member of the public may report the location of an abandoned shopping cart by calling the ~~toll-free~~ telephone number provided by the owner.

(b) If the City has notice of the location of an abandoned shopping cart, the Code Compliance Officer shall use the ~~toll-free~~ telephone number provided by the owner to report the location of the abandoned shopping cart.

(c) If an abandoned shopping cart does not have a sign with the information required herein, the City may take custody of the abandoned shopping cart. If the owner can be identified, but after reasonable effort, the Code Compliance Officer is unable to contact the owner of the abandoned shopping cart and seventy-two (72) hours has passed, or if the owner cannot be identified, the Code Compliance Officer may dispose of the abandoned shopping cart as provided in Section ~~104~~.

Section 89. DUTY TO RETRIEVE CART. An owner, or an owner's representative, must retrieve an abandoned shopping cart within seventy-two (72) hours from the date the report is made to the owner under Section 78.

1 Section ~~940~~. CUSTODY OF ABANDONED CART. The Code Compliance
2 Officer may take custody of an abandoned shopping cart and impose an administrative
3 fee of fifty dollars (\$50.00) per shopping cart on the owner of the abandoned shopping
4 cart if the owner does not retrieve the abandoned shopping cart within seventy-two hours
5 after the owner receives a report of an abandoned shopping cart under Section ~~78~~. The
6 Code Compliance Officer shall release the abandoned shopping cart to the owner after
7 the administrative fee is paid.

8 Section ~~104~~. DISPOSITION OF UNCLAIMED ABANDONED CART. Title to
9 an abandoned shopping cart not claimed by an owner within thirty days after notification
10 from the Code Compliance Officer, or to any abandoned shopping cart where the Code
11 Compliance Officer has been unable to identify the owner after reasonable efforts and
12 which has been in the City's custody for thirty (30) days, shall be forfeited to the City
13 and the abandoned shopping cart may be sold or otherwise disposed of by the City.

14 Section ~~112~~. EXEMPTION. If an owner has an effective physical or electronic
15 mechanism or method that prevents shopping carts from being removed from the
16 premises, the owner is exempt from the requirements of this Ordinance.

17 Section ~~123~~. VIOLATION. Failure by an owner to comply with Section ~~5~~;
18 ~~Section 6~~, or Section ~~67~~ is a civil infraction. The fine amounts for the violations are as
19 follows:

20 Maximum Fine: ~~\$500.00~~ **\$100.00**

1 Minimum Fine: \$~~100.00~~50.00

2 Presumptive Fine: \$~~2~~50.00

3 Section ~~134~~. SAVINGS CLAUSE. Should any section or portion of this
4 Ordinance be held unlawful and unenforceable by any court of competent jurisdiction,
5 such decision shall apply only to the specific section, or portion thereof, directly
6 specified in the decision. All other sections or portions of this Ordinance shall remain in
7 full force and effect.

8 Section ~~145~~. EFFECTIVE DATE. This Ordinance shall take effect thirty (30)
9 days after its passage.

10 PASSED this _____ day of _____, 2015.

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12 SIGNED this _____ day of _____, 2015.

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Mayor

City Recorder

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A BILL
ORDINANCE NO.
2015-_____
FOR
AN ORDINANCE
RELATING TO ABANDONED SHOPPING CARTS

The City of Keizer ordains as follows:

Section 1. SHORT TITLE. This Ordinance shall be known as the “Abandoned Shopping Cart Ordinance” and shall be so cited and pled.

Section 2. PURPOSE, POLICY, AND SCOPE. It is declared policy of the City of Keizer, in furtherance of the protection of the public health, safety and welfare of the people of the City of Keizer, to enact an ordinance regulating the presence of abandoned shopping carts within the City of Keizer, declaring the presence of abandoned shopping carts as a public nuisance, providing a means to allow for voluntary abatement of the nuisance by the owners of shopping carts through a notification and retrieval process, and providing means for abatement of the presence of abandoned shopping carts when voluntary compliance is not achieved. The City Council finds and declares that the presence of abandoned shopping carts tends to create a condition reducing private property values, promotes blight and deterioration, creates a hazard to the health, safety and general welfare of the public, and reduces the aesthetic value of the City as a whole. Such presence of abandoned shopping carts within the City of Keizer is hereby declared to be a public nuisance. In addition, the collection of shopping carts by the City is done

1 as part of the City’s Community Caretaking function and not as a penalty. The shopping
2 carts are otherwise subject to theft or damage.

3 Section 3. DEFINITIONS. Unless the context otherwise specifically requires,
4 the following mean:

5 (a) “Abandoned shopping cart” means any shopping cart that has been removed
6 from the owner’s premises without written consent of the owner and which is
7 located on either public or private property.

8 (b) “Code Compliance Officer” means the person charged with the enforcement of
9 city codes by the City Manager.

10 (c) “Owner” means a person that, in connection with the operation of a business,
11 makes a shopping cart available to a customer.

12 (d) “Person” means a natural person, corporation, partnership, limited liability
13 company, limited liability partnership, co-operative, trust, or other entity in law or
14 fact.

15 (e) “Premises” means the entire area of the real property owned, occupied or
16 utilized by an owner, including any parking lot or other property provided by or on
17 behalf of an owner for customer parking or use.

18 (f) “Shopping cart” means any device that is mounted on wheels and used for the
19 transportation of goods, or any other similar device, that is provided by an owner
20 for use by a customer.

1 Section 4. ADMINISTRATION. The City Manager or his designee shall be
2 responsible for the administration of this Ordinance.

3 Section 5. SHOPPING CART INFORMATION REQUIRED. Every owner
4 shall have a permanent sign affixed to every shopping cart with the following
5 information:

6 (a) The identity of the owner of the shopping cart.

7 (b) A telephone number of the owner for shopping cart return.

8 (c) A statement that the unauthorized removal of the shopping cart from the
9 premises is a crime under ORS 164.015.

10 Section 6. POSTED NOTICE. Every owner shall conspicuously post a
11 sufficient number of signs on the owner's business premises stating that unauthorized
12 appropriation of a shopping cart is a crime under ORS 164.015. Such signs must provide
13 the telephone number that persons may use to report abandoned shopping carts.

14 Section 7. NOTIFICATION AND RETRIEVAL OF ABANDONED
15 SHOPPING CARTS.

16 (a) The Code Compliance Officer or any member of the public may report the
17 location of an abandoned shopping cart by calling the telephone number provided
18 by the owner.

19

20

1 (b) If the City has notice of the location of an abandoned shopping cart, the Code
2 Compliance Officer shall use the telephone number provided by the owner to report
3 the location of the abandoned shopping cart.

4 (c) If an abandoned shopping cart does not have a sign with the information
5 required herein, the City may take custody of the abandoned shopping cart. If the
6 owner can be identified, but after reasonable effort, the Code Compliance Officer is
7 unable to contact the owner of the abandoned shopping cart and seventy-two (72)
8 hours has passed, or if the owner cannot be identified, the Code Compliance
9 Officer may dispose of the abandoned shopping cart as provided in Section 10.

10 Section 8. DUTY TO RETRIEVE CART. An owner, or an owner's
11 representative, must retrieve an abandoned shopping cart within seventy-two (72) hours
12 from the date the report is made to the owner under Section 7.

13 Section 9. CUSTODY OF ABANDONED CART. The Code Compliance
14 Officer may take custody of an abandoned shopping cart and impose an administrative
15 fee of fifty dollars (\$50.00) per shopping cart on the owner of the abandoned shopping
16 cart if the owner does not retrieve the abandoned shopping cart within seventy-two hours
17 after the owner receives a report of an abandoned shopping cart under Section 7. The
18 Code Compliance Officer shall release the abandoned shopping cart to the owner after
19 the administrative fee is paid.

20

1 Section 10. DISPOSITION OF UNCLAIMED ABANDONED CART. Title to
2 an abandoned shopping cart not claimed by an owner within thirty days after notification
3 from the Code Compliance Officer, or to any abandoned shopping cart where the Code
4 Compliance Officer has been unable to identify the owner after reasonable efforts and
5 which has been in the City's custody for thirty (30) days, shall be forfeited to the City
6 and the abandoned shopping cart may be sold or otherwise disposed of by the City.

7 Section 11. EXEMPTION. If an owner has an effective physical or electronic
8 mechanism or method that prevents shopping carts from being removed from the
9 premises, the owner is exempt from the requirements of this Ordinance.

10 Section 12. VIOLATION. Failure by an owner to comply with Section 5 or
11 Section 6 is a civil infraction. The fine amounts for the violations are as follows:

12 Maximum Fine: \$100.00

13 Minimum Fine: \$50.00

14 Presumptive Fine: \$50.00

15 Section 13. SAVINGS CLAUSE. Should any section or portion of this
16 Ordinance be held unlawful and unenforceable by any court of competent jurisdiction,
17 such decision shall apply only to the specific section, or portion thereof, directly
18 specified in the decision. All other sections or portions of this Ordinance shall remain in
19 full force and effect.

20

1 Section 14. EFFECTIVE DATE. This Ordinance shall take effect thirty (30)
2 days after its passage.

3 PASSED this _____ day of _____, 2015.

5 SIGNED this _____ day of _____, 2015.

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Mayor

City Recorder



MINUTES
KEIZER CITY COUNCIL
Monday, October 5, 2015
Keizer Civic Center, Council Chambers
Keizer, Oregon

CALL TO ORDER

Mayor Clark called the meeting to order at 7:05 pm. Roll Call was taken as follows:

Present:

Cathy Clark, Mayor
Dennis Koho, Council President
Marlene Parsons, Councilor
Amy Ryan, Councilor
Brandon Smith, Councilor
Roland Herrera, Councilor
Kim Freeman, Councilor
Youth Councilor Siri Scales

Staff:

Chris Eppley, City Manager
Shannon Johnson, City Attorney
Nate Brown, Community
Development Director
Tim Wood, Assistant Controller
Lance Inman, Police Department
Tracy Davis, City Recorder

FLAG SALUTE

Mayor Clark led the pledge of allegiance.

**SPECIAL ORDERS
OF BUSINESS**

None

**COMMITTEE
REPORTS**

None

**PUBLIC
TESTIMONY**

None

**PUBLIC
HEARINGS**

a. Liquor License

**Change of
Ownership
Application –
Dim Sum
Restaurant
Name Ocean
Sushi & Teriyaki**

City Manager Chris Eppley reported that an application was submitted for a Change of Ownership from the owner of Dim Sum House, Keizer, Oregon. The restaurant will be renamed 'Ocean Sushi & Teriyaki'. City requirements have been met. Staff recommends that Council review the application and forward a recommendation to the OLCC for approval.

Councilor Koho moved that the Keizer City Council approve the application for a Change of Ownership and Change of Name to Ocean Sushi & Teriyaki under the guidelines established by ORS 471.178 and the Ordinances of the City of Keizer. This recommendation shall then be forwarded to the Oregon Liquor Control Commission for final approval. Councilor Parsons seconded. Motion passed unanimously as follows:

AYES: Clark, Koho, Parsons, Freeman, Smith, Ryan and Herrera (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

**ADMINISTRATIVE
ACTION**

**a. RESOLUTION
– Authorization
of Interfund
Loan to the
General Fund
from the
Transportation
Improvement
Fund**

Assistant Controller Tim Wood explained that the 2015-16 Adopted Budget provides for approximately \$508,000 in payments to the overlapping tax jurisdictions to repay them for their foregone tax revenue associated with the Urban Renewal District which is now closed. To minimize interest expense, the obligation was paid in July 2015 resulting in the General Fund not having sufficient cash available to meet the current operating obligations during October 2015. The interfund loan will be repaid in November 2015 when the majority of the current property tax revenue is received.

Councilor Koho moved that the Keizer City Council adopt a Resolution Authorization of Interfund Loan to the General Fund from the Transportation Improvement Fund. Councilor Parsons seconded. Motion passed unanimously as follows:

AYES: Clark, Koho, Parsons, Freeman, Smith, Ryan and Herrera (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

**CONSENT
CALENDAR**

- a. RESOLUTION – Authorizing the City Manager to Sign a Contract with Pfeifer Roofing Incorporated for Roof Repairs to Public Works Shop Facility
- b. Approval of September 8, 2015 Regular Session Minutes
- c. Approval of September 14, 2015 Work Session Minutes
- d. Approval of September 21, 2015 Regular Session Minutes

Councilor Freeman pulled items c and d.

Councilor Koho moved to approve items a and b of the Consent Calendar. Councilor Parsons seconded. Motion passed as follows:

AYES: Clark, Koho, Parsons, Smith, Freeman, Ryan and Herrera (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

Councilor Koho moved to approve items c and d of the Consent Calendar. Councilor Parsons seconded. Motion passed as follows:

AYES: Clark, Koho, Parsons, Smith, Ryan and Herrera (6)

NAYS: None (0)

ABSTENTIONS: Freeman (1)

ABSENT: None (0)

COUNCIL LIAISON REPORTS

Councilor Herrera reported that he had attended the League of Oregon Cities Conference, provided information regarding a recent Hispanic Heritage event and invited everyone to the Keizer Fire Open House. He added that he had attended the Woodburn City Council meeting which was held in a migrant low-income part of the city. The meetings are held all over the city. He also commended the owners of Full Monty's for their recognition of the Porters (previous owners of the property).

Councilor Parsons provided information on the League of Oregon Cities Conference. She noted that the Keizer Festivals Advisory Board is considering promoting in an event specific to cities on the 45th parallel and also participating in the 2016 Rose Parade with a golf cart entry. The committee will be part of the October 2 holiday meeting held to coordinate holiday events. She also announced the upcoming Community Build Task Force meeting.

Councilor Koho announced that the Marion County Commissioners Breakfast was cancelled and expressed condolences to the community suffering from the Umpqua Community College tragedy. Mayor Clark on behalf of the Council echoed the condolences.

Councilor Ryan announced the upcoming Traffic-Bikeways Committee meeting, urged everyone to check the Keizer Chamber calendar, reported on the status of the Art Commission mural project at Town & Country Bowl, and commended the Full Monty's grand opening and the League of Oregon Cities Conference.

Councilor Smith reported on the League of Oregon Cities conference and announced the upcoming Planning Commission meeting and Council Work Session.

Councilor Freeman wished Full Monty's well in their new venture. She announced the upcoming West Keizer Neighborhood Association, Volunteer Coordinating Committee and Claggett Creek Watershed Council meetings and praised the Howl-a-Palooza event.

Mayor Clark reported on Mid-Willamette Area Commission on Transportation and Salem-Keizer Area Transportation Study meetings, the Salem-Keizer Education Foundation reception, and the League of Oregon Cities conference where she accepted, on behalf of the City, the CIS Safety Award. She announced that she had been elected to the League of Oregon Cities Board of Directors and announced the upcoming Keizer Economic Development Commission meeting and the ribbon cuttings of the bond-funded Chemeketa Community College building and the Career Technical Education Center.

Youth Councilor Siri Scales thanked Men's Wearhouse in Keizer Station and David's Bridal for their loans of clothing for Homecoming events.

**OTHER
BUSINESS**

Community Development Director Nate Brown announced that the Planning Commission would be reviewing bicycle parking and parking standards.

**WRITTEN
COMMUNICATIONS**

Mayor Clark referred to a letter she had received regarding a development and some trees. Mr. Brown explained that placement of a cell tower at Bair Park required the removal of trees but the City is replanting trees along the border. It is an opportunity to incorporate a better variety of tree in the park.

AGENDA INPUT

October 12, 2015

- 5:45 p.m. – City Council Work Session
- Salem-Keizer Transit District

October 21, 2015

7:00 p.m. – City Council Regular Session

November 2, 2015

7:00 p.m. – City Council Regular Session

ADJOURNMENT

Mayor Clark adjourned the meeting at 7:35 p.m.

MAYOR:

APPROVED:

Cathy Clark

Debbie Lockhart, Deputy City Recorder
COUNCIL MEMBERS

Councilor #1 – Dennis Koho

Councilor #4 – Roland Herrera

Councilor #2 – Kim Freeman

Councilor #5 – Amy Ryan

Councilor #3 – Marlene Parsons

Councilor #6 – Brandon Smith

Minutes approved:_____

Written Communications/Testimony and Submitted Documents

From: Joe Egli

Sent: Monday, October 19, 2015 4:59 PM

To: keizercitycouncil@keizer.org

Cc: Kim Freeman; Cathy Clark; Dennis Koho; Parsons, Marlene; Roland Herrera; Amy Ryan; Brandon Smith; Eppley, Christopher; Johnson, Shannon; Brown, Nate; Davis, Tracy; Lockhart, Debbie

Subject: Shopping carts

Hi All,

I wanted to come and testify tonight but I may not make it in time.

As you are considering the new ordinance for shopping carts I would urge you to consider the following in your decision.

1. Labeling each of the carts as required is an additional expense to each business.
2. Have you presented the issue to our Business Advocacy Committee for their point of view?
3. Most of us think it's just grocery stores but there are many stores that allow carts in Keizer including the dollar store, Lowes, Ross, Target, BiMart, Goodwill etc.
4. We are a business friendly community. Fining our businesses does not seem friendly to me.
5. We currently have 2 big grocery buildings that are empty, one more regulation is not welcoming to retailers.
6. Lastly, but absolutely most important: Removing a shopping cart from a business's property is theft, plain and simple.

By fining the business we are simply addressing the symptom, not finding a cure for the problem. We are letting our citizens know that it is okay to steal a shopping cart and leave it in the alley because the business they stole it from HAS to come pick it up.

Keizer is a pro-business, thinking on our feet community that does not just make ordinances because other communities have.

Maybe we can approach the actual issue by creating a specific fine for theft of shopping carts. Let's enforce the law for the theft of carts and encourage our citizens to call the police when they see someone walking down the street with a stolen cart. It seems like a waist of our police resources for this but it would not take very long before people realized the City of Keizer is serious about protecting our businesses. It's about enforcing the current laws, not about making new ones to circumvent the real issue.

I realize it is tough for some people to transport groceries, but they should return the cart when they are done. If our businesses feel their patrons need a cart, they can develop a loan program where their customer leaves something of value, credit card, or other deposit that they will get back when the cart is returned, they can also paint the carts pink so that we are not calling the police when we see a pink cart (random thoughts, sorry).

Your all doing great work, keep it up but let's not put one more fee on our businesses.

Thank you for your time,

Joe Egli
R. Bauer Insurance
503-588-0095
joe@rbauer.com

From: Lynn Tognoli
Sent: September 12, 2015
To: Mayor Clark

I saw the article in the Keizertimes about the carts that are abandoned. More than once my husband has had to return Safeway shopping carts on River Road. The carts are being used by teenagers to take them to Claggett Creek Park on Dearborn. We've called Safeway to tell them what is going; they promise to come and get them but my husband had to return the carts to them with no thankyou or anything from Safeway. The carts should not be allowed out of the parking lots. The stores are doing nothing to stop it including hiring people to walk the parking lot to be sure the carts are not removed from the parking lot. We as citizens of Keizer Oregon are tired of the businesses not taking control of shopping carts and then putting the expense for replacing them on the consumer. Let's put a stop to all of this. Thank you very much,
Lynn Tognoli