



AGENDA

STAYTON CITY COUNCIL MEETING

Monday, May 20, 2019

Stayton Community Center
400 W. Virginia Street
Stayton, Oregon 97383

CITY COUNCIL EXECUTIVE SESSION

6:00 p.m. in the Stayton Public Library's E.G. Siegmund Meeting Room

The purpose of the session is pursuant to Oregon Revised Statutes (ORS) 192.660.2(f), to consider information or records that are exempt by law from public inspection. Executive Sessions are closed to the public.

CALL TO ORDER

7:00 PM

Mayor Porter

FLAG SALUTE

ROLL CALL/STAFF INTRODUCTIONS

ANNOUNCEMENTS – PLEASE READ CAREFULLY

Items not on the agenda but relevant to City business may be discussed at this meeting. Citizens are encouraged to attend all meetings of the City Council to insure that they stay informed. Agenda items may be moved forward if a Public Hearing is scheduled.

- a. Additions to the agenda
- b. Declaration of Ex Parte Contacts, Conflict of Interest, Bias, etc.

PRESENTATIONS/COMMENTS FROM THE PUBLIC

Request for Recognition: If you wish to address the Council, please fill out a green "Request for Recognition" form. Forms are on the table at the back of the room. *Recommended time for presentation is 10 minutes. Recommended time for comments from the public is 3 minutes.*

CONSENT AGENDA

- a. April 15, 2019 City Council Minutes
- b. OLCC Change of Ownership – 7-Eleven Stores (382 E. Washington & 1925 W. Washington)

Purpose of the Consent Agenda:

In order to make more efficient use of meeting time, resolutions, minutes, bills, and other items which are routine in nature and for which no debate is anticipated, shall be placed on the Consent Agenda. Any item placed on the Consent Agenda may be removed at the request of any council member prior to the time a vote is taken. All remaining items of the Consent Agenda are then disposed of in a single motion to adopt the Consent Agenda. This motion is not debatable. The Recorder to the Council will then poll the council members individually by a roll call vote. If there are any dissenting votes, each item on the consent Agenda is then voted on individually by roll call vote. Copies of the Council packets include more detailed staff reports, letters, resolutions, and other supporting materials. A citizen wishing to review these materials may do so at Stayton City Hall, 362 N. Third Avenue, Stayton, or the Stayton Public Library, 515 N. First Avenue, Stayton.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or other accommodations for persons with disabilities should be made at least 48 hours prior to the meeting. If you require special accommodations contact Deputy City Recorder Alissa Angelo at (503) 769-3425.

BUSINESS FROM THE MAYOR

Committee and Commission Reappointments

- a. Public Safety Commission
 - Wendy Nau
 - Sam Duke

PUBLIC HEARING

Ordinance No. 1032, Amending Land Use Code to Provide Flexibility from Development and Improvement Standards for Properties on the National Register of Historic Places

- a. Commencement of Public Hearing
- b. Staff Report - Dan Fleishman
- c. Questions from the Council
- d. Public Testimony
- e. Questions from the Council
- f. Staff Summary
- g. Close of Hearing
- h. Council Deliberation
- i. Council Decision on Ordinance No. 1032

Ordinance No. 1033, Amending Land Use Code Regarding Fences in the Commercial and Downtown Zones

- a. Commencement of Public Hearing
- b. Staff Report - Dan Fleishman
- c. Questions from the Council
- d. Public Testimony
- e. Questions from the Council
- f. Staff Summary
- g. Close of Hearing
- h. Council Deliberation
- i. Council Decision on Ordinance No. 1033

UNFINISHED BUSINESS

Ordinance No. 1031, Amending Licensing Standards for Mobile Food Units

Action

- a. Staff Report – Dan Fleishman
- b. Council Deliberation
- c. Council Decision

Stayton City Council Rules Update

Action

- a. Staff Report – Alissa Angelo and Keith Campbell
- b. Council Deliberation
- c. Council Decision

NEW BUSINESS – None

STAFF/COMMISSION REPORTS – None

PRESENTATIONS/COMMENTS FROM THE PUBLIC

Recommended time for presentations is 10 minutes.

Recommended time for comments from the public is 3 minutes.

BUSINESS FROM THE CITY MANAGER

BUSINESS FROM THE MAYOR

BUSINESS FROM THE COUNCIL

FUTURE AGENDA ITEMS – June 3, 2019

- a. Public Hearings – 2018-19 FY Budget and Revenue Sharing
- b. AFSCME Union Contract Renewal
- c. Budget Adjustment

ADJOURN

CALENDAR OF EVENTS

MAY 2019

Monday	May 20	City Council	7:00 p.m.	Community Center (north end)
Wednesday	May 22	Library Board	6:00 p.m.	E.G. Siegmund Meeting Room
Tuesday	May 28	Planning Commission	7:00 p.m.	Community Center (north end)
Monday	May 27	CITY OFFICES CLOSED IN OBSERVANCE OF MEMORIAL DAY		
Tuesday	May 28	Public Safety Commission	6:00 p.m.	City Hall Conference Room

JUNE 2019

Monday	June 3	City Council	7:00 p.m.	Community Center (north end)
Tuesday	June 4	Parks & Recreation Board	6:00 p.m.	E.G. Siegmund Meeting Room
Tuesday	June 11	Commissioner's Breakfast	7:30 a.m.	Covered Bridge Café
Monday	June 17	City Council	7:00 p.m.	Community Center (north end)
Wednesday	June 19	Library Board	6:00 p.m.	E.G. Siegmund Meeting Room
Monday	June 24	Planning Commission	7:00 p.m.	Community Center (north end)

JULY 2019

Monday	July 1	City Council	7:00 p.m.	Community Center (north end)
Tuesday	July 2	Parks & Recreation Board	6:00 p.m.	E.G. Siegmund Meeting Room
Thursday	July 4	CITY OFFICES CLOSED IN OBSERVANCE OF THE FOURTH OF JULY		
Tuesday	July 9	Commissioner's Breakfast	7:30 a.m.	Covered Bridge Café
Monday	July 15	City Council	7:00 p.m.	Community Center (north end)
Wednesday	July 17	Library Board	6:00 p.m.	E.G. Siegmund Meeting Room
Monday	July 29	Planning Commission	7:00 p.m.	Community Center (north end)

AUGUST 2019

Monday	August 5	City Council	7:00 p.m.	Community Center (north end)
Tuesday	August 6	Parks & Recreation Board	6:00 p.m.	E.G. Siegmund Meeting Room
Tuesday	August 13	Commissioner's Breakfast	7:30 a.m.	Covered Bridge Café
Monday	August 19	City Council	7:00 p.m.	Community Center (north end)
Wednesday	August 21	Library Board	6:00 p.m.	E.G. Siegmund Meeting Room
Monday	August 26	Planning Commission	7:00 p.m.	Community Center (north end)

SEPTEMBER 2019

Monday	September 2	CITY OFFICES CLOSED IN OBSERVANCE OF LABOR DAY		
Tuesday	September 3	City Council	7:00 p.m.	Community Center (north end)
Wednesday	September 4	Parks & Recreation Board	6:00 p.m.	E.G. Siegmund Meeting Room
Tuesday	September 10	Commissioner's Breakfast	7:30 a.m.	Covered Bridge Café
Monday	September 16	City Council	7:00 p.m.	Community Center (north end)
Wednesday	September 18	Library Board	6:00 p.m.	E.G. Siegmund Meeting Room
Monday	September 30	Planning Commission	7:00 p.m.	Community Center (north end)

OCTOBER 2019

Tuesday	October 1	Parks & Recreation Board	6:00 p.m.	E.G. Siegmund Meeting Room
Monday	October 7	City Council	7:00 p.m.	Community Center (north end)
Tuesday	October 8	Commissioner's Breakfast	7:30 a.m.	Covered Bridge Café
Wednesday	October 16	Library Board	6:00 p.m.	E.G. Siegmund Meeting Room
Monday	October 21	City Council	7:00 p.m.	Community Center (north end)
Monday	October 28	Planning Commission	7:00 p.m.	Community Center (north end)

**City of Stayton
City Council Meeting Action Minutes
April 15, 2019**

LOCATION: STAYTON COMMUNITY CENTER, 400 W. VIRGINIA STREET, STAYTON

Time Start: 7:00 P.M.

Time End: 8:40 P.M.

COUNCIL MEETING ATTENDANCE LOG

COUNCIL	STAYTON STAFF
Mayor Henry Porter	Alissa Angelo, Deputy City Recorder
Councilor Paige Hook	Keith Campbell, City Manager
Councilor Christopher Molin	Dan Fleishman, Director of Planning & Development
Councilor Jordan Ohrt	Lance Ludwick, Public Works Director (excused)
Councilor David Patty	Janna Moser, Library Director
Councilor Brian Quigley	Rich Sebens, Chief of Police

AGENDA	ACTIONS
REGULAR MEETING	
<p>Announcements</p> <p>a. Additions to the Agenda</p> <p>b. Declaration of Ex Parte Contacts, Conflict of Interest, Bias, etc.</p>	<p>None.</p> <p>Councilor Quigley will abstain from the Public Hearing regarding 1160 E. Jefferson Street as the applicant is a family friend. Councilor Patty and Councilor Hook indicated they have driven past 1160 E. Jefferson Street but it will not impact their decision on Ordinance No. 1030.</p>
<p>Presentations / Comments from the Public</p> <p>a. John Mesa</p> <p>b. Chris Klein</p> <p>c. Deana Freres</p>	<p>Mr. Mesa spoke in support of Ordinance No. 1031 but feels a better plan should be explored for Third Avenue.</p> <p>Mr. Klein spoke in support of Ordinance No. 1031.</p> <p>Ms. Freres presented the Stayton Public Library's annual contribution of \$6,500 to be used in support of Library operations and continued support for the Outreach Storyteller Program.</p>
<p>Consent Agenda</p> <p>a. April 1, 2019 City Council Minutes</p>	<p>Motion from Councilor Molin, seconded by Councilor Hook, to approve the consent agenda as presented. Motion passed 5:0.</p>
<p>Public Hearing</p> <p>Zone Map Amendment, 1160 E. Jefferson Street</p> <p>a. Commencement of Public Hearing</p> <p>b. Staff Introduction</p>	<p>Mayor Porter opened the hearing at 7:13 p.m. Councilor Quigley will abstain from the Public Hearing regarding 1160 E. Jefferson Street as the applicant is a family friend. Councilor Patty and Councilor Hook indicated they have driven past 1160 E. Jefferson Street but it will not impact their decision on Ordinance No. 1030.</p> <p>Mr. Fleishman provided an introduction.</p>

<ul style="list-style-type: none"> c. Applicant Presentation d. Staff Report e. Questions from the Council f. Public Testimony g. Questions from the Council h. Applicant Summary i. Staff Summary j. Close of Hearing k. Council Deliberation l. Council Decision on Ordinance No. 1030 	<p>Mr. Humphries provided a brief review of his application. Mr. Fleishman reviewed the staff report. Questions and discussion of what the new zoning will allow to be built; daily transportation trips; and Accessory Dwelling Units. None. None. Mr. Humphries provided a brief summary. Mr. Fleishman provided a summary. Mayor Porter closed the hearing at 7:28 p.m. None. Motion from Councilor Ohrt, seconded by Councilor Hook, to approve the application of Tadd Humphreys and Scott Humphreys (Land Use File #1-02/19) and Ordinance No. 1030 as presented. Motion passed 4:0 (Quigley abstained).</p>
<p>Unfinished Business</p>	<p>None.</p>
<p>New Business Joint Presentation with Planning Commission on Draft Transportation System Plan</p> <ul style="list-style-type: none"> a. Staff Report – Dan Fleishman <p>Ordinance No. 1031, Amending Licensing Standards for Mobile Food Units</p> <ul style="list-style-type: none"> a. Staff Report – Dan Fleishman b. Council Deliberation c. Council Decision <p>Stayton City Council Rules Update</p> <ul style="list-style-type: none"> a. Staff Report – Alissa Angelo and Keith Campbell 	<p>Susie Wright of Kittelson and Associates and Darci Rudzinski of Angelo Planning Group provided a presentation on Stayton’s Transportation System Plan update and implementation process.</p> <p>Council questions on funding for proposed projects, widening of Shaff Road to 3 lanes, and sidewalks on Ida Street.</p> <p>Mr. Fleishman reviewed the staff report.</p> <p>Council questions and discussion of reasoning for restrictions of food trucks parking on Third Avenue; visibility issues; potential solutions for food trucks being able to park on Third Avenue.</p> <p>Direct staff to bring back a map showing current locations this will impact when Ordinance No. 1031 is adopted, and</p> <p>Ms. Angelo reviewed the staff report. Brief Council discussion. Staff will bring the topic back before the Council at the May 20, 2019 meeting.</p>
<p>Staff / Commission Reports</p>	<p>None.</p>
<p>Presentations / Comments from the Public</p>	<p>None.</p>
<p>Business from the City Manager</p>	<p>The Main Street Open House will be held on April 22nd at the Stayton Public Library.</p> <p>Ms. Moser provided an update on the recent semi-annual</p>

	<p>Friends of the Stayton Library Used Book Sale.</p> <p>An Economic Development Strategies Open House will be held on Thursday, April 18th at 7:00 p.m. at the Stayton Public Library.</p>
Business from the Mayor	None.
Business from the Council	Councilor Quigley recognized Revitalize Downtown Stayton for their recent Downtown Waterway Cleanup.
Future Agenda Items – Monday, May 6, 2019	
a. Budget Committee Meeting	

APPROVED BY THE STAYTON CITY COUNCIL THIS 20TH DAY OF MAY 2019, BY A ____ VOTE OF THE STAYTON CITY COUNCIL.

Date: _____

By: _____
Henry A. Porter, Mayor

Date: _____

Attest: _____
Keith D. Campbell, City Manager

Date: _____

Transcribed by: _____
Alissa Angelo, Deputy City Recorder



CITY OF STAYTON
M E M O R A N D U M

TO: Mayor Henry Porter and the Stayton City Council
FROM: Rich Sebens, Chief of Police
DATE: May 20, 2019
SUBJECT: Liquor License- "Change of Ownership" Application-
Off Premises Sales

ISSUE:

7-Eleven has purchased both "Circle K" convenience stores in Stayton. They are located at 1925 W. Washington St. and at 382 E. Washington St. The 7-Eleven Corporation has requested approval for a "change of ownership" application for an OLCC "Off Premises Sales" Liquor License both locations. Their plan is to remodel the stores to 7-Eleven standards in the near future.

BUSINESS NAME:	7-Eleven, Inc. 1925 W. Washington St. Stayton, Oregon 97383 B: (503) 769-9729	7-Eleven, Inc. 382 E. Washington St. Stayton, Oregon 97383 B: (503) 769-9731
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New Owner: **7-Eleven, Inc.**
3200 Hackberry Rd
Irving, TX 75063

STAFF RECOMMENDATION:

It is the recommendation of the Stayton Police Department to forward both applications to the Oregon Liquor Control Commission (OLCC) with a recommendation for approval.

FACTS AND FINDINGS:

Based on the application and investigation, I find no legal authority to recommend denial of this application.

MOTION(S):

No Motions are needed as this is a consent agenda item.



CITY OF STAYTON

APPLICATION FOR COMMISSION/COMMITTEE

NAME OF COMMISSION/COMMITTEE:

Public Safety Commission

PLEASE CHECK ONE:

New Applicant

Application for reappointment

Years resided in Stayton: 18 years

PLEASE PRINT

Name Wendy Nau

Address 1750 E Virginia St

Home Ph# _____

Email Address naucan@wvi.com

Cell Ph# 503-480-9518

Occupation Office Manager

Place of Employment Stayton Middle School

Business Address 1021 Shaff Rd, Stayton OR 97383

Phone 503-769-2198

Email wendy.nau@nsantiam.k12.or.us

-
-
1. Please give a brief description of the experience or training that qualifies you for membership on this commission/committee. (If you wish, you may attach a resume or other pertinent material.)

I have been a member of the Public Safety Committee for the past six years. I believe my perspective as an office manager in one of our schools is very important to the committee.

2. Why do you want to become a member of the above-mentioned commission/committee and what specific contribution would you hope to make?

I believe I am very connected in the community and can contribute different perspectives having been a parent of NSSD students and also a school employee for the past seven years.

PLEASE COMPLETE BOTH SIDES OF THIS APPLICATION

3. Please list the community concerns related to this commission/committee that you would like to see addressed if you are appointed.

Since with work with kids, I a especially concerned about the relationship between the police department and the schools in our community.

4. Briefly describe your present or past involvement in relevant community groups. (Having no previous involvement will not disqualify you for appointment.)

I have served on the Santiam Family YMCA Board, Stayton Police Department's Public Safety Commission, SHS Booster Auction, Senior All Night Party Committee and I have been a YMCA volleyball coach. I have also volunteered many, many hours for community events not related to my committee work.

5. Are you currently serving on any Advisory Boards, Commissions or Committees? If so, which ones?
Stayton Police Department's Public Safety Commission

6. How did you learn about this vacancy?

_____ Our Website _____ Word of mouth Other

7. Are you employed by, have any business, contractual arrangements or family connections with programs having contractual agreements with the City that might be within the purview of the committee on which you are seeking appointment?

No

Signature of Applicant _____ Date _____

PLEASE RETURN TO: City of Stayton
 362 N. Third Avenue
 Stayton, OR 97383

It is the policy of the City to comply with all federal and state statutes on equal employment opportunity. This policy shall be applied without regard to any individual employee or job applicant's sex, race, color, religion, national origin, ancestry, age, marital status, political affiliation, genetic information, veteran status or any other legally protected status per state and federal law.

PLEASE COMPLETE BOTH SIDES OF THIS APPLICATION



CITY OF STAYTON

APPLICATION FOR COMMISSION/COMMITTEE

NAME OF COMMISSION/COMMITTEE:
Sam Dulce

PLEASE CHECK ONE:
 New Applicant
 Application for reappointment

Years resided in Stayton: 7

PLEASE PRINT

Name Sam Dulce

Address 1446 Wilshire dr Home Ph# —

Email Address gbfstayton@gmail.com Cell Ph# 541-971-2286

Occupation Pastor

Place of Employment Grace Bible Fellowship

Business Address PO box 24 Stayton, OR 97383

Phone 541-971-2286 Email gbfstayton@gmail.com

1. Please give a brief description of the experience or training that qualifies you for membership on this commission/committee. (If you wish, you may attach a resume or other pertinent material.)

I Love Law enforcement, It is so, so important to developing a better community!

I have alot of experience working with first responders as a pastor.

2. Why do you want to become a member of the above-mentioned commission/committee and what specific contribution would you hope to make?

I Love this community & I want to help make it a safe place. I would like to contribute to the relationship between the community & the Department as well.

3. Please list the community concerns related to this commission/committee that you would like to see addressed if you are appointed.

No concerns, just passionate about involvement

4. Briefly describe your present or past involvement in relevant community groups. (Having no previous involvement will not disqualify you for appointment.)

None

5. Are you currently serving on any Advisory Boards, Commissions or Committees? If so, which ones?

I am on the board of Crisis Chaplaincy Services

6. How did you learn about this vacancy?

_____ Our Website Word of mouth _____ Other

7. Are you employed by, have any business, contractual arrangements or family connections with programs having contractual agreements with the City that might be within the purview of the committee on which you are seeking appointment?

No

Signature of Applicant _____

Date _____

3/16/19

PLEASE RETURN TO: City of Stayton
362 N. Third Avenue
Stayton, OR 97383

It is the policy of the City to comply with all federal and state statutes on equal employment opportunity. This policy shall be applied without regard to any individual employee or job applicant's sex, race, color, religion, national origin, ancestry, age, marital status, political affiliation, genetic information, veteran status or any other legally protected status per state and federal law.

PLEASE COMPLETE BOTH SIDES OF THIS APPLICATION



CITY OF STAYTON
M E M O R A N D U M

TO: Mayor Henry Porter and the Stayton City Council
FROM: Dan Fleishman, Director of Planning and Development
DATE: May 20, 2019
SUBJECT: Ordinance 1032 Amending Land Use Code to provide some flexibility from Development and Improvement Standards for properties on the National Register of Historic Places

ISSUE

The issue before the City Council is a public hearing on legislative amendments to the Land Use and Development Code on proposed Code amendments that would provide some flexibility in the application of the development and improvement standard for properties listed on the National Register of Historic Places. Following the public hearing, the Council will be requested to consider Ordinance 1032 to amend the Code.

BACKGROUND INFORMATION

There are currently three properties listed on the National Register: the Brown House at 425 N First Ave, Gelhen-Sims Building at 189 N Second Ave, and the Deitrich Building at 195 N Third Ave. A nomination has been filed for a fourth building, the Beauchamp Building at 395 N Third Ave.

Complying with all of the requirements of the Land Use and Development Code may result in the conflicts with maintaining the historic character of the subject properties.

PROPOSED AMENDMENT

The proposed amendments to the Land Use and Development Code are attached on the following pages. The proposed amendments make a number of minor editing changes to the Section of the Code regarding Site Plan Review. They also add a new subsection to the list of approval criteria that would allow the decision authority to approve a site plan that does not meet all of the development and improvement standards of Chapter 17.20 or the access spacing standards of 17.26 provided the proposed improvements are in conformance with federal standards for historic properties, the site will provide safe ingress and egress to streets, and adequate stormwater management will be provided.

RECOMMENDATION

Following their March public hearing, the Planning Commission has recommended adoption of the amendments. Staff recommends adoption of Ordinance 1032 as presented.

OPTIONS AND MOTIONS

The City Council is presented with the following options.

1. Continue the hearing

Move to continue the public hearing until June 3, 2019.

2. Close the hearing and approve the first consideration of Ordinance 1032

Move to approve Ordinance No 1032 as presented.

The City Recorder shall call the roll and the names of each Councilor present and their vote shall be recorded in the meeting minutes. If the vote is unanimous, Ordinance No. 1033 is enacted and will be presented to the Mayor for his approval.

If the vote is not unanimous, Ordinance No. 1032 will be brought before the Council for a second consideration at the June 3, 2019 meeting.

3. Close the hearing and approve the Ordinance with modifications

Move to approve Ordinance No. 1032 with the following changes ... and direct staff to incorporate these changes into the Ordinance before the Ordinance is presented to the City Council for a second consideration.

The City Recorder shall call the roll and the names of each Councilor present and their vote shall be recorded in the meeting minutes. If the first consideration is approved, Ordinance No. 1032 will be brought before the Council for a second consideration at its June 3, 2019 meeting.

4. Close the hearing and retain the Code unchanged

No motion is necessary.

BEFORE THE STAYTON PLANNING COMMISSION

In the matter of

) Development Code Amendments regarding
) Properties on the National Register of Historic Places
) Land Use File 2-02/19

RECOMMENDATION OF APPROVAL

I. NATURE OF PROCEEDINGS

The proceedings are for legislative amendments to the Stayton Municipal Code, Title 17, known as the Stayton Land Use and Development Code regarding properties on the National Register of Historic Places.

II. PUBLIC HEARING

A public hearing was held on the proposal before the Stayton Planning Commission on March 25, 2019. At that hearing the Planning Commission reviewed Land Use File #2-02/19 to amend the Land Use and Development Code and made it part of the record. The Planning Commission has considered the testimony at the public hearing.

III. FINDINGS OF FACT

1. There are currently three properties within the City of Stayton listed on the National Register of Historic Places.
2. The Secretary of the Interior has adopted standards for the treatment of properties on the National Register, which must be met by Certified Local Governments and in order for property owners to qualify for certain federal tax credits..
3. Compliance with the requirements of portions of Chapter 17.20 of the Land Use and Development Code, Development and Improvement Standards may not be conform to the standards for treatment of properties on the National Register.
4. Properties on the National Register of Historic Places are “Goal 5 Resources” and Policy NR-4 of the Comprehensive Plan is to protect historic sites from inappropriate changes.
5. The proposed amendments would allow the decision authority, in the site plan review process to approve a site plan for a property on the National Register of Historic Places that does not meet all of the development improvement standards of Chapter 17.20 or the access spacing standards of Chapter 17.26 if the proposed improvements are in conformance with the Secretary of the Interior’s Standards for Treatment of Historic Properties.

IV. PUBLIC COMMENTS

The Planning Department received no comments prior to the public hearing. There was no public testimony at the public hearing opposed to the proposed amendment.

V. ORDER

Based on the findings of fact, the Planning Commission voted on March 25, 2019 to recommend to the City Council enactment of proposed amendments to the Stayton Land Use and Development Code, as presented in a document entitled, “Proposed Amendments to Section 17.12.220 Site Plan Review to Increase Flexibility for Properties on the National Register of Historic Places, Draft For Planning Commission Public Hearing, March 25, 2019.”

Ralph R. Lewis

Ralph Lewis, Chairperson

Dan Fleishman

Dan Fleishman, City Planner

3-25-19

Date

3/25/19

Date

ORDINANCE NO. 1032

**AN ORDINANCE AMENDING STAYTON MUNICIPAL CODE TITLE
17, PROVIDING FLEXIBILITY FROM STANDARDS FOR
PROPERTIES ON THE NATIONAL REGISTER OF HISTORIC
PLACES**

WHEREAS, Oregon Revised Statutes, Chapter 197 requires municipalities to adopt and implement a comprehensive land use planning program in accordance with statewide planning goals established by the Legislature and the Oregon Land Conservation and Development Commission;

WHEREAS, the City of Stayton has adopted Title 17 of the Stayton Municipal Code (SMC) as the Land Use and Development Code;

WHEREAS, SMC Title 17, Chapter 20 of the Land Use and Development Code, includes Development and Improvements Standards for development within the City;

WHEREAS, there are a number of properties within the City listed on the National Register of Historic Places;

WHEREAS, compliance with all of the Development and Improvement Standards of Chapter 17.20 may not be compatible with maintaining the historic features of these properties;

WHEREAS, a number of provisions in the submittal requirements and approval criteria for site plan review need updating;

WHEREAS, the Planning Commission has initiated the amendment of the Code;

WHEREAS, notice of the proposed amendment was sent to the Department of Land Conservation and Development more than 35 days in advance of the Planning Commission's public hearing;

WHEREAS, following a public hearing, the Planning Commission has recommended that the City Council enact the amendments; and

WHEREAS, the Stayton City Council, following a public hearing, does find that the amendments proposed by the Planning Commission are appropriate and are consistent with the Comprehensive Plan.

NOW, THEREFORE, the City of Stayton ordains:

Section 1. Site Plan Review Amended. Stayton Municipal Code, Title 17, Chapter 12, Section 17.12.220 is hereby amended shown on Exhibit A attached hereto and incorporated herein.

Section 2. Effective Date. This Ordinance shall not become effective until the 30th day after adoption by the Stayton City Council and execution by the Mayor, or a representative of the Mayor. In the event of a timely appeal to LUBA, this Ordinance shall not become effective until the LUBA appeal is finally resolved, including any appeals from the decision of LUBA.

Section 3. A copy of this Ordinance shall be furnished to the State of Oregon, Department of Land Conservation and Development, as required by OAR 660-018-0040.

ADOPTED BY THE STAYTON CITY COUNCIL this 20th day of May, 2019.

CITY OF STAYTON

Signed: _____, 2019

BY: _____
Henry A. Porter, Mayor

Signed: _____, 2019

ATTEST: _____
Keith D. Campbell,
City Administrator

DRAFT

EXHIBIT A

Additions are underlined; Deletions are ~~crossed-out~~

17.12.220 SITE PLAN REVIEW

1. DEFINITION. A site plan review is a detailed examination of the physical characteristics of a proposed development or improvement to property prior to any site preparation, tree removal, or development, with special attention given to the design of the development or improvement and the potential impacts on adjoining properties or land uses. A site plan review requires the evaluation of specific criteria as cited herein.
2. METHOD OF ADOPTION.
 - a. Site plans shall be adopted pursuant to the requirements of Sections 17.12.070 through 17.12.100. The decision shall be made in accordance with this ~~title~~Title.
3. REQUIREMENTS FOR SITE PLAN REVIEW. Site plan review approval is required when:
 - a. A site plan review overlay district is imposed by the City Council as a condition of rezoning the parent or principal zone of a given property or properties.
 - b. Made a condition of approval of a conditional use.
 - c. Otherwise required by specific provisions of this ~~title~~Title.
 - d. (Repealed, Ord. 898, August 20, 2007)
 - e. Improvements to existing development causing more than a 15% increase in traffic or parking needs.
 - f. Improvements exceeding 15% of existing development by area, not including the area of internal roadways, parking and loading areas, and landscaping.
4. SUBMITTAL REQUIREMENTS. In order to be accepted as complete and processed in a timely manner by the City, requests for approval of site reviews shall include the following materials and information:
 - a. Completed application forms as supplied by the City Planner.
 - b. ~~Three copies of a~~A site plan, drawn to a scale of 1 inch equals not more than 50 feet, showing the property for which the site plan review is requested: ~~In addition, a reduced copy of the plan sized as 11 inches by 17 inches.~~ The site plan shall show, or be accompanied by, the following:
 - 1) The name of the person who prepared the plan.
 - 2) A north point, graphic scale, and date of the proposed site plan.
 - 3) Topography of the site with contour intervals of not more than 2 feet.
 - 4) The names and addresses of the landowners, applicant, and the engineer, surveyor, land planner, landscape architect, or any other person responsible for designing the proposed site plan.
 - 5) The tax map number (township, range and section) and lot number of all properties included in the proposed site plan.
 - 6) The boundary lines of the properties as certified by a professional land surveyor and approximate area of the properties in acres or square feet.

- 7) The location, widths, and names of existing or platted streets or other public ways (including easements) within or adjacent to the tract, existing permanent buildings and any addresses for the buildings.
- 8) The location of existing sewage systems, storm water systems and water mains, culverts, drainage ways, or other underground utilities or structures within, or immediately adjacent to the property.
- 9) A preliminary storm water management plan for the development, prepared in accordance with the Public Works Design Standards.
- 10) The locations of proposed sewer disposal and water supply systems in accordance with the City's Wastewater and Water Master Plans.
- 11) The locations of any prominent natural features such as: water courses (including direction of their flow), wetlands, rock outcroppings, and areas subject to flooding or other natural hazards.
- 12) A landscaping plan prepared in accordance with Section 17.20.090.3
- 13) The location of parking facilities for the site including any parking areas shared with adjacent uses by reciprocal access agreement.
- 14) A Traffic Impact Analysis (TIA) or Transportation Assessment Letter as required by Section 17.26.050
- 15) The location of any proposed structures including the ground coverage, floor area and proposed use. Building elevation drawings shall be submitted to the extent necessary to show compliance with the requirements of Sections 17.20.190, 17.20.200, 17.20.220, and 17.20.230.
- 16) The location and dimensions of open storage areas or outdoor storage yards.
- 17) The size location, direction and intensity of illumination of all signs and a lighting plan that includes.
 - a) The location of all existing and proposed exterior lighting fixtures.
 - b) Specifications for all proposed lighting fixtures including photometric data, color-rendering index of all lamps, and other descriptive information of the fixtures.
 - c) Proposed mounting height of all exterior lighting fixtures
 - d) Analyses and illuminance level diagrams showing that the proposed installation conforms to the light level standards of Section 17.20.170.
 - e) Drawings of all relevant building elevations showing the fixtures, the portions of the walls to be illuminated, the illuminance levels of the walls, and the aiming points for any remote light fixtures.
- 18) The location of any free standing signage and the proposed size(s) and dimension(s).
- 19) The location of any proposed screening including fences, walls, hedges and berms.
- 20) When any development activity is proposed on a location a slope of 20% or steeper, a geotechnical study, prepared by a licensed geologist or registered engineer with experience in geotechnics, determining the suitability of the site for construction considering the possibility of increased erosion potential, slope stability, slippage and other concerns.

- c. A narrative statement fully explaining the request and fully addressing the criteria for approval of site plan review.
5. APPROVAL CRITERIA. The following criteria must be demonstrated as being satisfied by the application:
- a. The existence of, or ability to obtain, adequate utility systems (including water, sewer, surface water drainage, power, and communications) and connections, including easements, to properly serve development in accordance with the City's Master Plans and ~~Standard Specifications~~ [Public Works Design Standards](#). Where an adopted Master Plan calls for facilities larger than necessary for service to the proposed use, the developer shall install the size facilities called for in the Master Plan, and shall be provided credit for the excess costs in accordance with SMC 13.12.245.
 - b. Provisions have been made for safe and efficient internal traffic circulation, including both pedestrian and motor vehicle traffic, and for safe access to the property from those public streets which serve the property in accordance with the City's Transportation System Plan and ~~Standard Specifications~~ [Public Works Design Standards](#).
 - c. Provision has been made for all necessary improvements to local streets and roads, including the dedication of additional right-of-way to the City and/or the actual improvement of traffic facilities to accommodate the additional traffic load generated by the proposed development of the site in accordance with Chapter 17.26, [the City's Transportation System Plan, and Public Works Design Standards](#).
 - d. Provision has been made for parking and loading facilities as required by Section 17.20.060.
 - e. Open storage areas or outdoor storage yards shall meet the standards of Section 17.20.070.
 - f. Site design shall minimize off site impacts of noise, odors, fumes or impacts.
 - g. The proposed improvements shall meet all applicable criteria of either Section 17.20.190 [Multi-family Residential Design Standards](#), Section 17.20.200 Commercial Design Standards, ~~or~~ Section 17.20.220 Downtown Development Design Standards, or Section 17.20.230 Industrial Design Standards.
 - h. (Repealed Ord. 913, September 2, 2009)
 - i. (Repealed Ord. 913, September 2, 2009)
 - j. Landscaping of the site shall prevent unnecessary destruction of major vegetation, preserve unique or unusual natural or historic features, provide for vegetative ground cover and dust control, present an attractive interface with adjacent land uses and be consistent with the requirements for landscaping and screening in Section 17.20.090.
 - k. The design of any visual, sound, or physical barriers around the property such as fences, walls, vegetative screening, or hedges, shall allow them to perform their intended function and comply with the requirements in Sections 17.20.050 and 17.20.090.
 - l. The lighting plan satisfies the requirements of Section 17.20.170.
 - m. The applicant has established continuing provisions for maintenance and upkeep of all improvements and facilities.
 - n. When any portion of an application is within 100 feet of North Santiam River or Mill Creek or within 25 feet of Salem Ditch, the proposed project will not have adverse impact on fish habitat.

~~n.o.~~ Notwithstanding the above requirements the decision authority may approve a site plan for a property on the National Register of Historic Places that does not meet all of the development and improvement standards of Chapter 17.20 and the access spacing standards of Chapter 17.26 provided the decision authority finds that improvements proposed are in conformance with Secretary of the Interior's Standards for Treatment of Historic Properties, the site will provide safe ingress and egress to the public street system, and that adequate stormwater management will be provided.

6. IMPOSITION OF RESTRICTIONS AND CONDITIONS.

- a. The decision authority may prescribe restrictions or limitations for the proposed site plan review approval as it deems necessary to fulfill the purpose and intent of ~~the code~~ this Title. Such restrictions or limitations shall be based on evidence and analysis presented to or generated by the decision authority during the course of its evaluation of the request, and shall be made a part of the approval action. Conditions may limit the time or duration of the use.
- b. To ensure that required public improvements are made in a timely and acceptable manner, the applicant(s) may be required by the City to provide acceptable financial assurance to the City consistent with the requirements of Section 17.20.120.
- c. A violation of any such condition(s) or limitation(s) shall constitute a violation of this ~~code~~ Title.



CITY OF STAYTON
M E M O R A N D U M

TO: Mayor Henry Porter and the Stayton City Council
FROM: Dan Fleishman, Director of Planning and Development
DATE: May 20, 2019
SUBJECT: Ordinance 1033 Amending Land Use Code regarding fences in the Commercial and Downtown Zones

ISSUE

The issue before the City Council is a public hearing on legislative amendments to the Land Use and Development Code on proposed Code amendments to allow fences in the front yards within Commercial and Downtown zones. Following the public hearing, the Council will be requested to consider Ordinance 1033 to amend the Code.

BACKGROUND INFORMATION

Currently the Code currently prohibits fences in the front yards of properties in the Commercial and Downtown Zones.

PROPOSED AMENDMENT

The proposed amendment establishes standards under which fences would be permitted in the front yard in these zones. Fences would be limited to 42 inches in height, must be made of wrought iron or tubular steel or aluminum, have narrow vertical members no less than 4 inches apart and be painted a limited choice of colors.

RECOMMENDATION

Following their March public hearing, the Planning Commission has recommended adoption of the amendments. Staff recommends adoption of Ordinance 1033 as presented.

OPTIONS AND MOTIONS

The City Council is presented with the following options.

1. Continue the hearing

Move to continue the public hearing until June 3, 2019.

2. Close the hearing and approve the first consideration of Ordinance 1033

Move to approve Ordinance No 1033 as presented.

The City Recorder shall call the roll and the names of each Councilor present and their vote shall be recorded in the meeting minutes. If the vote is unanimous, Ordinance No. 1033 is enacted and will be presented to the Mayor for his approval.

If the vote is not unanimous, Ordinance No. 1033 will be brought before the Council for a second consideration at the June 3, 2019 meeting.

3. Close the hearing and approve the Ordinance with modifications

Move to approve Ordinance No. 1033 with the following changes ... and direct staff to incorporate these changes into the Ordinance before the Ordinance is presented to the City Council for a second consideration.

The City Recorder shall call the roll and the names of each Councilor present and their vote shall be recorded in the meeting minutes. If the first consideration is approved, Ordinance No. 1033 will be brought before the Council for a second consideration at its June 3, 2019 meeting.

4. Close the hearing and retain the Code unchanged

No motion is necessary.

BEFORE THE STAYTON PLANNING COMMISSION

In the matter of

-) Development Code Amendments regarding
-) Fences in Commercial and Downtown Zones
-) Land Use File 3-02/19

RECOMMENDATION OF APPROVAL

I. NATURE OF PROCEEDINGS

The proceedings are for legislative amendments to the Stayton Municipal Code, Title 17, known as the Stayton Land Use and Development Code regarding fences in the Commercial and Downtown zones.

II. PUBLIC HEARING

A public hearing was held on the proposal before the Stayton Planning Commission on March 25, 2019. At that hearing the Planning Commission reviewed Land Use File #3-02/19 to amend the Land Use and Development Code and made it part of the record. The Planning Commission has considered the testimony at the public hearing.

III. FINDINGS OF FACT

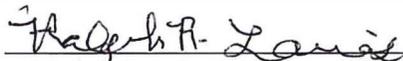
1. Section 17.20.050.2.a of the Land Use and Development Code currently prohibits fences in the front yard of properties in the Commercial and Downtown zones.
2. The proposed amendments would allow fences in the front yard of properties in the Commercial and Downtown zones provided they are no more than 42 inches tall, are made of wrought iron or tubular steel or aluminum, have narrow vertical members no less than 4 inches apart, and painted black.

IV. PUBLIC COMMENTS

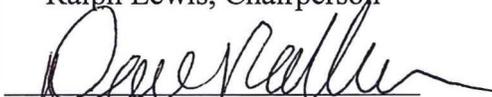
The Planning Department received no comments prior to the public hearing. There was no public testimony at the public hearing opposed to the proposed amendment.

V. ORDER

Based on the findings of fact, the Planning Commission voted on March 25, 2019 to recommend to the City Council enactment of proposed amendments to the Stayton Land Use and Development Code, as presented in a document entitled, "Proposed Amendments to Section 17.20.050 Fences, Draft For Planning Commission Public Hearing, March 25, 2019."


 Ralph Lewis, Chairperson

3-25-19
 Date


 Dan Fleishman, City Planner

3/25/19
 Date

ORDINANCE NO. 1033

AN ORDINANCE AMENDING STAYTON MUNICIPAL CODE TITLE 17, AMENDING STANDARDS FOR FENCES IN THE COMMERCIAL AND DOWNTOWN ZONES

WHEREAS, Oregon Revised Statutes, Chapter 197 requires municipalities to adopt and implement a comprehensive land use planning program in accordance with statewide planning goals established by the Legislature and the Oregon Land Conservation and Development Commission;

WHEREAS, the City of Stayton has adopted Title 17 of the Stayton Municipal Code (SMC) as the Land Use and Development Code;

WHEREAS, SMC Title 17, Chapter 20 of the Land Use and Development Code, includes Development and Improvements Standards for development within the City, including standards regulating fences;

WHEREAS, Section 17.20.050.2 currently prohibits fences within the front yard of properties in the Commercial and Downtown Zones;

WHEREAS, there are situations where fences may be appropriate in these zones;

WHEREAS, the Planning Commission has initiated the amendment of the Code;

WHEREAS, notice of the proposed amendment was sent to the Department of Land Conservation and Development more than 35 days in advance of the Planning Commission's public hearing;

WHEREAS, following a public hearing, the Planning Commission has recommended that the City Council enact the amendments; and

WHEREAS, the Stayton City Council, following a public hearing, does find that the amendments proposed by the Planning Commission are appropriate and are consistent with the Comprehensive Plan.

NOW, THEREFORE, the City of Stayton ordains:

Section 1. Standards for Fences in Commercial and Downtown Zones Amended. Stayton Municipal Code, Title 17, Chapter 12, Section 17.12.050.2 is hereby amended as follows:

2. COMMERCIAL AND DOWNTOWN ZONES.

- a. ~~No fences shall be allowed in the front yard.~~ Fences in the front yard must be placed on private property and not extend into or over the street right of way. Fences in the front yard shall
 - 1) be no more than 42 inches tall;
 - 2) be made of wrought iron or tubular steel or aluminum;
 - 3) have vertical members no more than 1½ inches in diameter or width;
 - 4) have vertical members no less than 4 inches apart; and
 - 5) be painted black, white, silver, brown or dark green.
- b. Fencing of outdoor service areas shall meet the standards of Section 17.20.200.3.b.4.
- c. Open fences up to 10 feet in height and solid fences up to 7 feet in height shall be allowed for screening of open storage areas.

- d. Except as provided in Section 17.20.090.13, fences located in rear and side yards shall be no more than 7 feet in height.

Section 2. Effective Date. This Ordinance shall not become effective until the 30th day after adoption by the Stayton City Council and execution by the Mayor, or a representative of the Mayor. In the event of a timely appeal to LUBA, this Ordinance shall not become effective until the LUBA appeal is finally resolved, including any appeals from the decision of LUBA.

Section 3. A copy of this Ordinance shall be furnished to the State of Oregon, Department of Land Conservation and Development, as required by OAR 660-018-0040.

ADOPTED BY THE STAYTON CITY COUNCIL this 20th day of May, 2019.

CITY OF STAYTON

Signed: _____, 2019

BY:

Henry A. Porter, Mayor

Signed: _____, 2019

ATTEST:

Keith D. Campbell,
City Administrator



CITY OF STAYTON
M E M O R A N D U M

TO: Mayor Henry Porter and the Stayton City Council
FROM: Dan Fleishman, Director of Planning and Development
Rich Sebens, Police Chief
DATE: May 20, 2019
SUBJECT: Ordinance 1031 Amending Licensing Standards for Mobile Food Units

ISSUE

The issue before the City Council is consideration of an ordinance amending the current location restrictions for mobile food units.

BACKGROUND INFORMATION

Ordinance 1018 was enacted in May 2018, establishing licensing requirements and standards for the operation of food trucks (formally known as mobile food units) in the City. As enacted food trucks must be located on private property and may not operate on a public street, in addition to the other regulations.

PROPOSED AMENDMENTS

As a result of a request from a downtown business, staff has proposed amending the standards to allow a food truck to be parked in the street, under certain circumstances.

The proposed amendments would permit a food truck in a street right of way provided the street is classified as a local street (not an arterial or collector street) but not on N Third Ave. The food truck must be parked in a legal parking space, at least 20 feet from a cross walk at an intersection. The service window must face the curb. The food truck must be adjacent to a sidewalk with a minimum width of six feet.

PREVIOUS DISCUSSION

Ordinance 1031 was presented to the City Council at the April 15 meeting. At that time, the Council requested that staff return with some maps that would show where food trucks would be permitted to be located. Attached is a map (Available Locations for Food Trucks Under Proposed Changes) that shows the locations in the downtown area where food trucks would be permitted. There are no other areas of the City that are zoned for commercial use, have 6-foot sidewalks and are not an arterial or collector street. The attached map shows the areas where food trucks could park along streets other than N Third in green, and potential sites along N Third in blue.

ADDITIONAL OPTIONS

Staff continues to be concerned about the impacts of allowing food trucks to locate on N Third Ave, particularly on existing retail businesses, the theater and public facilities.

As a result, staff has explored some additional options for consideration by the Council. The first option would be to allow food trucks on N Third Ave, but not directly in front of a building. This would make a few locations, such as in front of parking areas or along the Salem Ditch, available but not impact existing businesses or public facilities. A second map is enclosed (Possible N Third Ave Food Truck Locations) which shows those potential locations.

RECOMMENDATION

Staff continues to recommend enactment of Ordinance 1031 as presented, allowing food trucks to set up on streets that are not arterial streets, collector streets or N Third Ave.

OPTIONS AND MOTIONS

The City Council is presented with the following options.

1. Approve the first consideration of Ordinance 1031

Move to approve Ordinance 1031 as presented.

The City Recorder shall call the roll and the names of each Councilor present and their vote shall be recorded in the meeting minutes. If the vote is unanimous, Ordinance 1031 is enacted and will be presented to the Mayor for his approval.

If the vote is not unanimous, Ordinance 1031 will be brought before the Council for a second consideration at the June 3, 2019 meeting.

2. Approve the Ordinance with modifications to allow food trucks on N Third Ave in limited locations

Move to approve Ordinance 1031 with an amendment to allow food trucks to be located on N Third Ave provided they are not in front of a building and direct staff to incorporate these changes into the Ordinance before the Ordinance is presented to the City Council for a second consideration.

The City Recorder shall call the roll and the names of each Councilor present and their vote shall be recorded in the meeting minutes. If the first consideration is approved, Ordinance No. 1031 will be brought before the Council for a second consideration at its June 3, 2019 meeting.

3. Approve the Ordinance with modifications to allow food trucks on N Third Ave

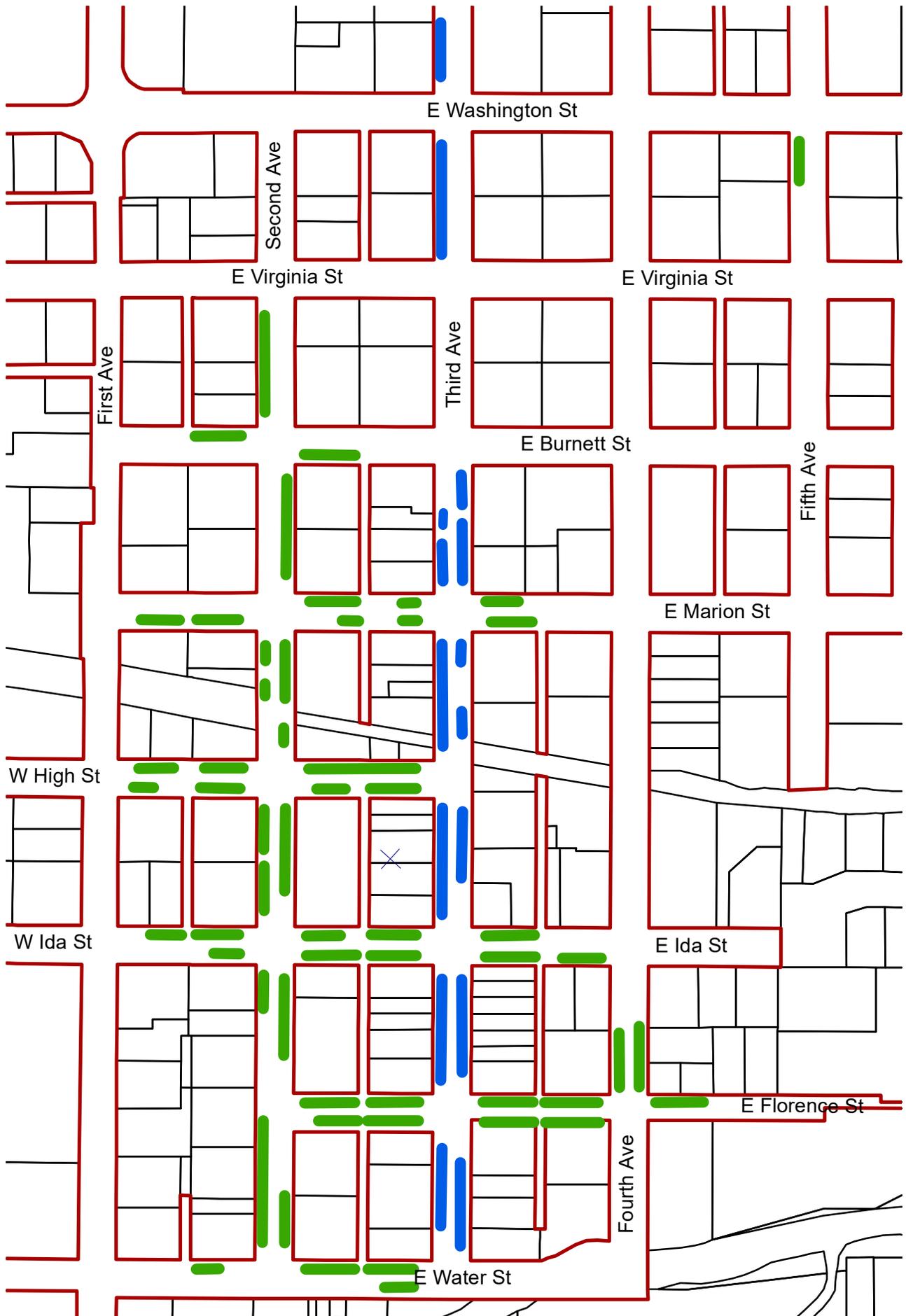
Move to approve Ordinance 1031 with an amendment to allow food trucks to be located on N Third Ave and direct staff to incorporate these changes into the Ordinance before the Ordinance is presented to the City Council for a second consideration.

The City Recorder shall call the roll and the names of each Councilor present and their vote shall be recorded in the meeting minutes. If the first consideration is approved, Ordinance No. 1031 will be brought before the Council for a second consideration at its June 3, 2019 meeting.

4. Retain the Code unchanged

No motion is necessary.

Available Locations for Food Trucks Under Proposed Changes



Possible N Third Ave Food Truck Locations



May 15, 2019

Mayor Porter and the Stayton City Council;

PLEASE DO NOT VOTE TO ALLOW FOOD TRUCKS TO SERVE FOOD ON CITY STREETS.

Allowing food trucks, or any other business, to park or occupy in any manner City streets is not in the public's interest.

Allowing them on private property is a good idea and should be continued to be allowed.

Parking on City streets during events where there are partial or full street closers is also a good idea.

The streets are for everyone to use and they should not be "for sale." Brick and mortar establishments pay between \$1000 and \$7,000 per year in property taxes in the downtown area. They are supporting our town. Food trucks will never contribute enough money to pay for services provided to them by the City. Let them work with individual property owners if they want to provide the public with their services.

Also, please consider the following items before making a decision:

1. 70 parking spaces are being eliminated in the downtown area. Food trucks will take away more.
2. Food trucks take up to two parking spaces each.
3. We should not pass a law to accommodate a single business that chose not to prepare food inside their establishment. This law would be business friendly to one business and unfriendly to many others.
4. Currently you may park on the street for 72 hours. The trucks can remain there while closed, open again and move back and forth, becoming almost a permanent fixture. Enforcement?
5. Would a business contracting with a specific truck be allowed to hold a place in front of their establishment? Other truck owners could arrive at say 5 am. to "hold" that space, causing at the least, bad feelings.
6. Would the operating hours be limited? Would the truck be required to move in spite of the 72 hour rule?
7. The immense size of many food trucks would in essence create a fence and have a tendency to overpower the street scape and even impede the smooth flow of traffic.
8. Would specific insurance be required? Who monitors?
9. Who will enforce the ordinance? Currently many ordinances through out the City are not enforced because of lack of staff.
10. Third Ave. is not the place to experiment. Please look at existing food trucks through out town and visualize 3-6 of them on the street at any given time. They will as a group organize times. How many businesses want them parked in front of their store taking up space and blocking them visually from the street? Picture blocking the theater and other businesses.

PLEASE DO NOT VOTE TO ALLOW FOOD TRUCKS TO SERVE FOOD ON CITY STREETS.

Thanks you,

Gerry Aboud
836 East Kathy Street, Stayton. 503-769-7505

ORDINANCE NO. 1031

AN ORDINANCE AMENDING THE LICENSING REQUIREMENTS FOR MOBILE FOOD UNITS

WHEREAS, the City of Stayton has adopted Title 5 of the Stayton Municipal Code (SMC) Regarding Business Licenses, Permits and Regulations;

WHEREAS, Ordinance 1018 enacted licensing requirements for mobile food units into Title 5;

WHEREAS, the location of mobile food units has the potential to create pedestrian and vehicular traffic safety concerns;

WHEREAS, the City is interested in increasing the opportunities for the location of mobile food units but to assure that they do not present a safety hazard; and

WHEREAS, the Stayton City Council, does find that the amendments in this Ordinance are reasonable regulations to promote the public health, safety and welfare.

NOW, THEREFORE, the City of Stayton ordains:

Section 1. Permitted Locations Amended. Stayton Municipal Code Title 5, Chapter 5.48, Section 5.48.010.3 is hereby amended as follows:

3. Location.
 - (a) Mobile food units may only operate in zones where eating and drinking establishments are allowed as a permitted use or use permitted after site plan review in Section 17.16.070 or in the parking area of a manufacturing business for the purpose of primarily serving the employees of that manufacturing business.
 - (b) Mobile food units ~~shall not operate or be located in a public right of way~~ may operate in a public right of way provided the following standards are met:
 - 1) A mobile food unit may be located in the right of way of a street classified as a local street, but not on N Third Ave;
 - 2) A mobile food unit must be parked at least 20 feet from a cross walk at an intersection;
 - 3) The service window(s) must be facing to the curb, not the travel way;
 - 4) The mobile food unit must be adjacent to a sidewalk that is a minimum of six feet in width; and
 - 5) The mobile food unit must be in a legal parking space.
 - (c) Mobile food units may operate on city-owned property provided the licensee is granted a site specific permit which shall be displayed conspicuously on-site.
 - (ed) A mobile food unit may ~~only~~ operate in an approved parking lot, or other hard surface area, ~~where~~ provided the off-street parking requirements for all uses or activities served by the off-street parking area are met. The unit shall be located such that the queue of customers at an ordering or serving window do not block a public sidewalk. The customer queue shall allow a continuous through pedestrian zone of at least five feet in width along the sidewalk.

(de) The location standards of this section do not apply to mobile food units which operate as a vendor within an approved community event or where a street closure permit is granted under Chapter 10.36.

Section 2. Effective Date. This Ordinance shall become effective on the 30th day after adoption by the Stayton City Council and execution by the Mayor, or a representative of the Mayor.

ADOPTED BY THE STAYTON CITY COUNCIL this 20th day of May, 2019.

CITY OF STAYTON

Signed: _____, 2019

BY: _____
Henry A. Porter, Mayor

Signed: _____, 2019

ATTEST: _____
Keith D. Campbell,
City Administrator

DRAFT



CITY OF STAYTON
M E M O R A N D U M

TO: Mayor Henry A. Porter and the Stayton City Council
FROM: Alissa Angelo, Deputy City Recorder
Keith Campbell, City Manager
DATE: May 20, 2019
SUBJECT: Stayton City Council Rules Update

ISSUE

Should the Governing Body adopt Resolution No. 987, Rules of the Stayton City Council?

ENCLOSURE(S)

- Resolution No. 987, Rules of the Stayton City Council

BACKGROUND INFORMATION

In January, Councilmember Quigley asked to review Resolution No. 809, Rules of the Stayton City Council. On April 1st, 2019 the City Council adopted the 2019-2023 Stayton City Council Goals which includes a goal to “Complete update of Council Rules.”

At the April 15th, 2019 City Council meeting, staff brought forward a draft of proposed Rules of the Stayton City Council for consideration and review. Based on Council discussion at the meeting, a modification was made to Chapter 1.V.B, changing the number of days before a meeting agenda packets will be distributed to Council from 3 days to 5 days. Following the meeting, staff received no other comments or revisions from the Council.

The current City Council Rules were adopted in October of 2007. The best practices and policies of Council Rules have changed significantly since Stayton’s last update. Staff started from scratch using the League of Oregon Cities Model Rules as a baseline for the foundation of best practices. We also chose the City of Tualatin as a benchmark for Council Rules due to their own recent update to their Council rules which were modeled off the League of Oregon Cities Model Rules.

The Council Rules should be mindful and not conflict with the Stayton City Charter. When appropriate, staff has directly copied language from the City Charter and referenced it in the footnotes.

During the Budget Committee process, a stipend for the Mayor and Council was discussed and approved by the Budget Committee. Further discussion included the need for a stipend policy. The Council could choose to incorporate a stipend policy into its Council rules once the budget is adopted, potentially under Chapter 12 – Finances, Expenses, and Training Opportunities.

OPTIONS

At this time staff is bringing forward a proposed draft of Council Rules for adoption. The following options are available to the Council:

- 1) Adopt the proposed Rules of the Stayton City Council as presented.
- 2) Adopt the proposed Rules of the Stayton City Council as amended.
- 3) Schedule a Council work session.

MOTION(S)

- 1) Motion to approve Resolution No. 987, as presented.
- 2) Motion to approve Resolution No. 987, with the following amendments...
- 3) Motion to direct staff to schedule a Council work session.

Resolution No. 987

A RESOLUTION ADOPTING RULES OF THE STAYTON CITY COUNCIL

WHEREAS, Chapter III, Section 11 of the City of Stayton Charter requires the Council must adopt by resolution rules to govern its meetings and proceedings; and

NOW, THEREFORE, BE IT RESOLVED THAT:

SECTION 1. The Rules of the Stayton City Council appended hereto, designated Exhibit A are hereby adopted.

SECTION 2. Resolution No. 809, Rules of the Stayton City Council, passed on October 15, 2007 is hereby repealed in its entirety.

ADOPTED BY THE STAYTON CITY COUNCIL THIS 20TH DAY OF MAY, 2019.

CITY OF STAYTON

Date Signed: _____

BY: _____

Henry A. Porter, Mayor

Date Signed: _____

ATTEST: _____

Keith D. Campbell, City Manager



RULES OF THE STAYTON CITY COUNCIL

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CHAPTER 1 – GENERAL GOVERNANCE

I. RULES OF PROCEDURE

- A. Chapter III, Section 11 of the City of Stayton Charter authorizes the Council to adopt rules of procedure for Council meetings. Unless otherwise provided by the Charter, an ordinance, or these rules, the procedure for all Council meetings and any subcommittee of the Council, will be guided by Robert’s Rules of Order, 11th edition.
- B. To maintain orderly procedures, members of the Council should be recognized by the chair before commenting and should maintain decorum with courteous interactions during debate. Members of the Council are encouraged to avoid invoking the finer points of parliamentary procedure found in Robert’s Rules of Order when such points could obscure the issues before the Council and confuse the public.
- C. Whenever these rules and Robert’s Rules of Order conflict, these rules shall govern.

II. QUORUM

- A. A quorum is required to conduct official City business. Three or more Council members are a quorum to conduct business, but two members may meet and compel attendance of absent members.¹
- B. In the event a quorum is not present, the members of council present shall adjourn the meeting.

III. PRESIDING OFFICER

- A. The Mayor shall preside over all meetings. The Mayor shall retain all rights and privileges of the office of the Mayor as set out in the City Charter when acting in this capacity.
- B. A Council President shall be elected by the City Council at its first regularly scheduled meeting of each calendar year.
- C. In the Mayor’s absence, the Council President shall preside over the meeting.
- D. If both the Mayor and the Council President are absent from the meeting, the following procedure may be utilized to determine the Presiding Officer for the meeting:
 - 1. Any member of the Council present at a meeting may call the Council to order.
 - 2. Those members of Council present shall elect, by majority vote, a temporary Presiding Officer for the meeting.
- E. Should either the Mayor or the Council President arrive at the meeting after it begins, the temporary Presiding Officer must relinquish control of the meeting immediately upon the conclusion of the item presently being discussed.

¹ City of Stayton Charter, Chapter III, Section 13 – Quorum: “Three or more Council members are a quorum to conduct business, but two members may meet and compel attendance of absent members as prescribed by Council Rules.

IV. OTHER ELECTED AND APPOINTED OFFICERS

- A. **City Recorder.** The City Recorder, or designee, must keep the official minutes of the Council in compliance with Oregon Public Meeting laws.
- B. **City Manager.** The City Manager, or designee, is required to attend all meetings of the Council and to assist in answering questions. The City Manager may participate in any discussion, when recognized by the presiding officer. However, the City Manager has no authority to vote on any decision rendered by the Council.
- C. **City Attorney.** The City Attorney may attend any meeting of the Council, and will, upon request, give an opinion, either written or oral, on legal questions.

V. AGENDAS

- A. The City Manager shall prepare an agenda for every regular meeting, and, if requested by the Presiding Officer, for every special meeting.
- B. Agendas and informational material for meetings shall be distributed to the Council no less than 5 days preceding the meeting.
- C. No Council approval shall be required for an agenda of any meeting.
- D. The City Manager may place routine items referred by staff on the agenda without Council approval or action.
- E. The City Manager may remove any items on the consent agenda, any item of old business, any resolution, or any ordinance placed for first reading from the agenda at any time prior to the time the meeting is convened. The Presiding Officer shall announce such removal under announcements.
- F. A member of Council who wishes to have an item placed on the agenda must bring the matter before the Council for consideration of adding the matter to the agenda and to determine the meeting date on which the agenda item is to be placed, if at all. Adding a matter to the agenda requires a majority vote of the members of Council present at the meeting.
- G. As a guiding matter, the Council will not add an item to the agenda on the same night as the item was first submitted by a member of Council for consideration by the full Council. The exception to this general rule is for emergency purposes and only with the unanimous consent of all members of Council present.

VI. ORDER OF BUSINESS

- A. The Mayor, or Council President, as the Presiding Officer, has the authority to determine the order of business at any meeting of the Council when it appears to be in the best interest of the public.
- B. The order of business for all regular meetings shall be as follows:
 - 1. Call to Order. The Presiding Officer announces the opening of the meeting and leads the pledge of allegiance.
 - 2. Announcements. Additions to the agenda and declarations of conflict of interest or ex parte communication.

3. Appointments. Mayoral appointments to City's boards, commissions, and committees.
4. Citizen Comments. Public comments received concerning matters not on the agenda for the meeting.
5. Consent Agenda. Routine items to be adopted by one motion of the Council.
6. Public Hearings. Public hearings on legislative or quasi-judicial land use matters, and public hearings on all other matters.
7. General Business. Considerations of ordinances, resolutions, contracts, policy statements, and other items.
8. Communications from Mayor and Councilors. Announcements and information provided by members of the Council.
9. Communication from City Staff. Announcements and information provided by members of City staff.
10. Adjournment. The conclusion of the meeting.

C. Public Comment

1. One period for public comment will be reserved for every regular meeting of the Council.
2. Persons wishing to speak during public comment should fill out a "Request for Recognition" form and provide the person's name and place of residence, as well as the topic upon which the person wishes to speak. The Council may request that groups with like comments choose a spokesperson to present joint remarks.
3. If a member of the public wishes to speak on an item that is scheduled for a public hearing at that same meeting, the speaker must wait until that public hearing portion of the meeting. Public comment must not be used to testify about a quasi-judicial land use matter, to testify on an item that is not a public matter, to testify on a matter which has been or is scheduled to be heard by a hearings official, or to provide or gather additional testimony or information on any matter after the official record has been closed on any matter which has been the subject of a public hearing.
4. If a member of the public wishes to speak on an item that is scheduled to be considered under General Business, the speaker must wait until the agenda item is presented by staff. Once staff has provided their report to the Council, there will be a time for public comment prior to the Council beginning deliberations.
5. Speakers are limited to three (3) minutes. At the discretion of the Presiding Officer, spokespersons for a group of people may be given additional time beyond three (3) minutes to speak on the matter.
6. Before providing any public comment, speakers must announce the person's name and place of residence at the podium to the Council.
7. Members of the Council may, after obtaining the floor, ask questions of speakers during public comment. In general, members of Council should not respond to comments made during public comment agenda time, except to ask clarifying questions. Any public requests

for Council action may be referred to staff. Any member of the Council may intervene if the Mayor or a Councilor is violating the spirit of this guideline.

D. Consent Agenda

1. In order to expedite the Council's business, the approval of minutes and other routine agenda items will be placed on the consent agenda.
2. All items on the consent agenda must be approved by a single motion, unless an item is removed for separate consideration.
3. Any item on the consent agenda may be removed for separate consideration by any member of the Council by stating which item is to be removed.
4. Appointments to committees must not be placed on the consent agenda.

E. Public Hearings Generally

1. Public hearings may be held to consider legislative, quasi-judicial, or administrative matters.
2. Persons wishing to speak should sign the "Request for Recognition" form with the person's name and place of residence prior to the commencement of the public hearing at which the person wishes to speak.
3. The Presiding Officer will announce at the commencement of any public hearing subject of the hearing as it is set forth on the agenda. The Presiding Officer will then declare the hearing open.
4. Prior to giving testimony, each person must state the person's name and their place of residence. All remarks must be addressed to the Council as a body and not to any member thereof.
5. Speakers at hearings on legislative or administrative matters, other than legislative land use matters, will be limited to three (3) minutes.
6. Members of Council may, after recognition by the Presiding Officer, ask clarifying or follow-up questions of individuals providing testimony after that individual has completed testifying. Questions posed by members of Council should be to provide clarification or additional information on testimony provided. Questions should not be used as an attempt to lengthen or expand the testimony of the individual. Members of Council should use restraint and be considerate of the meeting time of the Council when exercising this option. Any member of the Council may intervene if another member of Council is violating the spirit of this guideline.
7. Members of the Council may, after the presentation of testimony of all interested persons, ask clarifying or follow-up questions of staff. Questions posed by a member of Council should be to provide clarification or additional information on testimony provided.
8. The Presiding Officer may exclude or limit cumulative, repetitious, or immaterial matters. The Presiding Officer may order the testimony by having all speaking in favor testify, followed by all those in opposition. The Presiding Officer, with the approval of the Council, may further limit the time and/or number of speakers at any public hearing; provided that

- the Presiding Officer should announce any such restrictions prior to the commencement of testimony.
9. At the end of public testimony and questions of staff, the Council must do one of the following:
 - a. Initiate deliberations by introducing a motion on the matter;
 - b. Continue the hearing; or
 - c. Keep the record open for additional written testimony.
 10. During deliberations, each member of Council must have the opportunity to comment on or discuss testimony given during the public hearing.
 11. A copy of any written testimony or physical evidence, which a party desires to have introduced into the record of the hearing, must be submitted to the City Recorder, or designee, prior to the conclusion of the hearing, unless the record is held open.
 12. Documents submitted to the City as evidence or written testimony during a public hearing are public records. If such a document contains the name, address, including email address, and telephone number of the person, then it will be included in the record of the proceeding. Because the name, address, including email address, and telephone number are part of a public record, this information will be generally disseminated to the public, and must be disclosed, unless exempt under Oregon law, if a public records request is submitted for the documents. A person who believes such disclosure would present a danger to his or her personal safety, and who wishes to exempt his or her address, including email address, and telephone number from disclosure must submit a written request for non-disclosure to the City Recorder, or designee, pursuant to ORS 192.455(1) or as prescribed by law.
- F. Conduct of Hearings on Land Use Matters – See [Chapter 4](#)
- G. Written Communications to Council
1. Unsolicited communications to the Mayor and/or Council concerning matters on the agenda shall be forwarded to the City staff for consideration of inclusion in the agenda packet.
 2. Unsolicited communications to the Mayor and/or Council concerning matters that are not an agenda shall be forwarded to the City staff for consideration of distribution but shall not be included in the agenda packet.
 3. The City Manager, or designee, may, in his or her discretion, bring any matter raised by an unsolicited communication to the attention of the Council as an agenda item, provided that such communication is accompanied by a staff report setting forth the reason the matter should be considered by the Council, and making a recommendation for Council action.

CHAPTER 2 – MEETING TIME, LOCATION, AND FREQUENCY

- I. **REGULAR MEETINGS.** The Council will generally hold regular meetings at 7:00 p.m. on the first and third Monday of each and every month. If a first or third Monday falls on a City-recognized holiday, the meeting will be held on the following business day.
- II. **SPECIAL MEETINGS.** Special meetings may be called by the Mayor, three members of Council, or by the City Manager.
 - A. The City Manager will provide notice of the special meeting to each member of the Council, local media outlets, and any other person or entity who has requested notice of meetings.
 - B. The notice of the special meeting must be given to each Councilor via personal notice, telephone, email, or other electronic means sufficient to provide actual notice.
 - C. Special meetings must be noticed in accordance with Oregon’s public meetings law, and, at minimum, must be noticed at least 48 hours prior to the meeting taking place.
- III. **EMERGENCY MEETINGS.** Emergency meetings may be called by the Mayor, three members of the Council, or by the City Manager.
 - A. The City Manager will provide notice of the special meeting to each member of the Council, local media outlets, and any other person or entity who has requested notice of meetings.
 - B. The notice of the emergency meeting must be given to each Councilor via personal notice, telephone, email, or other electronic means sufficient to provide actual notice.
 - C. Emergency meetings are those meetings called with less than 48 hours’ notice and the Council must identify why the meeting could not be delayed 48 hours immediately after calling the meeting to order.
 - D. The minutes for any emergency meeting must specifically identify why the meeting constituted an emergency and was necessary.
- IV. **EXECUTIVE SESSIONS.** Executive sessions may be called by the Presiding Officer, by the request of three members of the Council, by the City Manager, or by the City Attorney.
 - A. Executive Sessions may be called for any purpose authorized by ORS 192.660 or as prescribed by law.
 - B. Only members of the Council, the City Manager, and persons specifically invited by the City Manager or the Council are allowed to attend executive sessions.
 - C. All attendees must be present for the session in person.
 - D. Representatives of recognized news media may attend executive sessions, other than those sessions during which the Council conducts deliberations with persons designated to carry on labor negotiations, or where the matter involves litigation and the news media is a party to the litigation. Members of the media are not to report on the issues discussed in executive session.
 - E. No final decision can be made in executive session. All final decisions must be made in open session at a regular meeting.
- V. **WORK SESSIONS.** Work sessions are permitted to present information to the Council so that the Council is prepared for regular or special meetings.
 - A. Work sessions are generally scheduled, as needed.

- B. All work sessions are subject to Oregon's public meetings law and must be noticed accordingly.
- C. Work sessions are intended to allow for preliminary discussions, and the Council is not permitted to take formal or final action on any matter at a work session.
- D. Work sessions are to be scheduled by the City Manager.
- E. The City Manager may invite any relevant staff to work sessions so that the sessions are as productive as possible.
- F. At any work session or regular meeting, a member of Council may request an item be placed on a work session agenda. A majority vote of the Council members present is required to place the item on a future work session agenda.

VI. LOCATION OF MEETINGS.

- A. Council meetings are held at the Stayton Community Center or other specified location within the jurisdictional limits of the city.
- B. Training sessions may be held outside of the City's jurisdictional limits, provided no deliberations toward a decision are made.
- C. Interjurisdictional meetings may be held outside of the City's jurisdictional limits, but should be held as close as practical to the City, and such meetings must be located within the jurisdictional boundaries of the other government entity.
- D. No Council meeting may be held at any place where discrimination on the basis of an individuals' race, religion, color, sex, national origin, ethnicity, marital status, familial status, age, gender, sexual orientation, source of income, or disability is practiced.

VII. NOTICE OF MEETINGS. The City Recorder, or designee, must provide notice of all meetings in accordance with Oregon's public meeting law.

VIII. ATTENDANCE AT MEETINGS

- A. A Council position becomes vacant per City of Stayton Charter Chapter VII, Section 32 – Vacancies.
- B. It is the responsibility of each member of the Council to advise the City Manager if the member of Council will be unable to attend any regular, special, emergency, or work session meetings, or any assigned committees. The member of Council should communicate the absence to the City Manager as soon as reasonably practicable under the circumstances.
- C. Attendance at meetings must be in person, by telephone, or other electronic means where the person's voice may be heard. The preference of the Council is for all members of the Council to attend in person.
- D. A member of Council should not attend by telephone, or other electronic means where the person's voice may be heard, more than two consecutive meetings. A member of the Council appearing by telephone, or other electronic means where the person's voice may be heard, should remain present for the entire meeting, unless it is the result of a malfunction or technical issue out of the control of the Councilor.
- E. Remote attendance is not allowed for Executive Sessions.

CHAPTER 3 – ORDINANCES AND RESOLUTIONS

I. ORDINANCES

- A. An ordinance is a law passed by the Council in its legislative capacity.
- B. Ordinance Enactment (*City of Stayton Charter Chapter IV, Section 17, enacted January 1, 2018*)

SECTION 17. ORDINANCE ENACTMENT.

- (a) Except as authorized by subsection (b), enactment of an ordinance requires approval by a majority of the council at two meetings.
- (b) The council may enact an ordinance at a single meeting by the unanimous approval of the councilors in attendance, provided the proposed ordinance is available to the public at least seven days before the meeting.
- (c) Any substantive amendment to a proposed ordinance must be read aloud or made available to the public before the council enacts the ordinance at that meeting.
- (d) After the adoption of an ordinance, the vote of each councilor must be entered into the council minutes.
- (e) When an ordinance is passed, the City Recorder shall endorse it with the date of its passage, his/her name and title of office; and within three day thereafter the mayor shall sign and date it unless the mayor requires reconsideration of the ordinance.
- (f) If the mayor requires reconsideration of an ordinance, the mayor must return it to the city recorder with written reasons for reconsideration within seven days of receipt of the ordinance. If the mayor does not so return it, such ordinance shall become law as enacted.
- (g) Upon the first regular meeting of the council after the demand for reconsideration by the mayor, the council must consider the reasons provided by the mayor and vote on the ordinance. If at least three councilors vote to enact the ordinance, it shall become law. If no vote is taken at such meeting on the passage of the ordinance, it shall be deemed to have failed to become law.

- C. Effective Date of Ordinances (*City of Stayton Charter Chapter IV, Section 18, enacted January 1, 2018*)

SECTION 18. EFFECTIVE DATE OF ORDINANCES. Ordinances normally take effect on the 30th day after enactment, or 30 days from re-enactment after demand for reconsideration by the mayor, or on a later day provided in the ordinance. An ordinance may take effect as soon as enacted or another date less than 30 days after enactment if it contains an emergency clause.

II. RESOLUTIONS

- A. A resolution is an action by the Council to adopt a policy, order, rule, or expression of opinion. All resolutions considered and voted upon by the Council must adhere to the rules outlined herein.
- B. The City Recorder or designee will assign a Resolution Number.
- C. Resolution Adoption (*City of Stayton Charter Chapter V, Section 20, enacted January 1, 2018*)

SECTION 20. RESOLUTION ADOPTION.

- (a) Adoption of a resolution or any other council administrative decision requires approval by the council at one meeting.
 - (b) Any substantive amendment to a resolution must be read aloud or made available in writing to the public before the council adopts the resolution at that meeting.
 - (c) After adoption of a resolution or other administrative decision, the vote of each councilor must be entered into the council minutes.
 - (d) After adoption of a resolution, the city recorder must attest to the resolution by name, title and date of adoption.
- D. Effective Date of Resolutions (*City of Stayton Charter Chapter V, Section 21, enacted January 1, 2018*)

SECTION 21. EFFECTIVE DATE OF RESOLUTIONS. Resolutions and other administrative decisions take effect on the date of adoption, or on a later date provided in the resolution.

CHAPTER 4 – LAND USE HEARINGS

I. GENERAL CONDUCT OF HEARINGS²

- A. Any party may speak in person, through an attorney, or elect to have a representative to present the party's case.
- B. A copy of any written testimony or physical evidence which a party desires to have introduced into the record at the time of hearing must be submitted to the City Recorder, or designee, at the time the party makes his or her presentation. If the testimony or evidence is not submitted to the City Recorder, or designee, it must not be included in the record for the proceeding.
- C. Except as otherwise provided by these rules, no person may speak more than once without obtaining permission from the Presiding Officer.
- D. Upon being recognized by the Presiding Officer, any member of Council may question any person who testifies.
- E. Testimony must be directed towards the applicable standards and criteria which apply to the proposal before the Council.
- F. The Presiding Officer may exclude or limit cumulative, repetitious, or immaterial testimony. To expedite hearings, the Presiding Officer may call for those in favor and those in opposition to rise, and the City Recorder, or designee, must not the numbers of such persons for the record in the minutes.

II. QUASI-JUDICIAL LAND USE MATTERS

- A. Scope of Review. All appeals and Council-initiated review in quasi-judicial land use proceedings are new (*de novo*) and must be held on the record.
- B. Conflicts of Interest
 1. A member of Council must not participate in a discussion or vote in a quasi-judicial land use proceeding if:
 - a. The member of Council has an actual conflict of interest as defined by the Oregon Revised Statutes or the City Charter; or
 - b. The member was not present during the public hearing; provided, however, the member may participate if they have reviewed the evidence, including recordings of the hearing, and declared such fact for the record.
- C. Ex Parte Contact
 1. Ex parte contacts are any contacts with any party outside of the hearing process. Specific questions about whether a contact is considered ex parte should be discussed with the City Manager who can refer it to the City Attorney before the meeting.
 2. Members of the Council must reveal any ex parte contacts with regard to the proceeding at the commencement of any quasi-judicial land use proceeding (ORS 227.180 or as prescribed by law). If such contact impairs the member's impartiality, the member must state this fact and abstain from participation on the matter.

² State law governs this process. ORS Chapter 197 – Comprehensive Land Use Planning; ORS Chapter 227 – City Planning and Zoning

D. Burden of Proof

1. The proponent has the burden of proof on all elements of the proposal, and the proposal must be supported by proof that it conforms to all applicable standards and criteria.
2. The decision of the Council must be based on the applicable standards and criteria set forth in the City of Stayton Municipal Code, the City's Comprehensive Plan, and, if applicable, any other land use standards imposed by state law or administrative rule.
3. The proponent, any opponents, and/or City staff may submit to the Council a set of written findings or statements of factual information which are intended to demonstrate the proposal complies or fails to comply with any or all applicable standards and criteria.

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

1. **Land Use Hearing Disclosure Statement.** The Presiding Officer must read the land use hearing disclose statement, which must include:
 - a. A list of the applicable criteria;
 - b. A statement that testimony, arguments and evidence must be directed toward the applicable criteria or other criteria in the plan or land use regulation which the person believes to apply to the decision.
 - c. A statement that failure to raise an issue accompanied by statements or evidence sufficient to afford the Council and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue; and
 - d. If applicable, a statement that a failure to raise constitutional issues relating to proposed conditions of approval precludes an action for damages in circuit court.
2. **Call for Ex Parte Contacts.** The Presiding Officer must inquire whether any member of Council had ex parte contacts. Any member of Council announcing an ex parte contact must state for the record the nature and content of the contact.
3. **Call for Abstentions.** The Presiding Officer must inquire whether any member of Council must abstain from participating in the hearing due to a conflict of interest or bias. Any member of Council announcing a conflict of interest or bias must state the nature of the conflict or bias, and must not participate in the proceeding, unless the person's vote is necessary to meet a requirement of a minimum number of votes necessary to take official action; provided, however, that the member must not participate in any discussion or debate on the issue of which the conflict arises.
4. **Staff Summary.** Planning staff will present a summary and recommendation concerning the proposal.
5. **Presentation of the Case.** The presentation of the case will be as follows:
 - a. Proponent's case.
 - b. Persons in favor.
 - c. Persons opposed.
 - d. Other interested persons.
 - e. Rebuttal. Rebuttal may be presented by the proponent. The scope of rebuttal is limited to matters which were introduced during the hearing.

6. **Close of Hearing.** Unless the Council leaves the record open for a specified period of time, no further information will be received after the close of the hearing, provided however the Council may ask specific questions of staff. If the response by staff to any such questions requires the introduction of factual evidence, all parties must be afforded an opportunity for rebuttal.
7. **Deliberations.** Deliberations will immediately follow the hearing. The Council may delay deliberations to a subsequent time certain.
- F. **Findings and Order.** The Council may approve or reject the proposal. The Council must adopt a resolution or order containing findings to support its decision. The Council may incorporate findings proposed by the proponent, the opponent, or staff in its decision.
- G. **Continuances.** Only one continuance is available by right. However, nothing in this section restricts the Council, in its discretion, from granting additional continuances. Any continuance must result in a corresponding extension of the 120-day time limitations imposed by the Oregon Revised Statutes.

III. LEGISLATIVE LAND USE MATTERS

- A. **Hearings Procedures.** The order of procedures for hearings on legislative land use matters must be:
 1. **Call for Abstentions.** Inquire whether any member of Council wishes to abstain from participation in the hearing. Any member announcing an abstention must identify the reason therefore and must not participate in the proceedings.
 2. **Staff Summary.** Staff must present a statement of the applicable criteria, and a summary and recommendation concerning the proposal.
 3. **Presentation of the Case.** The presentation of the case will be as follows:
 - a. Proponent's case.
 - b. Persons in favor.
 - c. Persons opposed.
 - d. Other interested persons.
 4. **Close of Hearing.** Unless the Council leaves the record open for a specified period of time, no further information will be received after the close of the hearing, provided however, Council may ask questions of staff.
 5. **Deliberations.** Deliberations will immediately follow the hearing. The Council may delay deliberations to a subsequent time certain.
 6. **Reopening Hearing.** Prior to second reading of an ordinance relating to a legislative land use matter, and upon majority vote of the Council, a hearing may be reopened to receive additional testimony, evidence or argument. The same notice requirements must be met for the reopened hearing as were required for the original hearing.

CHAPTER 5 – MOTIONS, DEBATE, PUBLIC COMMENT AND VOTING

I. MOTIONS

A. The following rules apply to motions:

1. All motions must be distinctly worded.
2. The Presiding Officer must repeat the motion prior to a vote.
3. Any motion shall be reduced to writing if requested by a member of the Council.
4. The Council will discuss a motion only after the motion has been moved and seconded. Nothing in this section prevents general discussion or expression of opinions before a motion is made.
5. If a motion does not receive a second, it dies.
6. A motion to amend can be made to a motion that is on the floor and has been seconded.
7. Amendments are voted on first, and then the main motion is voted on, as amended.
8. A member of Council may have a motion which contains several elements divided, but the mover has the right to designate which element will be voted on first.
9. A motion may be withdrawn by the mover at any time without the consent of the Council.
10. No motion will be received when a question is under debate except for the following:
 - a. To lay the matter on the table;
 - b. To call for the previous question;
 - c. To postpone;
 - d. To refer; or
 - e. To amend.
11. A call for the question is intended to close the debate on the main motion; does not require a second and is not debatable.
12. A call for the question fails without a majority vote.
13. Debate on the main subject resumes if the motion to call for the question fails.
14. A motion to adjourn cannot be amended.

II. MOTION TO RECONSIDER

1. A motion to reconsider may only be made by a member of the prevailing side. Any member may second the motion.
2. A motion to reconsider can be made only once and must be made before the final adjournment of the meeting when the item goes out of possession of the Council.

III. DEBATE. The following rules govern the debate of any item being discussed by the Council:

1. Every member of Council wishing to speak on the matter must address the Presiding Officer, and, upon recognition by the Presiding Officer, confine remarks to the question under debate, at all times acting and speaking in a respectful manner.
2. Once the member of Council is recognized by the Presiding Officer, the other members of Council must not interrupt, unless it is a call to order.
3. The member of Council moving the adoption of any ordinance or resolution will have the privilege of closing the debate.

IV. PUBLIC COMMENT

- A. The public is entitled to comment on all matters before the Council that require a vote.
- B. Public comment will occur after the matter up for vote has been presented by City staff and before the Council begins deliberations on the matter.
- C. Each member of the public is entitled to comment on the matter before the Council for three minutes.
- D. Public comment is a time for comment; it is not a time for debate. Any questions from members of the public to Council or City staff will be referred to City staff for a response to be provided at a later time.
- E. Prior to giving comment, each person must state the person's name and their place of residence. This information will be used to ensure the minutes of the meeting properly reflect those persons who provided public comment.
- F. All remarks must be addressed to the Council as a whole. Any person making personal, impertinent, or slanderous remarks, or who becomes boisterous, threatening, or personally abusive while addressing the Council may be requested to leave the meeting. Applause, boos or other public demonstrations by those attending the Council meeting are considered inappropriate behavior.

V. VOTING. The following rules shall apply to voting on matters before the Council, unless amended in the manner outlined in Chapter 4 of these rules.

- A. Reports. A majority of a quorum shall be required to approve or accept a report. However, no vote is required if the report is only for informational purposes.³
- B. Consent Agenda. The unanimous vote of all members of the Council present is required to approve the matters on a consent agenda.
- C. Ordinances. An ordinance requires a majority of a quorum to pass.
- D. Emergency Ordinance. An emergency ordinance requires the unanimous vote of all Council members present.
- E. Resolutions. A majority of a quorum is required to pass a resolution.
- F. Budget. The budget requires a majority of a quorum to pass.

³ City of Stayton Charter, Chapter III, Section 14 – Vote Required: “The express approval of a majority of a quorum of the Council is necessary for any Council decision, except when this charter requires approval by a majority of the Council.”

- G. Franchise Agreements. A majority of a quorum is required to pass an ordinance granting a franchise.
- H. Suspension of Rules. A unanimous vote of all members of the Council present shall be required to suspend or rescind a rule contained in these rules of procedure, however, rules in this chapter which also appear in the City’s charter shall not be suspended or rescinded.
- I. Votes. All votes must be recorded in the minutes.
- J. Tie Votes. The Mayor is not a member of the council and has no vote unless there is a tie vote. ⁴

VI. EFFECTIVE DATE

- A. A resolution shall become effective upon adoption unless otherwise stated in the resolution.
- B. The following shall take effect immediately upon its passage:
 - 1. Ordinance making appropriations and the annual tax levy;
 - 2. Ordinances relative to local improvements and assessments; and
 - 3. Emergency ordinances.
- C. All other ordinances shall take effect 30 days after passage unless a later date is fixed on the ordinance, in which event it shall take effect at the later date.
- D. The filing of a referendum petition shall suspend the effective date of an ordinance.

⁴ City of Stayton Charter, Chapter III, Section 9 – Mayor: “The Mayor is not a member of the Council and has no vote unless there is a tie vote.”

CHAPTER 6 – MINUTES

I. GENERALLY.

- A. All minutes must be in written form, with an electronic copy of the meeting maintained by the City Recorder in accordance with the appropriate record retention schedule.
- B. The minutes must contain the following information:
 - 1. The date, time, and place of the meeting;
 - 2. The members of Council present;
 - 3. The motions, proposals, resolutions, orders, ordinances, and measures proposed and their disposition;
 - 4. The result of all votes;
 - 5. The subject of any discussion on any matter; and
 - 6. A reference to any document discussed at the meeting.

II. APPROVAL

- A. The Council must approve all minutes of any meeting.
- B. All minutes must be approved within ninety days of the meeting having occurred.
- C. The draft minutes must be submitted to the Council as part of the Council's packet prior to the meeting where they will be discussed.
- D. Any member of Council may request an amendment or correction of the minutes prior to a final vote being taken on the minutes.

CHAPTER 7 – APPOINTMENTS

- I. **APPOINTMENTS OF CITY STAFF.** The Council appoints and can remove those positions identified in the City’s charter. All appointments require a majority vote of the members of Council present at a meeting.
 - A. Reviews. Any person appointed by the Council is subject to an annual review by the Council.
 - B. Removals. All appointed persons may be removed by a majority vote of the Council.
 - C. Interference. The Council may meet with the Charter approved appointed staff, but in no instance shall the Council be permitted to interfere with the exercise of authority or discretion of said appointees.
- II. **APPOINTMENTS TO VACANT POSITIONS OF MAYOR AND CITY COUNCIL**
 - A. The Stayton City Charter dictates the appointment process for vacant positions.
- III. **COUNCIL LIAISONS**
 - A. The Mayor shall appoint one or more Council members to serve as a Council Liaison in the categories below. The intent of the liaison positions isn’t to prevent a councilmember from being active or engaged in topics or issues that may be outside the focus of their assigned category.
 1. Education, Social Services, Governmental Agencies
 2. Economic Development and Housing
 3. Public Safety and Environmental
 4. Community Relations and Outreach
 5. Transportation and Infrastructure (or Public Utilities)
 6. The Mayor can serve as a Liaison for any committee or group they deem appropriate.
- IV. **APPOINTMENTS OF MEMBERS TO BOARDS, COMMISSIONS, AND/OR COMMITTEES**
 - A. Unless otherwise mandated by state law, the Mayor may appoint the members of any board, commission or committee with the approval of a majority vote of the Council.
 - B. Unless otherwise prohibited by the Council, the Mayor shall have the authority to create and appoint subcommittees of committees authorized by the Council.
 - C. Removals. All appointed persons may be removed at the recommendation of the Mayor with approval of the majority of the Council.

CHAPTER 8 – ETHICS, DECORUM, OUTSIDE STATEMENTS, AND SOCIAL MEDIA

I. ETHICS

- A. All members of the Council must review and observe the requirements of state ethics laws.
- B. In addition to complying with state ethics law, all members of the Council must refrain from:
 - 1. Disclosing confidential information.
 - 2. Taking action which benefits special interest groups or persons at the expense of the City as a whole.
 - 3. Expressing an opinion contrary to the official position of the Council without so saying.
 - 4. Conducting themselves in a manner so as to bring discredit upon the government of the City.
 - 5. Not profiting from their position on Council in violation of state law.
- C. All ethics complaints received about a Councilor should be provided to the City Manager who will forward them to the Oregon Government Ethics Commission (OGEC).

II. DECORUM

- A. The Presiding Officer will preserve decorum during meetings and decide all points of order, subject to appeal of the Council.
- B. Members of the Council shall preserve decorum during meetings, and shall not, by conversation or action, delay or interrupt the proceedings or refuse to obey the orders of the Presiding Officer or these rules.
- C. City staff and all other persons attending meetings must observe the Council's rules of proceedings and adhere to the same standards of decorum as members of the Council.
- D. All audience members must abide by the rules of decorum contained in these Rules. No audience member may disrupt the conduct of the meeting, clap, cheer, hoot, holler, gesture, whistle, guffaw, jeer, boo, hiss, make remarks out of turn, use profanity, or the like. Any audience member who does so may be deemed out of order and the Presiding Officer may have the person removed from the Council chambers immediately, and the person will not be permitted to attend the remainder of the Council meeting.

III. STATEMENTS TO THE MEDIA AND OTHER ORGANIZATIONS

- A. Representing City. If a member of the Council, to include the Mayor, appears as a representative of the City before another governmental agency, the media or an organization to give a statement on an issue, the member of Council may only state the official position of the City, as approved by a majority of the Council.
- B. Personal Opinions. If a member of Council, to include the Mayor, appears in the personal capacity before another governmental agency, the media or an organization to give a statement on an issue, the member of Council must state they are expressing their own opinion and not that of the City or of any other Councilor, unless they receive the express permission of that Councilor before giving their statement.

IV. USE OF SOCIAL MEDIA

- A. Members of the Council are encouraged to exercise caution when commenting on municipal affairs on social media platforms. While using social media, members of Council are subject to applicable Oregon laws as they pertain to public meetings and public records retention schedules.
- B. Under ORS 192.610 or as prescribed by law, a public meeting occurs when a quorum is required in order to make a decision or to deliberate toward a decision on a matter. Under Oregon law, certain telephone and electronic communications may be considered a public meeting. Certain uses of social media may constitute a public meeting, and accordingly, Councilors should use appropriate caution to avoid public meeting violations.
- C. A public record created through a member of Council's social media footprint must be retained by the elected official in accordance with any state laws and local retention schedules. A "public record" encompasses any information that is prepared, owned, used or retained by the City; relates to an activity, transaction or function of the City; and is necessary to satisfy the fiscal, legal, administrative or historical policies, requirements or needs of the City. Councilors should forward social media posts to the City Manager or seek other assistance from the City for retention if the member of Council does not wish to be individually responsible for retaining the public record.
- D. The digital decorum of elected and appointed officials will be governed by the Council Rules. Consistent with these Rules, members of Council must conduct themselves so as to bring credit upon the City government. Councilors must abide by Chapter 8, III (Statements to the Media and Other Organizations) above in all social media activities.
- E. City Council members will refrain from posting comments that:
 - 1. Express a Council or Committee position prior to a Council or Committee determination of a position or on a matter that would otherwise require Council or Committee authorization prior to the conveyance of a position; or
 - 2. Express an opinion in a manner contrary to Chapter 8, III (Statements to the Media and Other Organizations) above.

CHAPTER 9 – INTERACTIONS WITH STAFF AND CITY ATTORNEY

I. CITY STAFF

- A. All members of the Council must respect the separation between the Council's role and the City Manager's responsibility by:
1. Not interfering with the day-to-day administration of City business, which is the responsibility of the City Manager.
 2. Refraining from actions that would undermine the authority of the City Manager or a Department Head.
 3. Limiting individual inquiries and requests for information from staff to those questions that may be answered readily as part of staff's day-to-day responsibilities. Questions of a more complex must be directed to the City Manager. Questions sent to staff must be copied to the City Manager. Councilors may not directly interfere with staff or the City Manager's management of staff.
 4. Questions from individual members of the Council requiring significant time or resources (two hours or more) shall normally require approval of the Council.
 5. Members of the Council must normally share any information obtained from staff with the entire Council when it involves an action item on a Council agenda. This section is not intended to apply to questions by members of Council acting in their individual capacities rather than as members of Council, nor to questions regarding conflict of interest or similar issues particular to a member of Council.
 6. Allegations of misconduct regarding City staff shall be directed to the City Manager.

II. CITY ATTORNEY

- A. Council members may make requests to the City Attorney for advice no more than once a month, so long as the request does not require more than two hours of the attorney's time. A Councilor may make additional requests within a month or make a request that exceeds two hours with the concurrence of the majority of the Council.
- B. Allegations of misconduct regarding the City Manager or a City Councilor from a City staff member or City Councilor shall be directed to the City Attorney.

CHAPTER 10 – ENFORCEMENT AND CONSEQUENCES

I. ENFORCEMENT

- A. The Council may ensure compliance with City ordinances, Charter, and state laws applicable to governing bodies. If a member of Council violates these rules, City ordinances, City Charter or state laws applicable to governing bodies, the Council may take action to protect the integrity of the Council and discipline the member with a public reprimand. A majority of the entire Council is required to issue a reprimand.

II. INVESTIGATIONS AND HEARINGS

- A. A majority of the Council may investigate the actions of any member of Council and meet in executive session under ORS 192.660(2)(b), or as prescribed by law, to discuss any finding that reasonable grounds exist that a violation of these rules, local ordinance, the City Charter, or state laws applicable to governing bodies has occurred.
- B. Before the Council may publicly reprimand the Council must provide the member of Council notice of the alleged violations and an opportunity to be heard on, and rebut, the allegations. Sufficient notice must be given to the affected member of Council to afford them the opportunity to request an open hearing under ORS 192.660(2)(b), or as prescribed by law.
- C. No final action or decision can be made in executive session, as provided by ORS 192.660(6) or as prescribed by law.

III. REMOVAL

- A. The Mayor and Councilors may not directly or indirectly attempt to coerce the Manager or a candidate for the office of Manager in the appointment or approval of any City employee, or in administrative decisions regarding City property or contracts. Violation of this prohibition is grounds for removal from office by a majority of the Council after a public hearing. In Council meetings, Councilors may discuss or suggest anything with the Manager relating to City business.⁵

⁵ City of Stayton Charter Chapter VIII, Section 34(d)

CHAPTER 11 – AMENDMENT AND REPEAL OF COUNCIL RULES

- I. **AMENDMENT.** These rules are subject to amendment by the Council.
 - A. Any proposed amendment to these rules must be listed on an agenda for a regular meeting and the agenda posted prior to the meeting, wherein the same will be discussed, and open for comment by the public, except in cases of an emergency.
 - B. All amendments to these rules require approval by a majority of a quorum of Council.
 - C. Amended rules shall not go into effect until the meeting after the rule was approved.
- II. **REPEAL.** These rules of procedure are subject to repeal and replacement by the Council in accordance with the rules noted herein.
 - A. Any proposed repeal of these rules must be accompanied by a proposed replacement rule.
 - B. Any proposed repeal and replacement of these rules must be noted on an agenda for a regular meeting and the agenda posted prior to the meeting, wherein the same will be discussed, and open for comment by the public.
 - C. Any repeal and replacement of these rules requires approval by a majority of a quorum of Council.
 - D. Any repeal and replacement of these rules does not go into effect until 30 days after the replacement rule was approved.

CHAPTER 12 – FINANCES, EXPENSES, AND TRAINING OPPORTUNITIES

I. **FINANCIAL STATEMENTS.** Pursuant to ORS 244.050 or as prescribed by law, members of Council are required to file annual Statements of Economic Interest (SEI) by April 15th of each year. For more information, see the Oregon Government Ethics Commission (OGEC) website on how to file.

II. EXPENSES

A. The Mayor or any City Council member who travels outside Stayton on City business is entitled to receive reimbursement for expenses, which shall be determined as follows:

1. Travel on official business outside Stayton by a single individual may be via public carrier, City-owned vehicle, or private vehicle. If a private vehicle is used, mileage shall be paid at the standard Internal Revenue Service (IRS) mileage rate in effect.
2. City vehicles shall be used for authorized uses and shall absolutely not be used for private purposes.
3. Reimbursement for expenses on official trips shall only be for expenses incurred during the performance of official duty as a City official for the City's benefit. Reasonable meal and lodging expenses may be reimbursed at actual cost upon provision of corresponding receipts to the City Manager. The City shall not reimburse the Mayor or a Councilor for the cost of any alcoholic beverage.
4. The elected official shall submit a signed standard City expense reimbursement request form including copies of all bills, receipts, and/or mileage statements to the City Manager prior to reimbursement.

III. IN-SERVICE TRAINING AND EDUCATIONAL OPPORTUNITIES

- A. The City values educational and training opportunities for the Mayor and City Councilors in order that services rendered to the City will be more effective.
- B. The City shall either pay for or reimburse an elected official for the cost of registration, tuition, books, or materials for conferences, conventions, training seminars, or courses directly related to the City service provided that:
1. Funds for such expenditures are available in the current budget;
 2. The training is germane and directly related to the duties and functions of the elected official;
 3. The individual is not receiving reimbursement from any other source.

*Comment Forms
and Other
Documents
Distributed at the
Council Meeting*



CITY OF STAYTON

REQUEST FOR RECOGNITION

The purpose of this form is to ensure that anyone wishing to address the Stayton City Council will have the opportunity to do so. This form is to be completed prior to the opening of the meeting, and should be submitted to staff. Please wait for recognition from the Mayor prior to addressing the Council.

Name (please print): Vickianne Vlossak

Address: 485 Wilda St Stayton OR 97383
Street City State Zip

Topic: Appeal

Speaking in...

Support of _____

Opposition to _____

General Testimony _____

Comments: Waiver on Evergreen St. Requested.
& Denied.

Please limit presentations to 10 minutes or less, and comments to 3 minutes or less.

If you wish to obtain a copy of a land use decision, please contact the Planning & Development Department at (503) 769-2998, or their office is located at 311 N. 3rd Avenue, Stayton, 97383.

Lance Ludwick, P.E.
Director of Public Works
City of Stayton
311 N. Third Avenue
Stayton, OR 97383

April 20, 2019

RE: Home building project at 485 W. Ida St, Stayton, OR

Mr. Ludwick,

Thank you for the information you provided on the 485 W. Ida home project. After reviewing that information, I accept your summary and requirements for the sidewalk improvements bordering the property on W. Ida Street. This is a written request that the City grant a waiver exempting the property from the required sidewalk improvements on Evergreen Street, pursuant to Section 12.04.080 of the Stayton City Code.

Specifically, I hereby request a modification of your determination that a five foot sidewalk along Evergreen Street will not be waived. I request that the City grant a modification reducing the sidewalk width from five feet to four feet, similar to that already granted on W. Ida Street.

My request is based on the following:

I. THE CIRCUMSTANCES ASSOCIATED WITH THIS HOME CAN AND SHOULD BE CHARACTERIZED AS "UNUSUAL".

Two sections of the Code use this language.

A.12.04.080 section 3(f). In summary this section states that upon review of a written request the Public Works Director may grant a waiver of any or all of the required improvements if the Public Works Director finds that "Unusual circumstances . . . exist, which, in the opinion of the City, warrant a waiver . . . of required street or sidewalk improvements."

I posit that the circumstances of this case are "unusual" on their face. The circumstances surrounding this property support such a conclusion:

1. In 2015 the existing home, owned by Terry Holley, was destroyed by fire.
2. In 2017 Mr. Holley began construction on a new home. It was his plan to live in the home and, perhaps, run it as a Bed and Breakfast. As a long term resident of Stayton, Mr. Holley felt a Bed and Breakfast would make a positive addition to the community bringing guests, who might otherwise not think of Stayton, a reason to come and enjoy what the City had to offer.
3. On March 12, 2018 Mr. Holley died suddenly and unexpectedly. The home was 50% complete.
4. At his death the building project was essentially bankrupt and approximately \$200,000 over the Insurance company's reimbursable amount.
5. In May 2018 I was appointed by the Marion Count Probate Court as Personal Representative for the Estate of Terry R. Holley. I am Mr. Holley's former spouse and we lived together in Stayton during our marriage.
6. All construction ceased and the home languished for approximately three months after Mr. Holley's death due to a lack of funds with which to continue
7. My husband and I took out a Home Equity Line of Credit on our own home in order to loan the Estate enough money to resume building and move the project forward.
8. Building resumed around June 2018. Today, the home is 99% structurally complete, awaiting completion of the driveway.
9. My husband and I have continued to help fund the project and have loaned the Estate approximately \$150,000. We have no more money to give.
10. My intent is to finish the home, sell it and complete probate on the Estate.

11. The very best resolution for all parties involved in this project is that the house is completed, new owners take over and become an integral part of the Stayton Community. It stands to reason that, as an interested party, anything the City can reasonably do to help attain this goal would be beneficial.

"Usual" or "normal" circumstances of building a home in Stayton are vastly different from what is set forth here. Thus, an opinion of "unusual circumstances" is reasonable to warrant a waiver of sidewalk improvements.

B. 12.04.080 section 2 sets forth specific items that "do not normally constitute unusual circumstances which warrant granting of a . . . waiver of . . . sidewalk improvement requirements".

Even though the items "do not **normally** constitute unusual circumstances" I urge you to postulate that there is nothing "**normal**" about the circumstances of this project. Such a conclusion would allow the City to deem that the items do indeed "constitute unusual circumstances". Even more so when each item is considered individually.

a. Financial hardship of the applicant and/or property owner. Since Mr. Holley's death the "property owner" is the Estate of Terry R. Holley. The only income for the Estate is rental income from the property at 530 W Ida Street. The Estate is running at a deficit. Mr. Holley had counted on his continuing work income to help fund the home. This ended with his death. There is no further money for the Estate until the home is sold. This places an inordinate burden that could reasonably be deemed outside the bounds of "normal".

b. Lack of street improvements or sidewalks on adjacent properties. The properties bordering on both sides of this home are unimproved. To the north the sidewalk actually becomes smaller on the adjacent property. Though not unusual in itself, taken as a whole with the entire set of circumstances, again, this could reasonably be included in the totality of a decision to grant the requested waiver.

c. Cost of the improvement. The bid at the time of Mr. Holley's death was approximately \$37,000. Due to the passage of time, I am in process of having the job re-bid. I was told verbally that the difference between four feet and five feet is likely to be \$10,000 or more. This would be a significant savings allowing the home to be on the market and sold more quickly. My biggest fear at this point is that the project will languish again and we will miss the "sale" window of Spring/ Summer.

Again, I urge you to look at these circumstances as a whole for a conclusion that they are indeed "unusual" and warrant the requested modification.

II. LANGUAGE USED THROUGHOUT THE CODE IS PERMISSIVE.

Terms such as "may", "in the opinion of", "normally" and "unusual" all invite permissive interpretation. One can conclude that the writers of the Code intentionally used this language in order to allow leeway for special circumstances. I urge you to consider that the circumstances before you are exactly why the Code was written using such permissive language that allows the use of individual consideration rather than absolutes.

III. THE REQUIREMENTS, AS SET FORTH, ARE INCONGRUENT.

The City has approved reducing the sidewalk width from six feet to four feet along Ida Street. For that I am sincerely grateful. Ida Street is a main artery leading to Stayton's downtown core. It is heavily trafficked, especially at certain times of the day. Evergreen, however, is a short, smaller side street. It is incongruent that the requirement set forth by the City is that it must be wider than that of the main thoroughfare.

IV. THE ADA REQUIRES A MINIMUM OF FOUR FEET OF CLEAR SPACE AND A MAXIMUM CROSS SLOPE OF 2.0%.

I acknowledge that the sidewalk must be replaced in order to accommodate the 2% slope requirement. I am specifically requesting a modification in the City requirements from five feet to the ADA minimum of four feet. Such a change will have several effects that are beneficial to a timely completion of this project.

1. At five feet the entire brick wall that borders the property will have to be demolished and removed. The labor and expense associated with this is prodigious.
2. A modification to four feet would allow the wall to remain on the north side of the driveway resulting in cost savings as well as maintaining curb appeal for future sale. The sidewalk there meets the four foot minimum.
3. Further savings would be realized by reducing the amount of concrete and labor along the entire length of the property. Such savings would be significant.
4. One of the large oaks that borders the sidewalk may have to be removed. A four foot sidewalk would ensure the survival of this tree. The City has a vested interest in maintaining mature trees and we have already had to remove one tree.

In summary, I ask you to conclude that this project reasonably constitutes unusual circumstances and support a modification of the City's five foot sidewalk requirement on Evergreen Street to four feet. Such a modification complies with the ADA and, better yet, will allow all of Stayton's residents and visitors to safely enjoy the sidewalks surrounding the property.

Thank you for your time and consideration. I look forward to hearing from you soon.

Best Regards,

Vickianne Vlossak
Personal Representative for the
Estate of Terry R. Holley
503-932-2136

May 20, 2019

Re: Appeal of Waiver denial of home building project at 485 W. Ida St

Honorable Mayor Hank Porter and Members of the Stayton City Council;

I am the Personal Representative for the Estate of Terry R. Holley. In that capacity, I am acting on behalf of the Estate in the above referenced matter. Here is some background on the issue I bring before you tonight.

On April 20, 2019 I sent a written request to Lance Ludwick, Stayton's Director of Public Works, for waiver of his requirement for a five foot sidewalk improvement on Evergreen Street. On May 1, 2019 I received an email from the DPW denying my request. I then sent an appeal to Keith Campbell, the City Manager. Mr. Campbell partially reviewed my waiver request and upheld the decision of the DPW. I am hereby taking my request to you, the members of Stayton City Council, in accordance with SMC 12.04.090.

I urge the Stayton City Council members to reconsider the City Manager's waiver denial based on the following:

1. The DPW's interpretation of 12.04.080 3(f) is by his own language interpreted too narrowly.
 - a. The term "site" is not defined in Chapter 12 of the Stayton City Code and is thus open to interpretation.
 - b. In his denial letter the DPW states "The **entirety** of the language of SMC 12.04.080 3(f) is important in the analysis". He then proceeds to disregard his own assertion by focusing on the term "site" in the narrowest of terms as well as the term "unusual". Taken in its entirety, the circumstances and peculiarities surrounding this property site indeed exist for the reasons set forth in my initial appeal to the DPW.
 - c. I do not believe that the DPW gave valid consideration to my request.
2. In his analysis, the City Manager's ignored the permissive language of the statute. His letter of denial is silent on this point. In upholding the DPW's conclusions he applies the review standard of "material or interpretive error". This standard does not take into consideration the permissive nature of the statute.
3. The City Manager agrees that it is incongruent to require a four foot sidewalk on Ida, a main thoroughfare, and require a five foot sidewalk on Evergreen, a minor street. I am certain that the basis for the Ida street waiver was made in good faith and for good reason. I am asking for the same consideration for a waiver on Evergreen street. I request that you apply the same reasoning, using the permissive language of the statute.

Thank you for your time and consideration in this matter.

Sincerely,

Vickianne Vlossak
Personal Representative for the
Estate of Terry R. Holley



City of Stayton

Administration • Finance
362 N. Third Avenue • Stayton, OR 97383
Phone: (503) 769-3425 • Fax (503) 769-1456

May 7th, 2019

Vickianne Vlossak
Estate of Terry R. Holley
vrvoregon@me.com
503-932-2136

Re: Request of Waiver 485 W. Ida Street

Dear Ms. Vlossak,

I have received and reviewed your formal request for a waiver regarding improvements at 485 W. Ida Street. In addition to your letter I also reviewed the staff materials and correspondence regarding this matter.

Your request for a waiver on the permit requirements are based on two sections of the Stayton Municipal Code. I have included them in this letter in their entirety.

- A. 12.04.080 section 3(f) "Unusual circumstance or peculiarities of the site exist, which, in the opinion of the City, warrant a waiver of deferral of required street or sidewalk improvements."
- B. 12.04.080 section 2 "The following do not normally constitute unusual circumstances with warrant granting of a deferral or waiver of street and/or sidewalk improvement requirements:
 - a. Financial hardship of the applicant and/or property owner
 - b. Lack of street improvements or sidewalks on adjacent properties
 - c. Cost of Improvements

The entirety of the language of SMC 12.04.080 3(f) is important in the analysis. The code specifically says, "Unusual circumstance or peculiarities of the site exist..." In this case there seems to be neither dispute on the site, nor any claim of peculiarities regarding the site.

Your analysis focuses on the "unusual circumstances" independent of the site. In your appeal you detail eleven items which you posit deem the circumstances surrounding the property as "unusual" on their face. In your appeal you detail the history of the home and the path that lead you and your family to become an executor of the property located at 485 W. Ida Street.

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FAX (503) 769-7497

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STAYTON, OR 97383
(503) 769-2998
FAX (503) 767-2134

POOL
400 W. VIRGINIA STREET
STAYTON, OR 97383
(503) 767-7665

PUBLIC WORKS
362 N. THIRD AVENUE
STAYTON, OR 97383
(503) 769-2919
FAX (503) 767-2134

WASTEWATER
950 JETTERS WAY
STAYTON, OR 97383
(503) 769-2810
FAX (503) 769-7413

LIBRARY
515 N. FIRST AVENUE
STAYTON, OR 97383
(503) 769-3313
FAX (503) 769-3218



City of Stayton

Administration • Finance
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In reading the details of your statements the focus of the "unusual" are framed in the tragedy of the situation, history on the project, and the unplanned hardships and costs which your family has assumed after Mr. Holley's unexpected passing.

SMC 12.04.080(2)(a) and (c) make it clear that financial hardship and costs of improvements do not normally constitute "unusual" circumstances. The only point that isn't addressed by the Stayton Municipal Code that is germane to the consideration is the inheritance of the property. This alone isn't "unusual" in circumstance.

You note that SMC 12.04.080(2)(b) also says that lack of street improvements or sidewalks on adjacent properties do not normally constitute "unusual" circumstances. A lack of sidewalks on adjacent properties in no way impacts the ability to design and construct such improvements. In a personal review of the site, I noted there are contiguous sidewalks on both Ida and Evergreen Streets.

I do agree with your statement that there is some incongruence in the approval of the reduction of the sidewalk on Ida Street but not on Evergreen. I will respect the judgement of staff in this matter, but in my review of the material, and the code I believe the decision to reduce the requirements on Ida Street was made in error. If the City was no longer bound by the agreement made with Mr. Holley, or if this matter were to be re-examined, it would be my recommendation that the consideration of the Ida Street sidewalk reduction be removed and the property be required to meet the code standards of six feet.

Staff has taken a detailed review of the code, and the facts surrounding this situation. I have done a complete review of their conclusions and a review of your letter of consideration with details of your basis of the appeal. I see no area where I believe staff made a material or interpretive error in their denial of your appeal. Based on your appeal, the facts of the case as presented, and a review of the Stayton Municipal Code I see no justification to reverse staff's denial of the appeal.

Sincerely,


Keith D. Campbell
City Manager

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FAX (503) 769-3218



CITY OF STAYTON
MEMORANDUM

TO: Lance Ludwick, P.E., Director of Public Works
FROM: Michael Schmidt, Senior Engineering Technician
DATE: February 28, 2019
SUBJECT: 485 W Ida Street Sidewalk ADA Compliance Measurements

The following measurements were taken of the existing sidewalk on Ida Street and Evergreen Avenue to check for ADA compliance. Each panel of walk was measured. ADA requires a minimum of four (4) feet of clear space and a maximum cross slope of 2.0%.

Ida Street

The width of walk measured ranged from 3.80 feet near the east end to 4.45 feet near the west end. The cross slope measured ranged from 2.2% to 4.2%. One exception is a small newer 2.0' panel installed when the meter box was replaced. This one panel is 4.3' in width with a cross slope of 1.7%. The cross slope of the walk panels on either side of the meter are 4.1% and 3.1%.

Evergreen Avenue

The width of walk measured ranged from 3.50 feet near the south end to 4.80 feet near the north end. The cross slope measured ranged from 2.2% to 4.6%.

The southerly 31.6' wide driveway is not ADA compliant and has a cross slope in excess of 16%.

The northerly 26.0' driveway is a modified curb tight driveway. The ramp slopes at each end are 9.5% at the south ramp and 3.9% at the north ramp. The cross slope through the driveway ranges from 3.0% to 3.9%.

Of note, the brick wall and fencing on Ida Street is in the right-of-way. The wall and fence on Evergreen starts in the right-of-way and crosses into the private property at an unknown point. Based on a survey iron found at the NW corner of the property the actual property corner is under the existing sidewalk.

From: Lance Ludwick lludwick@ci.stayton.or.us 
Subject: 485 IDA Street Sidewalks
Date: March 1, 2019 at 12:00 PM
To: vrvoregon@me.com
Cc: Keith Campbell kcampbell@ci.stayton.or.us, Michael Schmidt mschmidt@ci.stayton.or.us

Ms. Vlossak

As we discussed in our meeting on Tuesday I have reviewed the project and all the correspondence between the City and Mr. Holley and his contractor.

After reviewing all the correspondence it has become pretty clear that even before the building permit was issued the City let Mr. Holley know what the City would be requiring. Mr. Holley then requested from the City that we reduce the width of the sidewalk requirement. The City ended up approving reducing the sidewalk width from 6 feet to 4 feet along IDA Street but still required a 5 foot wide sidewalk along Evergreen. All sidewalks need to meet the ADA standards or the City could be held liable. We went out to the site yesterday to verify how much of the sidewalk meets ADA requirements. We found very little if any of the sidewalk meet ADA requirements.

I also reviewed the Stayton Municipal Code (SMC) for the waiver requirements.

SMC 12.04.080 Section 2 a. states financial hardship of the applicant and or property owner does not normally constitute unusual circumstances which warrant granting a deferral or waiver from street or sidewalk improvement requirements.

SMC 12.04.080 Section 2 c. states the Cost of the improvement does not normally constitute unusual circumstances which warrant granting a deferral or waiver from street or sidewalk improvement requirements.

I have attached Title 12 of the Stayton Municipal Code which discusses this issue. I have also attached copies of emails sent to Mr. Holley and his contractor addressing the requirements.

ADA compliance is at the forefront for every city in the country and can't be ignored. I need to act in the best interest of the City so unfortunately I cannot waive the requirement for sidewalks to be constructed

If you would like to discuss this issue please contact me at your convenience.

Respectfully,

Lance S. Ludwick P.E.
Director of Public Works
City of Stayton
311 N Third Avenue
Stayton, Oregon 97383
(503) 769-2919

SCRIPT TO BE READ AT COMMENCEMENT OF PUBLIC HEARING

Good evening, my name is Henry Porter, as Mayor I will be presiding over this hearing. This is the time and place set for the public hearing in the matter of Land Use File #3-02/19, concerning legislative amendments to the Land Use and Development Code regarding standards for fencing in the Commercial and Downtown zones.

This hearing is now open.

At the back counter is the agenda for this evening's meeting, which lays out the order in which people will be called on to speak during the public hearing, copies of the proposed amendments, the City's Rules of Procedure for Land Use Public Hearings, and a brochure written to facilitate your participation in the public hearing. You are encouraged to obtain and read a copy of these documents as well.

At this time I would ask the audience if there are any objections to the notice for this hearing. I hear none (if there are none). To the jurisdiction of this body to hear and consider this case? I hear none (if there are none). Are there any declarations of conflict of interest; ex parte contact or bias by any members of this body? I hear none (if there are none).

When it is your turn to speak please state your name and address for the record. As a participant in the hearing, the City is required to notify of the final results of the process.

We are now ready for the staff report.

CLOSING STATEMENT

The City Council's decision may be appealed to the Land Use Board of Appeals within 21 days in accordance with ORS 197.830.

SCRIPT TO BE READ AT COMMENCEMENT OF PUBLIC HEARING

Good evening, my name is Henry Porter, as Mayor I will be presiding over this hearing. This is the time and place set for the public hearing in the matter of Land Use File #2-02/19, concerning legislative amendments to the Land Use and Development Code to provide flexibility in the application of development and improvement standards for properties on the National Register of Historic Places.

This hearing is now open.

At the back counter is the agenda for this evening's meeting, which lays out the order in which people will be called on to speak during the public hearing, copies of the proposed amendments, the City's Rules of Procedure for Land Use Public Hearings, and a brochure written to facilitate your participation in the public hearing. You are encouraged to obtain and read a copy of these documents as well.

At this time I would ask the audience if there are any objections to the notice for this hearing. I hear none (if there are none). To the jurisdiction of this body to hear and consider this case? I hear none (if there are none). Are there any declarations of conflict of interest; ex parte contact or bias by any members of this body? I hear none (if there are none).

When it is your turn to speak please state your name and address for the record. As a participant in the hearing, the City is required to notify of the final results of the process.

We are now ready for the staff report.

CLOSING STATEMENT

The City Council's decision may be appealed to the Land Use Board of Appeals within 21 days in accordance with ORS 197.830.