

**MINUTES**  
**DAYTON CITY COUNCIL**  
**REGULAR SESSION**  
**January 7, 2019**

**PRESENT:** Mayor Elizabeth Wytoski  
Councilor John Collins  
Councilor Daniel Holbrook  
Councilor Kitty Mackin  
Councilor Nikki McGraw (*arrived at 6:50 pm*)  
Councilor Darrick Price

**ABSENT:** Councilor Trini Marquez

**STAFF:** Rochelle Roaden, City Manager  
Steve Sagmiller, Public Works Director  
Vicki Durand, Community Development Assistant

**A. CALL TO ORDER & PLEDGE OF ALLEGIANCE**

Mayor Wytoski called the meeting to order at 6:30 pm and those present gave the Pledge of Allegiance.

**B. ROLL CALL**

Mayor Wytoski noted there was a quorum with Councilors Collins, Mackin and Price. Mayor Wytoski noted the absence of Councilor Trini Marquez. She also noted the absence of Councilor McGraw, stating that she would be a little late.

**C. APPEARANCE OF INTERESTED CITIZENS**

None present.

**D. CONSENT AGENDA**

**KITTY MACKIN MOVED TO APPROVE THE MINUTES OF THE  
REGULAR SESSION MEETING OF DECEMBER 3, 2018 AS  
AMENDED. SECONDED BY DARRICK PRICE. *Motion carried  
with Collins, Mackin, Price and Wytoski voting aye.***

**E. ACTION ITEMS**

**1. Swearing in of Elected City Councilors**

Vicki Durand, Community Development Assistant, performed the swearing in of Mayor Elizabeth Wytoski and Councilors Daniel Holbrook, Nikki McGraw and Darrick Price.

**2. Council President Election**

John Collins nominated Darrick Price which was seconded by Kitty Mackin. John Collins, Daniel Holbrook, Kitty Mackin, Darrick Price and Mayor Wytoski cast their votes for Darrick Price.

**JOHN COLLINS MOVED TO ELECT DARRICK PRICE AS COUNCIL PRESIDENT. SECONDED BY KITTY MACKIN.** *Motion carried with Collins, Holbrook, Mackin, Price and Wytoski voting aye.*

**3. 2017-2018 Financial Audit Presentation – Grove, Mueller and Swank**

Tom Glogau, Senior Manager, and Kevin Harding, Senior Associate, at Grove, Mueller & Swank, P.C. presented the results for the City's audit for Fiscal Year 2017-18. Their report indicates that overall the City is doing well with a more than adequate rainy day fund, stating that if needed, the City could operate for 15 months with that as the only income. It was noted that more debt has been paid off than was taken in and that overall the financial condition of the City has improved and continues to improve. It was also noted that the City's ability to pay revenue bond investors is well within the benchmark range of a surplus of two times the actual debt owed. The actual cost to run the City was down from the 2016-2017 cost but that was attributed to approximately \$300,000 spent on repairs and improvements that year.

In response to Councilor Price's question asking if any deficiencies had been noted, council was advised there were none of any importance. Kevin Harding thanked Rochelle Roaden for all of her assistance, stating that she did a great job! The council also congratulated her for a job well done.

**KITTY MACKIN MOVED TO ACCEPT THE FISCAL YEAR 2017-2018 FINANCIAL STATEMENTS. SECONDED BY DANIEL HOLBROOK.** *Motion carried with Collins, Holbrook, Mackin, Price and Wytoski voting aye.*

**4. Reappointment of Historic Preservation Committee Members**

**DARRICK PRICE MOVED TO REAPPOINT JUDY GERRARD AND KIM COURTIN TO THE HISTORIC PRESERVATION COMMITTEE FOR A FOUR YEAR TERM THAT EXPIRES ON DECEMBER 31, 2022. SECONDED BY JOHN COLLINS.** *Motion carried with Collins, Holbrook, Mackin, Price and Wytoski voting aye.*

**5. Appointment of Planning Commissioner**

**JOHN COLLINS MOVED TO APPOINT JAMES MAGUIRE TO THE PLANNING COMMISSION WITH A FOUR YEAR TERM EXPIRING DECEMBER 31, 2022. SECONDED BY KITTY MACKIN.** *Motion carried with Collins, Holbrook, Mackin, McGraw, Price and Wytoski voting aye.*

6. **Approval of City Manager Contract**

Mayor Wytoski advised council that this is a slightly different contract than the one used in the past, based upon suggestions from Heather Martin, City Attorney. John Collins stated that he appreciates all of the hard work Mayor Wytoski put into the contract with Darrick Price concurring.

**KITTY MACKIN MOVED TO APPROVE THE CITY MANAGER EMPLOYMENT CONTRACT WITH ROCHELLE ROADEN. SECONDED BY DANIEL HOLBROOK.** *Motion carried with Collins, Holbrook, Mackin, McGraw, Price and Wytoski voting aye.*

7. **Approval of City Manager Joining Rotary**

Daniel Holbrook inquired as to how long the commitment would be with Mayor Wytoski responding it would be for one year with council deciding each year whether to renew the membership. Rochelle Roaden advised that the annual fee is \$1,000.00.

**DANIEL HOLBROOK MOVED TO APPROVE ROCHELLE ROADEN, AS CITY MANAGER, JOINING THE MCMINNVILLE ROTARY AND THE CITY OF DAYTON PAYING THE ANNUAL MEMBERSHIP FEES. SECONDED BY KITTY MACKIN.** *Motion carried with Collins, Holbrook, Mackin, McGraw, Price and Wytoski voting aye.*

8. **Approval of Resolution 17/18-9 Amending Interim Financing Maturity Date for Sewer Improvement Capital Project**

Mayor Wytoski inquired as to whether there are expenses, due to the change of date, that will be passed on to the contractor. A discussion ensued regarding the date with Rochelle Roaden advising that it is a good date. Daniel Holbrook asked when the interest rate would be set with Rochelle advising it has already been set.

**JOHN COLLINS MOVED TO APPROVE RESOLUTION 18/19-9 A RESOLUTION AUTHORIZING LOAN AGREEMENT AMENDMENT NO. 1 TO THE CITY'S OUTSTANDING CLEAN WATER STATE REVOLVING FUND LOAN AGREEMENT NO. R26750 IN THE AMOUNT OF \$2,500,000 WHICH EXTENDS THE MATURITY OF INTERIM FINANCING FOR IMPROVEMENTS TO THE CITY'S FACILITIES AND RELATED MATTERS. SECONDED BY KITTY MACKIN.** *Motion carried with Collins, Holbrook, Mackin, McGraw, Price and Wytoski voting aye.*

9. **Approval of First Reading of Ordinance 643 Amending Municipal Code Regarding Violations, Penalties, and the Municipal Court**

Kitty Mackin performed the first reading of Ordinance 643 Amending Municipal Code Regarding Violations, Penalties, and the Municipal Court as amended.

**JOHN COLLINS MOVED TO APPROVE THE FIRST READING OF ORDINANCE 643 AN ORDINANCE OF THE DAYTON CITY COUNCIL AMENDING DAYTON MUNICIPAL CODE CHAPTER 1 REGARDING VIOLATIONS, PENALTIES, AND THE MUNICIPAL COURT AS AMENDED. SECONDED BY DARRICK PRICE. Motion carried with Collins, Holbrook, Mackin, McGraw, Price and Wytoski voting aye.**

F. **CITY COUNCIL COMMENTS AND CONCERNS**

Kitty Mackin provided information on an upcoming blood drive to be held on Thursday, January 10, 2019, at the Dayton Fire Station.

Daniel Holbrook commented that he is excited to serve the residents of Dayton and looks forward to working with the City Council and City Staff.

Darrick Price voiced his concern regarding the government shutdown, which includes the United States Department of Agriculture (USDA), asking if we anticipate any problems paying on the sewer project. Rochelle Roaden advised our payments are current and we are currently waiting on the next draw. She advised that the Department of Environmental Quality (DEQ) has not been shut down but should that change the City can request a draw. Darrick Price also asked if there is any concern about the sewer project being closed down due to an inability to pay Kizer Excavating. He asked if the City paid the contractor, with City funds, would those be reimbursable. Rochelle Roaden advised that she would look in to his question.

John Collins advised that he will be unable to attend the January 22, 2019, work session due to a commitment that cannot be rescheduled. He also advised that he is still looking in to the by-laws for Dayton Village but has not yet had an opportunity to meet with the Homeowners Association (HOA) President. John said he will let council know as soon as that meeting is scheduled.

Nikki McGraw shared a picture that a co-work, who is an Historian at the State Police, donated to the City of Dayton. The picture depicts downtown Dayton celebrating the annual Rodeo. Although the picture is not dated it's believed to be from July in the 1950-1960 eras. The picture will be given to the Historical Preservation Committee.

Mayor Wytoski advised that City Day at the Capitol 2019 will be held on January 24, 2019; anyone wanting to attend will need to register with their legislator. She stated that this is a good event to attend as it will include a briefing from League staff on legislative priorities. They are looking for city leadership for testifying during legislative sessions. Mayor Wytoski mentioned any councilors wanting to attend can contact the League of Oregon Cities (LOC) with any questions they might have.

There is also a Main Street Conference being held in Seattle and Mayor Wytoski mentioned that Daniel Holbrook will be attending as a member of the Dayton Community Development Association (DCDA) board. There is a discount for elected officials for this four day event and Kelly Haverkate of the DCDA is looking for three good days for the DCDA to attend, she will advise, should anyone else wish to attend. Mayor Wytoski asked if the council would have any objection to paying for Daniel Holbrook's hotel fees as a scholarship will be covering his conference fees. There were no objections; in order to cover the expense one half of the training fund will be used. John Collins commented that he is happy Daniel Holbrook will be attending and that he is interested in working with the DCDA.

**G. INFORMATION REPORTS**

1. City Manager Report

Rochelle Roaden advised that the excavation of the wet well has been completed as well as the form work and the rebar.

Steve Sagmiller provided an update on the ongoing water issues, reviewing all of the measures taken, to date, advising that even with these steps there continue to be concerns with the taste and odor of the City's water. He continues to try to isolate the problem, while several measures have been taken, none seem to have worked well. Steve mentioned that there are a couple of options left to try, he has ordered filter media and once received it will be added to the water. If that doesn't work he will look in to adding powder activated carbon, but did mention there is a significant expense to this option. Steve Sagmiller also advised council that he is working with Denny Muchmore, City Engineer to see what our next step might be as well as any expected costs.

A discussion ensued as to whether the City can bill Lafayette for any of the costs incurred with Steve Sagmiller advising that we can. Steve went on to say that one of Lafayette's wells failed this past week and due to that failure, Lafayette is using more water from our system. With their increased usage Lafayette has also been receiving complaints about the taste and smell of their water. Steve advised that water is currently being pulled from the springs for 18 hours and then 18 hours from the wells, giving the spring's time to rest.

Steve Sagmiller explained in summary that he believes the problems the City is experiencing are due to excessive iron and manganese in the water which can be attributed to a decrease in rainfall. When the wells have less water there is a higher concentration of minerals leading to the taste and odor issues residents are experiencing. Steve went on to explain that all of the wells are being used, including Fisher Farms, and that they are on the same aquifer as the joint well system so all are experiencing the same problems. Steve reiterated that while there is no easy fix Public Works continues to work on the problem and are doing all they can to resolve the issue.

Rochelle Roaden advised that she and Cyndi Park, Librarian, will be attending the Council of Governments' (COG) Governance 101 & Land Use Training on January 26, 2019 in Gervais. Anyone wishing to attend should let Rochelle know. She also advised that RSVP's are needed for anyone planning to attend the annual COG meeting and dinner being held at the Keizer Community Center in Keizer on February 20, 2019.

**H. ADJOURN**

There being no further business, the meeting adjourned at 7:40 pm.

Respectfully submitted:

**APPROVED BY COUNCIL on January 22, 2019.**

By: Rochelle Roaden  
City Recorder

**As Written**  **As Amended**

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**Elizabeth Wytoski, Mayor**

**MINUTES**  
**DAYTON CITY COUNCIL**  
**WORKING/EXECUTIVE SESSION**  
**JANUARY 22, 2019**

**PRESENT:** Mayor Elizabeth Wytoski  
Councilor Daniel Holbrook  
Councilor Kitty Mackin  
Councilor Trini Marquez (*arrived at 6:33 pm*)  
Councilor Nikki McGraw  
Councilor Darrick Price

**ABSENT:** Councilor John Collins

**STAFF:** Rochelle Roaden, City Manager  
Patty Ringnalda, City Recorder  
Heather Martin, City Attorney  
Mallory Beebe, City Attorney

**A. CALL TO ORDER & PLEDGE OF ALLEGIANCE**

Mayor Wytoski called the meeting to order at 6:32 pm and those present gave the Pledge of Allegiance.

**B. ROLL CALL**

Mayor Wytoski noted there was a quorum with Councilors Holbrook, Mackin, McGraw and Price in attendance. Mayor Wytoski also noted the absence of Councilors Collins and Marquez.

**C. APPEARANCE OF INTERESTED CITIZENS**

None present.

**EXECUTIVE SESSION**

Mayor Wytoski closed the Regular Session Meeting at 6:34 pm and stated Council will meet in Executive Session in the City Hall Backroom pursuant to ORS 192.660(2)(h) to consult with council concerning legal rights and duties of a public body with regards to current litigation or litigation likely to be filed.

Mayor Wytoski closed the Executive Session at 7:09 pm and moved back into the Regular Session in the City Hall Annex.

**D. WORK SESSION ITEMS**

1. **City Council Rules** - Mayor Wytoski reviewed the proposed changes to the City Councilor rules and stated that to be in compliance with the City Charter the Council is to review the Council rules every two years. Council rules were updated by Mayor Wytoski and City Manager Rochelle Roaden and then sent to City Attorney Heather Martin for further review before presenting to Council. Council Rules were reviewed by Council and the City Attorney, changes were noted.

City Attorneys left the meeting at 7:50 pm

2. **Mary Gilkey Library Policies** – Rochelle Roaden reviewed the proposed Library policy changes with the Council. Via staff report, Librarian, Cyndi Parks is asking to change the library late fee policy to allow for no-fees for future overdue Dayton Library materials and furthermore she requests

that all outstanding late fines for Dayton patrons on Dayton-owned materials be forgiven as well. Rochelle stated that no-fees or fee forgiveness will be only for Dayton Library fines. Discussion continued with all Councilors in favor of the no-fine policy.

**E. CITY COUNCIL COMMENTS/CONCERNS**

Mayor Wytoski stated that Rochelle Roaden delivered to her a sample of the well water from the new filtration system. Rochelle reviewed the improvements to the well water and the filter media which was ordered and put in last week. She stated that Steve Sagmiller, Public Works Director, put in about 20% of the total filter media into the system. Samples of the filtered water was passed out to the Council. Council felt there was still a taste to the water but a big improvement was noted. Rochelle Roaden stated that Steve Sagmiller is working on numbers to replace more of the filter media and she will present those numbers at the next City Council meeting. She has asked Steve to start a maintenance program on the filter media. Discussion continued.

Mayor Wytoski reviewed her up-coming meetings.

Councilor Daniel Holbrook stated that he will be attending LOC's training.

Councilor McGraw announced that she is resigning from the City Council due to moving out of the City's jurisdiction. Mayor Wytoski stated that the Council will wait until the next City Council Meeting to declare the seat vacant.

**F. INFORMATION REPORTS**

1. City Manager's Report

The 9<sup>th</sup> Street Lift Station project has been completed. A building has been installed and a fence will be installed around the structure this week.

After talking to the owners of the business at 400 Ferry Street, a fence is scheduled to be installed on the east side of the City Hall Annex this week and the propane tank that is in the path of the proposed fence line is scheduled to be moved by the Propane NW. She further noted that the City will be paying for the move of the propane tank. Discussion continued.

Rochelle Roaden advised the Council that the City of Dayton did not get the "Safe Route to School Grant". Councilor McGraw ask if the City got feedback as to why we did not get the grant, Rochelle stated that we did not get any feedback only a list of those who were awarded the grant. Discussion continued.

Sewer project update: The Contractor has completed the first wall pour on the main pump station wet-well structure. The second pour and top slab should be completed in the next two weeks. After the wet-well structure and the gravity sewers across the pump station site are completed, it is anticipated that the Contractor will remove the sheet piling system and proceed with construction of the remaining site improvements. The sewer mainline along the alley from First Street to the new pump station site has been installed, but has not been placed in service. The Contractor is working



on the installation of the sewer mainlines from the existing pump station to the new pump station wet well. Rochelle further stated that all payouts have been made up to this point.

Code Enforcement: Two weeks ago, the City received a report that a car was parked in front of the fire hydrant near the mobile home park on Ferry Street and the vehicle was tagged with a tow notice by a Yamhill County Deputy. In follow up the City's code enforcement officer had the vehicle towed after the appropriate allotted time. Rochelle Roaden stated that she is in the process of asking ODOT for no parking signs to be installed near the fire hydrant and she asked the City's Deputy to continue to monitor that area.

After the City was unable to fill the City Recorder/Finance Officer position the following changes were made to City staffing; Dawn Beveridge accepted the position of part time (24 hours per/week) Accountant. Patty Ringnalda was moved to City Recorder, the City Clerk position was renamed to Office Specialist II and Vicki Durand was moved into that position. The Community Development Assistant position was renamed to Office Specialist I and Ricci Haworth was hired to fill that position until June 10, 2019 with the intention to hire a full time employee with the 2019/20 budget cycle. Public Works has one employee out on worker's compensation and Steve Sagmiller is interviewing this week for a temporary maintenance worker to help out until our employee returns to work.

January 26<sup>th</sup> is the Governance 101 and Land Use Training, hosted by the City of Gervais. The cost to attend is \$20 per person and pre-registration is required no later than January 23, 2019. If anyone is interested in attending, they should let Rochelle know.

The COG City County Dinner is schedule for February 20<sup>th</sup> in Keizer, please RSVP to Patty if you would like to attend.

**ADJOURN**

There being no further business, the meeting adjourned at 8:20 pm.

Respectfully submitted:

**APPROVED BY COUNCIL**

As Written  As Amended

By: Patty Ringnalda  
City Recorder

\_\_\_\_\_  
**Elizabeth Wytoski, Mayor**

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**To:** Honorable Mayor and City Councilors

**From:** Rochelle Roaden, City Manager

**Issue:** Declaring Date of Vacancy for City Council Seat

**Background Information:**

At the January 22, 2019, Work/Executive Session, Councilor McGraw resigned her position as City Councilor. She informed the Council that her family was in the process of moving to property outside of Dayton city limits. As a result, the City Council must address the issue of declaring and filling the vacancy.

Per our Municipal Code (1.03.02(A)), the Council must promptly determine and declare the date of vacancy.

The appointment process must be started with a public notice in the News Register with at least a two week application submission deadline. The earliest the public notice can be printed in the News Register is Friday, February 8, 2019.

Here is the Municipal Code language for your reference:

**1.03.00 VACANCIES IN OFFICE**

**1.03.01 Vacancy in Office**

A city elective office becomes vacant as provided by Charter section 32.

**1.03.02 Filling of Vacancy**

(A) Upon becoming aware of a vacancy in an elective office, the Council must promptly determine and declare the date of vacancy.

(B) A vacancy in an elective office must be filled as provided by Charter section 33.

**1.03.03 Appointment by Council**

(A) In filling a vacancy, the Council may make inquiries and hold interviews as it considers necessary for the appointment. The appointment may be made at a regular or special Council meeting.

(B) The Council will use the following procedures in the appointment process:

(1) Public notice to appropriate neighborhood organizations, civic groups, a newspaper of general circulation and other recognized groups.

(2) Deadline for submitting applications at least two weeks after the notice.

(3) Appointment from those applicants nominated and seconded for consideration by members of the Council. The recorder will announce the results of each ballot and will record each councilor's ballot. An applicant who receives a majority of the votes by the current Council members will be appointed to the vacant position. If no applicant receives a majority vote on the first ballot, the council will continue to vote on the two applicants who receive the most votes until an applicant receives a majority of the councilors voting.

**City Manager Recommendation:** I recommend declaring the vacancy as of February 4, 2019.

**Potential Motion to Approve:** "I move to declare Nikki McGraw's City Council seat vacant as of February 4, 2019."

**City Council Options:**

1 – Move to declare council seat vacant.

2 – Take no action.

**To:** Honorable Mayor and City Councilors  
**From:** Rochelle Roaden, City Manager  
**Issue:** Approval of Resolution 18/19-10 Amending Library Fines and Fees and Forgiveness of Outstanding Late Fees

**Background and Information**

At the January 22, 2019 work session, Council reviewed a proposal from Librarian Cyndi Park to consider removing late fees from Dayton-owned library materials and to forgive all current outstanding late fees. Patrons would be charged a replacement fee for materials once it is 35 days past due. If the item is returned in good condition, the replacement fee will be waived.

Council was in support of the approved changes.

**City Manager Recommendation:** I recommend approving Resolution 18/19-10 amending the Mary Gilkey Library fines and fees policy removing late fees on Dayton-owned library materials as well as forgiveness of all outstanding late fees for Dayton residents on Dayton-owned library materials.

**Potential Motion to Approve:** “I move to approve Resolution 18/19-10 a Resolution Amending Library Fines and Fees; Removing Late Fees on Dayton-Owned Materials; and Forgiveness of all Outstanding Late Fees for Dayton Patrons on Dayton-Owned Materials.”

**Council Options:**

- 1 – Approve Resolution 18/19-10 as recommended.
- 2 – Approve Resolution 18/19-10 with amendments.
- 3 – Reject Resolution 18/19-10.
- 4 – Take no action and direct staff to do further research or provide additional options.

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**RESOLUTION No. 18/19-10**  
**City of Dayton, Oregon**

**TITLE:**        *A Resolution Amending Library Fines and Fees; Removing Late Fees on Dayton-Owned Materials; and Forgiveness of all Outstanding Late Fees for Dayton Patrons on Dayton-Owned Materials.*

**WHEREAS**, the City of Dayton City Council adopted the City of Dayton Fee Schedule per Resolution No.16/17-3; and

**WHEREAS**, Library Fines and Fees are included in the Fee Schedule; and

**WHEREAS**, overdue fines can create barriers to using the library for children and families, reducing access to learning opportunities during periods of critical learning and development; and

**WHEREAS**, communities of color, immigrants, children, single-parent households and people with disabilities are disproportionately impacted by poverty. Those living in poverty have fewer options for managing library accounts; and

**WHEREAS**, Public libraries across the United States and elsewhere are moving to eliminate fines as a best practice to serve communities in an equitable manner.

**The City of Dayton resolves as follows:**

- 1)     **THAT** the Library Fines and Fees policy is hereby amended and adopted according to Exhibit A (attached hereto and made a part herein); and
- 2)     **THAT** the Library will no longer assess late fees on Dayton-owned materials; and
- 3)     **THAT** all outstanding late fees for Dayton patrons on Dayton-owned materials will be forgiven as of February 5, 2019; and
- 4)     **THAT** the Library will assess fees equal to the cost of replacement for materials that are not returned by patrons. If the material is returned in good condition, the replacement fee shall be forgiven; and
- 5)     **THAT** this resolution shall become effective immediately upon adoption.

**ADOPTED** this 4th day of February 2019.

**In Favor:**

**Opposed:**

**Absent:**

**Abstained:**

\_\_\_\_\_  
**Elizabeth Wytoski, Mayor**

\_\_\_\_\_  
**Date Signed**

**ATTEST:**

\_\_\_\_\_  
**Patty Ringnalda**  
**City Recorder**

\_\_\_\_\_  
**Date of Enactment**



EXHIBIT A

SECTION 8: Library Fines and Fees

Adopted October 3, 2016

Resolution 16/17-03

\$60.00 Annual Fee for non-city and out of district residents wishing for full-service cards (please note – children’s cards through age 17 will still be available free of charge, but may only be used for children’s and young adult items.)

\$20.00 Local Option Card annual fee for non-city residents who wish to check out books only from our Library. Patrons with this type of card may also use it to place holds on Dayton items only.

\$0.00 Basic Card for Adult, Child, Teens and Seniors will still be free, but holders are limited to 10 items checked out and 10 items on hold at one time in the CCRLS system.

~~\_\_\_\_\_ \$ .25/day Late Fees for Books & Audio Books~~

~~\_\_\_\_\_ \$ .50/day Late Fees for Videos & DVD’s~~

Replacement Fee Per item fee (actual cost to replace the item) for any material (book, DVD, audio CD) that is not returned within 35 days of its due date. If the item is returned in good condition, the replacement fee will be forgiven.

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**RESOLUTION No. 16/17-3**  
**City of Dayton, Oregon**

**TITLE:**        *A Resolution Amending Library Fines and Fees.*

**WHEREAS**, the City of Dayton City Council adopted the City of Dayton Fee Schedule per Resolution No. 13/14-2; and

**WHEREAS**, Library Fines and Fees are included in the Fee Schedule; and

**WHEREAS**, the City of Dayton contracts with the Chemeketa Community Regional Library System (CCRLS) for system support and services; and

**WHEREAS**, CCRLS recently changed a few of their policies regarding fines and fees; and

**WHEREAS**, the City of Dayton desires to keep local policies in conformance with the regional system.

**The City of Dayton resolves as follows:**

- 1)     **THAT** the Library Fines and Fees policy is hereby amended and adopted according to Exhibit A (attached hereto and made a part herein); and
- 2)     **THAT** this resolution shall become effective immediately upon adoption.

**ADOPTED** this 3<sup>rd</sup> day of October 2016.

**In Favor:**     **Bixler, Collins, Marquez, Wytoski**

**Opposed:**     **None**


**Absent:**        **Frank, Price, Taylor**


**Abstained:**   **None**

  
\_\_\_\_\_  
**Elizabeth Wytoski, Mayor**

  
\_\_\_\_\_  
**Date Signed**

**ATTEST:**

  
\_\_\_\_\_  
**Rochelle Roaden**  
**City Recorder**

  
\_\_\_\_\_  
**Date of Enactment**

## Exhibit A

### SECTION 8:

### Library Fines and Fees

Adopted July 7, 2008

*Resolution 08/09-02*

- |            |   |
|------------|---|
| \$60.00    | Annual Fee for non-city and out of district residents wishing <u>for</u> full-service cards (please note – children’s cards through age <u>17<del>5</del></u> will still be available free of charge, but may only be used for children’s and young adult items.) |
| \$20.00    | Local Option Card <u>annual fee</u> for non-city residents who wish to check out books only from our Library. Patrons with this type of card may also use it to place holds on Dayton items only.   |
| \$0.00     | Basic Card for Adult, Child, Teens and Seniors will still be free, but holders are limited to <u>10<del>one</del></u> items checked out and <u>10<del>one</del></u> items on hold at one time in the CCRLS system.  |
| \$ .25/day | Late Fees for Books & Audio Books   |
| \$ .50/day | Late Fees for Videos & DVD’s  |

**To:** Honorable Mayor and City Councilors  
**From:** Rochelle Roaden, City Manager  
**Issue:** Approval of Resolution 18/19-11 A Resolution Adopting Library Policies

**Background and Information**

At the January 22, 2019 work session, Council was presented with a Library Policies document representing the CCRLS standards. Per our Librarian, Cyndi Park: “According to the regulations of the Oregon Library Association, as approved by the Oregon Legislature, a public library in our state must meet certain minimum standards. Our library currently meets all but one of these standards - we must have published policies to be compliant. The attached document represents CCRLS standards that we may not control (such as library card types) as well as best practices from libraries around the state and our own de facto policies.”

**City Manager Recommendation:** I recommend approving Resolution 18/19-11.

**Potential Motion to Approve:** “I move to approve Resolution 18/19-11 a Resolution Adopting Library Policies.”

**Council Options:**

- 1 – Approve Resolution 18/19-11 as recommended.
- 2 – Approve Resolution 18/19-11 with amendments.
- 3 – Reject Resolution 18/19-11.
- 4 – Take no action and direct staff to do further research or provide additional options.

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**-RESOLUTION No. 18/19-11  
City of Dayton, Oregon**

**TITLE:**        *A Resolution Adopting Library Policies.*

**WHEREAS**, the Oregon Library Association, as approved by the Oregon Legislature, requires an Oregon public library to have published policies; and

**WHEREAS**, the Mary Gilkey Library is a member of the Chemeketa Cooperative Regional Library Service (CCRLS), a consortium of public libraries serving Marion, Polk and Yamhill Counties; and

**WHEREAS**, the City of Dayton desires to keep local policies in conformance with the regional system.

**The City of Dayton resolves as follows:**

- 1)     **THAT** the Library Policies are adopted according to Exhibit A (attached hereto and made a part herein); and
- 2)     **THAT** this resolution shall become effective immediately upon adoption.

**ADOPTED** this 4th day of February 2019.

**In Favor:**

**Opposed:**

**Absent:**

**Abstained:**

\_\_\_\_\_  
**Elizabeth Wytoski, Mayor**

\_\_\_\_\_  
**Date Signed**

**ATTEST:**

\_\_\_\_\_  
**Patty Ringnalda  
City Recorder**

\_\_\_\_\_  
**Date of Enactment**

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## EXHIBIT A

The Mary Gilkey City Library is a member of the Chemeketa Cooperative Regional Library Service (CCRLS), a consortium of public libraries serving Marion, Polk and Yamhill counties.

### Patron Responsibility

When becoming a library cardholder, the patron agrees to comply with the policies of each CCRLS member library and accepts the following responsibilities:

- Library materials checked out are the sole responsibility of the patron whose card was used for checkout.
- Patron agrees to return all borrowed items by the due date or pay overdue charges (if applicable).
- Patron will pay replacement costs assessed for lost, unreturned, or damaged items.
- Patron will not lend their card to others.
- Patron will report changes in address, phone number, and email in a timely manner.
- Patron will report lost or stolen cards.
- Patron will obey the rules for behavior when visiting the library.
- When signing for a card for a child under the age of 18, the patron accepts full responsibility for fines (if applicable) and other charges on the child's card, lost or damaged items and accepts responsibility to monitor and approve the child's choice of library materials and other information resources.

### Patron Privacy

The Library does not disclose names, addresses, telephone numbers, or information about use of library materials except in response to a court order.

### Patron Behavior in the Library

Welcome! The Library is a community space that exists to facilitate literacy, lifelong learning, Internet access, and community participation. The Library works best when all users are mindful of the following:

*While using the library, please:*

- Demonstrate reasonable conduct consistent with the purpose of the Library. No loud, disorderly, threatening or harassing conduct. No obscene, abusive or vulgar language toward patrons or staff.
- Cooperate with library staff. Persons interfering with the normal use of the library will be asked to leave.
- Maintain possession of personal belongings at all times. Unattended bags, parcels and

backpacks will be held for Lost and Found at City Hall, and if not claimed in a reasonable amount of time, will be turned over to the Yamhill County Sheriff's Office.

*Please be advised:*

- Misuse or defacing of library materials, equipment or facilities is illegal.
- Solicitation or sale of products or services is prohibited.
- Only service animals are permitted in the Library.
- State law prohibits smoking in public facilities or within 10 feet of entrances.
- Possession or use of illegal drugs and alcohol is prohibited on City property.

## Children in the Library

The Mary Gilkey Public Library is dedicated to providing a welcoming environment that encourages children to visit the Library. The Library is a public building, open to everyone and a child's safety cannot be guaranteed. Children may encounter hazards in the Library such as doors, furniture, electrical equipment and other Library patrons.

The Library is not responsible for a minor's selection of Library materials, attendance at programs or use of the Internet or other services. Parents, guardians, or responsible adults are expected to accompany their minor children in the use of Library materials and services, including computer use.

The responsibility for the behavior and well-being of children using the Library rests with the parent, guardian, or designated caregiver. Library staff members cannot supervise children in the Library. The Library does not serve in loco parentis.

Children under 10 years of age must be accompanied by a parent, guardian, or designated responsible caregiver (17 years of age or older) at all times while in the Library. Caregivers must supervise and provide guidance for children during the entire Library visit.

Oregon Revised Statutes (ORS) 163.545: Child neglect in the second degree. (1) A person having custody or control of a child under 10 years of age commits the crime of child neglect in the second degree if, with criminal negligence, the person leaves the child unattended in or at any place for such period of time as may be likely to endanger the health or welfare of such child. (2) Child neglect in the second degree is a Class A misdemeanor.

*In the following situations, Library staff will take the actions outlined below for all children zero (0) to seventeen (17) years of age:*

- A child is alone and frightened or crying in the Library
- A child is alone and doing something dangerous, or another person in the Library seems to be a danger to the child
- A child is alone and is not following rules for patron behavior in the Library
- No caregiver comes to pick a child up at closing time

*Library or City staff members will evaluate the situation and try to contact the child's parent or guardian. If staff cannot reach the parent or guardian, he or she will place the child in the care of the Yamhill County Sheriff's Office.*

## Library Card Types

Three types of cards are available at all CCRLS member libraries: a full-service card, a basic or limited-use card for adults, and a C.A.R.E or limited-use card for kids.

### Full-service card

With a full-service card you can:

- Check out 50 items at one time.
- Place holds on items
- Access databases for research from the library, home, or office
- Learn a new language
- Use a computer at the library
- Access CCRLS-provided electronic resources and databases
- Access eBooks
- Use your card at all public libraries within the CCRLS area, including Chemeketa Community College

There are three ways to get a full-service card:

1. **Dayton Resident:** If you live or own property within the city limits of Dayton, you pay for library service as a part of your property tax bill and there is no fee.
2. **Non-Resident:** If you live outside the city limits of Dayton, but within the CCRLS area (Yamhill, Polk, and Marion counties) and wish to receive a full-service card, you can purchase a library card for \$60 per household per year. This entitles each member of the household to receive a full-service library card for one year.
3. **Out-of-District Resident:** If you live both outside the City of Salem and the CCRLS area, you can purchase a full-service library card for \$85 per year per household. This entitles each member of the household to receive a full-service library card for one year.

### Basic Adult card

Adults living outside the city limits of Dayton, but within the CCRLS area (Yamhill, Polk, and Marion counties) who choose not to pay the annual fee will be provided with a basic card for each household member. The basic card allows the cardholder to:

- Check out 10 items from any CCRLS library at a time.
- Place 10 holds at a time.
- Remotely access many of our online resources.
- Use all Salem Public Library services and collections when you visit either library.

## C.A.R.E Kids card

Children living outside the city limits of Dayton, but within the CCRLS area (Yamhill, Polk, and Marion counties) and who are ages 18 and younger are offered a card through the C.A.R.E. (Create A Reader Everyday) program established by CCRLS. Create A Reader Everyday card holders can check out up to 25 items from the children's and young adult collections and can reserve up to 25 items.

## Loan Periods

Materials available for circulation can be checked out for the following periods:

- 7 days – all videos
- 3 weeks – all books, audio books, and CDs

## Renewals

Borrowed materials may be renewed twice unless there is a hold on the item for another patron. An item that has a hold on it may not be renewed. Beginning summer 2019, library materials will automatically be renewed (up to the limit allowed for the material type, and as long as there are no holds on the material) if not returned by their due date.

Until automatic renewals are in place, items can be renewed:

- In person
- By phone - call the 24 hour phone renewal number at 503-589-7740
- Access your patron account online or via the CCRLS app

## Returns

Borrowed materials can be returned at the circulation desk or at the appropriate location at any other CCRLS library.

## Fines (contingent on City Council approval)

Mary Gilkey Public Library does not charge overdue fines for our materials. Please enjoy our resources and then return them by their due date. You could still receive overdue fines from other libraries, depending on their policies. If an item is 35 days past its last renewal due date, then the library will charge the user's library account for the cost of the item. Failure to pay account balances in a timely manner may subject a user's account to assignment to a collection agency.

Fines on interlibrary loans are determined by the lending library. There is no grace period. Patrons accumulating fines exceeding \$25.00 will lose their borrowing privileges until the fines are paid down under \$25.00 or paid off completely.

## Lost or Damaged Items

The cost for replacing lost or damaged items varies and will be determined by the Librarian. If an item is lost or damaged, please notify the library as soon as possible.

## Collection Development Policy

Mary Gilkey Public Library's collection development policy reflects the mission of public libraries to provide access to information and support diversity, democracy and intellectual freedom.

It is the goal of the library to provide free, equal, and equitable access to a high quality collection of information resources in a variety of formats, reflective of the community. Materials available in the library present a diversity of viewpoints, enabling the community to make the informed choices necessary in a democracy. In support of preserving and encouraging the essential free expression of ideas, Mary Gilkey Public Library endorses the principles documented in the [Library Bill of Rights](#) the [Freedom to Read Statement](#), and the [Freedom to View Statement](#) of the American Library Association.

## Responsibility for selection and collection maintenance

Selection and collection maintenance of library materials is under the authority and at the discretion of the Librarian.

## Selection criteria

Materials are considered in terms of the criteria listed below. An item need not meet all of these standards in order to be added to the collection.

- Popular interest
- Contemporary significance
- Currency of information
- Accuracy
- Local emphasis
- Readability
- Creative, literary, or technical quality;
- Relationship to other materials and adequacy of coverage in subject area
- Significance of item within subject area
- Professional reviews from a variety of sources
- Format and ease of use
- Cost and availability
- Availability of copies at other CCRLS libraries
- Physical appearance and condition
- Space limitations

## Scope of the collection

The Mary Gilkey Public Library is a popular materials library, and maintains a varied and current collection covering a wide range of subjects and containing multiple points of view. The library's collection is dynamic, with an emphasis on up-to-date and in-demand materials. The library provides information resources in physical and electronic formats in an effort to deliver the broadest possible access to content both within and beyond the library's walls.

The majority of the library's collection development activities will be conducted to create a collection of popular and informational works that is evaluated continually. The collection embraces broad fields of knowledge with basic, representative works in many subject areas, emphasizing materials that are useful for the general public. Textbooks and materials of a highly technical or specialized nature of limited community interest will generally not be collected.

Access to other specialized and comprehensive collections that exist elsewhere in the Chemeketa Cooperative Regional Library Service (CCRLS) or in the state of Oregon is provided through cooperative networking, interlibrary loan, and direct referral.

## Suggestions for purchase

The library encourages input from its community concerning the collection. A [suggestion for purchase form](#) enables the Dayton community to request that a particular item or material on a certain subject be purchased by the library. All suggestions for purchase are subject to the same selection criteria as other materials and are not automatically added to the collection. It is the library's intent that suggestions for purchase be used to help the library in developing collections which serve the interests and needs of the community.

## Material and fund donations

The library is unable to accept donated items at this time. Please consider donating to another CCRLS member library, a retirement home, or neighborhood Little Free Library.

## Collection maintenance

In an effort to maintain a relevant, popular, and appealing collection, the library engages in ongoing evaluation of owned materials. This policy's selection criteria, the [CREW method](#), and other best practices are used when evaluating collections.

## Disposition of withdrawn materials

Materials that have been withdrawn may be first offered to local schools. Items in poor condition will be destroyed and recycled as possible. Items withdrawn from the collection that are in acceptable condition will be donated at the discretion of the Librarian.

## Replacement

Replacement of damaged, missing, and withdrawn materials is not automatic. The decision to replace is determined by the selection criteria listed in this policy and is at the discretion of the Librarian.

## Request for reconsideration

Members of the Dayton community that are concerned about the appropriateness of a particular item in the library's collection will be referred to Librarian and fill out a [Request for Reconsideration form](#). The Librarian will review the request and apply the selection criteria set forth in this policy to determine if the item should be removed or re-categorized. The Librarian's decision on reconsideration, in consultation with the City Manager, is the City of Dayton's final decision. The item under review will not be removed from circulation during the review process. Reasonable efforts will be made by the library to respond in writing regarding the disposition of the Request for Reconsideration within 60 days of receipt of the completed Request for Reconsideration form.

The Mary Gilkey Public Library is committed to providing a broad and diverse collection, and its collection development activities are guided by the above principles and criteria. This policy expresses the library's commitment to intellectual freedom. Library resources are for use by all members of the Dayton community, and the library strives to reflect the needs and diversity of that community in its collections.

## Wireless Internet

The Library has wireless access to the Internet for users with laptops, notebook computers, smart phones, and other mobile devices to enhance and expand access to this important tool in the Library. Users with a wireless capability can use the Library's wireless access to use the Internet.

Wireless users are expected to follow CCRLS's Internet Use policy, and violations of the policy will result in the loss of library privileges. All users are expected to use the Library's wireless access in a legal and responsible manner, consistent with the educational and informational purposes for which it is provided. The Library does not monitor the use of the Internet by laptop users. Parents need to be aware that wireless access is unfiltered and unrestricted.

*The Library's wireless connection is not secure*, and information transmitted could potentially be intercepted by another wireless user. Wireless users may choose not to transmit personal information (credit card numbers, passwords, etc.) while using any public wireless area. Please take appropriate precautions when using this service.

Staff can provide general information on connecting to the Internet, with the understanding that the Library and staff members are not responsible for computer equipment, software malfunctions or lost data. All wireless access users are encouraged to have up-to-date virus protection on their laptop computers or wireless devices. The Library is not responsible for any information that is compromised, or for any damage caused to hardware or software, such as electric surges, security issues or consequences caused by viruses or computer hacking.

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**To:** Honorable Mayor and City Councilors

**From:** Rochelle Roaden, City Manager

**Issue:** 2<sup>nd</sup> Reading of Ordinance 643 Amending Dayton Municipal Code Chapter 1 Regarding Violations, Penalties, and the Municipal Court

**Background and Information**

As discussed at the last City Council meeting, Dayton’s Municipal Code does not have a general penalties and violations section under General Provisions in Chapter 1. Recently in dealing with a code enforcement issue, it became apparent that this omission needed to be rectified.

Exhibit A changes the violation and penalty provisions in Section 1.00. by adding section 1.00.11 Violations-Penalty.

Exhibit B is a new section to Chapter 1 (1.18.00) to address Municipal Court Procedures with the most important sections being 1.18.15 and 16. These expand the powers of the Judge and Court as allowed under the Charter (Section 36).

**City Manager Recommendation:** I recommend approving the second reading and adoption of Ordinance 643.

**Potential Motion to Approve the 2<sup>nd</sup> Reading:** “I move to approve the second reading of Ordinance 643 An Ordinance of the Dayton City Council Amending Dayton Municipal Code Chapter 1 Regarding Violations, Penalties, and the Municipal Court.”

**Potential Motion to Adopt:** “I move to adopt Ordinance 643 an Ordinance of the Dayton City Council Amending Dayton Municipal Code Chapter 1 Regarding Violations, Penalties, and the Municipal Court.”

**City Council Options:**

- 1 – Approve the second reading and adoption of Ordinance 643 as recommended.
- 2 – Approve the second reading and adoption of Ordinance 643 with amendments.
- 3 – Take no action and ask staff to do more research and bring further options back to the City Council.

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**ORDINANCE NO. 643  
CITY OF DAYTON, OREGON**

**AN ORDINANCE OF THE DAYTON CITY COUNCIL AMENDING DAYTON MUNICIPAL CODE CHAPTER 1 REGARDING VIOLATIONS AND PENALTIES AND THE MUNICIPAL COURT AND DECLARING AN EMERGENCY**

**WHEREAS**, the City Charter under Chapter VIII, Section 36 allows the City Council to assign functions to the Municipal Court and Municipal Judge; and

**WHEREAS**, the City does not have a general penalties and violations section in the Dayton Municipal Code (1.00.00); and

**WHEREAS**, the City desires to set out additional functions of the Municipal Court and Municipal Judge including information about violations and penalties in the Code; and

**WHEREAS**, the City desires that these changes go into effect immediately to ensure that future Municipal Court proceedings are handled in a uniform manner.

**NOW, THEREFORE, THE CITY OF DAYTON ORDAINS AS FOLLOWS:**

**Section 1.** New subsection is added to Chapter 1, Section 1.00 of the Dayton Municipal Code in substantially the same form as the attached Exhibit A.

**Section 2.** A new Section is added to Chapter 1 of the Dayton Municipal Code in substantially the same form as the attached Exhibit B.

**Section 3.** An emergency being declared this ordinance shall be effective immediately after its adoption by the Council.

**PASSED AND ADOPTED** by the City Council of the City of Dayton on this \_\_\_\_ day of \_\_\_\_\_, 2019.

Mode of Enactment:

Date of first reading: \_\_\_\_\_ In full \_\_\_\_\_ or by title only \_\_\_\_\_

Date of second reading: \_\_\_\_\_ In full \_\_\_\_\_ or by title only \_\_\_\_\_

\_\_\_\_ No Council member present at the meeting requested that the ordinance be read in full.

\_\_\_\_ A copy of the ordinance was provided to each Council member; three copies were provided for public inspection in the office of the City Recorder no later than one week before the first reading of the Ordinance.

**Final Vote:**

**In Favor:**

**Opposed:**

**Absent:**

**Abstained:**

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Mayor Elizabeth Wytoski

ATTEST

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Patty Ringnalda,  
City Recorder

## EXHIBIT A

### 1.00.11 Violations – Penalty.

A. It shall be unlawful for any person or entity to violate any provision or to fail to comply with any requirement imposed by the Dayton Municipal Code. Any person or entity violating any provision or failing to comply with any requirement imposed by this code, unless provision is made specifically otherwise in this code, is subject, upon a determination that such violation or failure has occurred, to a civil penalty set through the City's Fee Schedule for each day the violation or failure to comply has existed. Any act or omission made unlawful under the city code includes causing, allowing, permitting, aiding, abetting, or concealing such act or omission.

B. Any person, firm, association, or corporation violating any provision of the ~~DMC~~ Dayton Municipal Code where the penalty is deemed a civil violation ~~should~~ shall be subject to:

1. A civil fine for each violation as set forth on the City's Fee Schedule and as determined by the Class of violation.

C. In establishing the amount of any civil penalty, a court (including the municipal court) should consider any of the following factors that the court deems relevant:

1. The actions taken by the person or entity to mitigate or correct the violation;
2. Whether the violation or the failure to comply is repeated or continuous in nature;
3. The magnitude or gravity of the violation or failure to comply;
4. The cooperativeness of the person or entity with the city;
5. The cost to the city of investigating, correcting, attempting to correct and/or prosecuting the violation or failure; and
6. Any other factor deemed by the court to be relevant.

### 1.00.12 Attorneys' fees.

In the event the city elects to enforce the terms of its ordinances or resolutions consistent with ORS [30.315](#) (2017), a court (including an appellate court) may, in its discretion, award attorneys' fees to the prevailing party.

### 1.00.13 Interest on monies owed city.

Unless specifically agreed to otherwise via a duly approved contract or agreement between the city and some third party or unless otherwise specifically set out in another provision of this code, any and all amount(s) due and owing the city of Dayton from and after March 5, 2019, shall accrue interest at the legal rate as the same is set forth in ORS Chapter [82](#) from the time it becomes due until fully paid.

## EXHIBIT B

### 1.18.00 MUNICIPAL COURT PROCEDURES FOR CERTAIN CODE ENFORCEMENT MATTERS

#### 1.18.01 Purpose.

The purpose of this chapter is to provide for the prompt, effective, and efficient enforcement and adjudication of the Dayton Municipal Code so as to carry out the policies of the city as those policies are embodied elsewhere in this code other than traffic violations or traffic crimes as defined by ORS [801.545](#) (2017).

#### 1.18.02 Jurisdiction – Limitation.

A. The municipal court shall have jurisdiction over all cases submitted in accordance with the procedures and conditions set forth in this chapter; however, the municipal court shall not be required to use the procedures and conditions set out herein for:

1. Any offense(s) both treated by the city and described as “violations” by the terms of ORS [153.008](#) (2017);
2. Traffic violations or traffic crimes as defined by ORS [801.545](#) (2017); or
3. Parking offenses.

B. Notwithstanding the foregoing, the city reserves to itself the right to exercise the authority granted it pursuant to ORS [30.310](#) and [30.315](#) (2017) in situations deemed by the city council, city administrator and/or city attorney to be appropriate.

#### 1.18.03 Definitions.

A. “Municipal court” means the Dayton municipal court (including judge(s) sitting therein) and any other person designated and appointed by the council or municipal judge to act in a judicial capacity in a particular proceeding(s) in the municipal court.

B. “Party” means:

1. The city of Dayton.
2. Any person named by the city as a respondent in the complaint.
3. Any person requesting participation in a hearing as a party or a limited party which the municipal court determines has an interest in the result of the proceeding.

C. "Respondent" means the party(ies) whom the city alleges in the complaint to have committed a violation of city code or to be responsible for such violation.

**1.18.04 Authority of the municipal court.**

A. In addition to any procedures set forth elsewhere in the code, code enforcement proceedings shall be conducted in accordance with the procedures set forth in this chapter.

B. The municipal court may promulgate rules not inconsistent with this chapter concerning procedure and the conduct of hearings under this chapter, and the municipal court is authorized to adopt rules, procedures and forms to implement the provisions of this chapter.

**1.18.05 Initiation of code enforcement proceedings.**

A. A proceeding before the municipal court using the procedures set out in this chapter may be initiated as specifically authorized elsewhere in the code or as set forth below.

B. A proceeding before the municipal court can be initiated by the city filing a citation or a complaint with the municipal court on forms approved by the municipal court. In the event a complaint is filed, it shall contain:

1. The name(s) of the respondent(s);
2. The address or location at which the violation is alleged to have occurred;
3. A short and plain statement of the alleged violations, including a reference to the particular city code provision(s), resolution(s), rule(s) or regulation(s) involved;
4. The nature of the relief sought by the city;
5. The city department(s) initiating the proceeding;
6. The name, title, and signature of the person initiating the proceeding on behalf of the city; and
7. Such other information as the municipal court may require.

**1.18.06 Setting of hearing.**

A. Upon filing of a citation or a complaint, the municipal court shall specify a time, date and place for a hearing on the citation or complaint and the matters alleged therein.

B. The date set for the hearing shall be not less than 7 nor more than 60 days after the date the citation or complaint is first filed, except:



1. That the municipal court may specify a date for hearing less than 7 days after the complaint is filed where it reasonably appears the alleged violation poses an immediate and serious hazard to the public health, safety, or welfare or to the life, health, safety, welfare, or property of any person; or

2. By agreement of the parties.

C. The municipal court may postpone, continue, set over or reschedule any hearing:

1. With the consent of all parties;

2. On the motion of any party for good cause shown; or

3. On the court's own motion or the court's convenience in the interest of justice.

**1.18.07 Notice of hearing.**

A. The city shall give notice of the hearing (along with the applicable citation or complaint) to the respondent(s) and all other parties not less than five calendar days prior to the date set for hearing except:

1. The municipal court may set a shorter period when it reasonably appears the alleged violation poses an immediate and serious hazard to the public health, safety or welfare or the life, health, safety, welfare or property of any person; or

2. By written agreement of all parties.

B. The notice of hearing shall specify the time, date and place for the hearing.

C. Notice may be given by any method or combination of methods which, under the circumstances, is reasonably likely to apprise the parties of the hearing. Notice may be given by:

1. Personally delivering the notice to the party(ies);

2. Mailing the notice by United States mail, postage prepaid, and addressed to the residence or business address of the party(ies); or

3. Any method authorized by the Oregon Rules of Civil Procedure for the service of a summons.

If notice is given by mail, such notice shall be deemed given and received three days (Sundays and holidays not included) after the notice is deposited in the United States mail.

D. Notice of the hearing and a copy of the citation or complaint shall also be given to:

1. The tenants, residents and lessees of any building, property, or structure if the city has requested in the complaint the vacation, closure or demolition of the building, property or structure or if the municipal court determines such vacation, closure or demolition is a reasonably possible outcome.

2. Any other person who reasonably appears to have an interest in the property involved or who reasonably appears may be adversely affected by any determination, decision, or order of the municipal court.

3. Any person who has requested such notification.

E. The failure of any person to receive actual notice of the proceeding shall not invalidate the hearing or any determination, decision or order of the municipal court.

**1.18.08 Notice – Rights – Procedure.**

A. Prior to the commencement of any contested hearing, the municipal court shall inform each party to the hearing of the following:

1. A general description of the hearing procedure including:

a. The order of presentation of evidence;

b. What kinds of evidence are admissible;

c. Whether any objections be made to the introduction of evidence and what kind of objections may be made; and

d. An explanation of the burdens of proof or burdens going forward with the evidence.

2. That a record will be made of the proceedings and the manner of making the record and its availability to the parties.

3. The function of the record-making with respect to the perpetuation of the testimony and evidence and with respect to any appeal from the determination or order of the municipal court.

4. Whether an attorney will represent the city in the matters to be heard and whether the parties ordinarily and customarily are represented by attorneys.

5. The function of the municipal court including the effect and authority of the municipal court's determination.

6. In the event a party is not represented by an attorney, whether the party may, during the course of proceedings, request a recess if at that point the party determines that representation by an attorney is necessary to the protection of the party's rights.

7. Whether there exists an opportunity for an adjournment at the end if the party then determines that additional evidence should be brought to the attention of the municipal court and the hearing is reopened.

8. Whether there exists an opportunity after the hearing and prior to the final determination or order of the municipal court to review and object to any proposed findings of fact, conclusions of law, summary of evidence, or order of the municipal court.

9. A description of the judicial review process from the determination or order of the municipal court.

B. The information required to be given under subsection A of this section may be given in writing or orally prior to commencement of the hearing. The failure to give said notice (or of any item specified) shall not invalidate any determination or order of the municipal court unless on appeal from or review of the determination or order a reviewing court finds that the failure affects the substantive rights of the complaining party. In the event of such a finding, the reviewing court shall remand the matter to the municipal court for a reopening of the hearing, directing the municipal court as to what steps shall be taken to remedy the prejudice to the rights of the complaining party.

#### **1.18.09 Depositions.**

On petition of any party, the municipal court may order that the testimony of any material witness be taken by deposition in the manner prescribed by law for depositions in civil actions. Depositions may also be taken via audio or audio-visual recordings. The petition shall set forth the name and address of the witness whose testimony is desired, a showing of the materiality of the witness's testimony and a request for an order that the testimony of such witness be taken before an officer named in the petition for that purpose. If the witness resides in this state and is unwilling to appear, the municipal court may issue a subpoena to require the witness to appear for deposition.

#### **1.18.10 Subpoenas.**

A. The municipal court shall issue subpoenas to any party upon showing of general relevance and reasonable scope of the evidence sought. Witnesses appearing pursuant to subpoena, other than the parties or officers or employees of the city, shall receive fees and mileage as prescribed by Oregon law for witnesses in civil actions.

B. If any person fails to comply with any subpoena so issued or any party or witness refuses to testify on any matters on which he may be lawfully interrogated, a judge of the circuit court upon the application of

the municipal court (or of a designated representative of the municipal court or of the party requesting the issuance of the subpoena) shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of subpoena issued from such court or a refusal to testify therein.

**1.18.11 Discovery.**

A. On petition of any party and a showing of the general relevance of the documents or things sought, the municipal court may enter an order directing any party to produce and make available to the petitioning party to inspect and copy any documents or to inspect and copy, test, or sample any things which are in the possession of a party.

B. The order directing a party to produce and make available documents or things may require the petitioning party to pay the party producing documents and things that party's reasonable costs associated with such production.

C. The municipal court shall not enter an order requiring a party to produce any document or thing which is privileged under the rules of privilege recognized by law or which is exempt from disclosure under the Oregon Public Records Law.

**1.18.12 Evidence.**

A. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Erroneous rulings on evidence shall not preclude action by the municipal court on the record unless shown to have substantially prejudiced the rights of a party. All other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible. The municipal court shall give effect to the rules of privilege recognized by law.

B. Objections to evidence may be received in written form.

C. All evidence shall be offered and made a part of the record in the case and except for matters stipulated to and, except as provided in subsection D of this section, no other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies of excerpts or by incorporation by reference. The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position.

D. Every party shall have the right of cross-examination of witnesses who testify and shall have the right to submit rebuttal evidence.

E. The municipal court may take notice of judicially recognizable facts and the municipal court may take official notice of general, technical or scientific facts within the specialized knowledge of city employees.

Parties shall be notified at any time during the proceeding (but, in any event, prior to the final decision) of material officially noticed, and they shall be afforded an opportunity to contest the facts so noticed.

F. No sanction shall be imposed or final order issued except upon consideration of the whole record as supported by, and in accordance with, reliable, probative and substantial evidence.

**1.18.13 Proposed and final orders.**

The municipal court shall prepare and mail to all parties a proposed order including findings of fact and conclusions of law. The proposed order shall become final on the date specified in the order, which date shall not be less than 14 days after such mailing, unless the municipal court finds that an existing violation is imminently dangerous to the health, safety or property of any person or of the public, in which case the order may specify an earlier date.

**1.18.14 Orders.**

A. Every order adverse to a party to the proceeding shall be in writing or stated in the record and may be accompanied by an opinion.

B. Unless otherwise stipulated, a final order shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the municipal court's order. The findings of fact and conclusions of law may be orally stated on the record by the municipal court and those findings and conclusions incorporated in the written order by reference.

C. The municipal court shall notify the parties to a proceeding of a final order by delivering or mailing a copy of the order and any accompanying findings and conclusions to each party or, if applicable, the party's attorney of record.

D. Every final order shall include a reference to the fact that the order may be judicially reviewed pursuant to ORS [34.010](#) to [34.100](#).

**1.18.15 Authority of the municipal court.**

A. The municipal court may order a party found in violation of the city code to comply with the provisions of the code or the applicable rule or regulation within such time as the municipal court may by order allow. The order may require such party to do any and all of the following:

1. Make any and all necessary repairs, modifications, and/or improvements to the structure, real property, or equipment involved;
2. Abate or remove any nuisance;

3. Change the use of the building, structure, or real property involved;
4. Install any equipment necessary to achieve compliance;
5. Pay the city a civil penalty consistent with the City's Fee Schedule or such greater amount as may be authorized by this code; or
6. Undertake any other action reasonably necessary to correct the violation or mitigate the effects thereof.

B. In the event any party fails to comply with any provision of an order of the municipal court (except a provision requiring payment of a civil penalty only), the municipal court may authorize the city to undertake such actions as the municipal court may determine are reasonably necessary to correct the violation and/or eliminate or mitigate the effects thereof. The city's reasonable costs of such actions may be made a lien against the affected real property.

**1.18.16 Assessments.**

A. Costs incurred by the city for any action(s) authorized by the municipal court shall be an assessment lien upon the property subject to the order.

B. The city shall furnish a statement of such costs on the owner, in person or by United States mail, postage prepaid and addressed to the owner(s) at the owner(s)' residence or place of business, and shall file a copy of such statement with the municipal court with proof of service attached.

1. If no objection to such statement is filed with the municipal court within 15 days from the date of service or mailing, the municipal court shall certify such statement and forward the same to the city manager who shall forthwith enter the same in the city lien docket.

2. If an objection to the statement is received within the 15-day period, the municipal court shall schedule and hold a hearing to consider the objections and after the hearing shall certify such statement (or so much of it as determined to be correct and proper) and forward it to the city manager who shall enter it into the city lien docket.

C. The municipal court shall certify to the city manager the amount of any civil penalty imposed under any order of the municipal court, and the finance director shall enter it into the city's lien docket. The lien imposed for the civil penalty shall be in addition to any lien imposed for costs actually incurred by the city.

D. In addition to the lien imposed under this section, any person found by the municipal court to be in violation of the city code shall be personally liable for costs incurred by the city and for any civil penalty imposed by order of the municipal court.

**1.18.17 Judicial review.**

Review of the final order of the municipal court by any aggrieved party (including the city) shall be by writ of review as provided in ORS [34.010](#) through [34.100](#) and not otherwise.

**1.18.18 Enforcement.**

A. The city may institute appropriate suit or legal action (in law or equity) in any court of competent jurisdiction to enforce the provisions of any order of the municipal court, including, but not limited to, a suit or action to obtain judgment for any civil penalty imposed by an order of the municipal court and/or any assessment for costs or penalties.

B. Unless authorized by the municipal court, it is unlawful for any person to knowingly enter or remain in any building or structure that the municipal court has ordered vacated.

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**To:** Honorable Mayor and City Councilors

**From:** Rochelle Roaden, City Manager

**Issue:** Approval to Purchase Water Treatment Plant Filter Media

**Background and Information**

Starting in the fall of 2018, the City started receiving complaints regarding an earthy taste and smell to the water. Staff began flushing water lines near the complaint locations. After more complaints, Public Works began systematically flushing the water lines throughout the City. After it became apparent this was not resolving the aesthetics issue, Staff looked for other options. The annual cleaning of the wells was just around the corner at that point, so we were hopeful the cleaning would alleviate the higher levels of iron and manganese which naturally occurs in the water and causes the earthy taste and smell. The wells were cleaned and the taste and smell persisted. Staff then tried to alleviate the issue by increasing chlorine and potassium permanganate dosages to facilitate the removal of the iron. None of these approaches had a long lasting effect on the higher levels of iron and manganese. Staff then added new filter media (approximately 1 foot or 20% of the total media for approximately \$8,000) to the filters a few weeks ago. A noticeable improvement was made to the water although the taste and smell was not completely removed.

Steve Sagmiller, Public Works Director, has had several conversations with the filter media supplier, ATEC System Solutions, who recommended last week that the City should try to regenerate the filter media. This method would essentially strip the media of silica buildup that occurs naturally. The silica present in the water attaches itself to the filter media and reduces its effectiveness. This method would take about 24 hours and have a cost of approximately \$1,000. This process will start on February 4, 2019, and within a day we should have samples. Staff is hopeful that this will be effective.

However, Staff also recommends that we purchase a complete replacement of the filter media in case the rejuvenation does not give us the result we need – complete removal of the earthy smell and taste. This would entail purchasing 27,000 pounds of filter media with a cost of approximately \$46,000-\$48,000 with a 4-6 week lead time as a sole source purchase.

**City Manager Recommendation:** I recommend the approval of purchasing 27,000 pounds of filter media from ATEC Systems Solutions with a cost not to exceed \$50,000 if the filter regeneration does not provide the needed outcome.

**Potential Motion to Approve:** “I move to approve the purchase of filter media from ATEC System Solutions, a sole source provider, with a cost not to exceed \$50,000.”

**Council Options:**

- 1 – Approve the filter media purchase as recommended.
- 2 – Approve the filter media purchase with amendments.
- 3 – Reject the filter media purchase.
- 4 – Take no action and direct staff to do further research or provide additional options.

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### ***Regenerating Media Coated With Silica***

We use two approaches to regenerate media coated with silica. Both approaches are started with filters that have been drained of all water.

The preferred method is to dose a +25% concentration of citric acid, using a 5 gpm positive displacement pump, such as the one we left at the treatment plant for you to use. You can inject the solution from a (30 gallon) container as the filters are filled from your well, or from the distribution system, at a rate of  $\pm 200$  gpm. The goal is to create a solution with a pH between 4.5 and 5. The solution should sit in the vessels for 2-3 hours, and then they need to be vigorously backwashed with clear water to remove the stripped waste matter. After backwashing, inject a +5% solution of potassium permanganate solution in the same manner the citric acid solution was injected. The potassium permanganate solution needs to sit for at least 6 hours, and preferably overnight. The solution needs to still be purple at the end of the regeneration period. Typically one checks to be sure it has not turned brown (from oxidation) after three hours. If the  $\text{KMnO}_4$  solution has turned brown, additional permanganate needs to be introduced to complete the regeneration process.

Another, somewhat less effective approach, is to pour five gallons of a concentrated citric acid solution and/or 5-7 pounds of powdered citric acid per vessel on the top of the media, then fill the vessels from the top until the media is covered. Again this needs to steep for 2-3 hours. After backwashing to remove the stripped waste matter, you dose +5 pounds of potassium permanganate per vessel and fill from the top. Again, the solution should be purple and remain so throughout the regeneration process. If it turns brown, additional permanganate needs to be added and drawn through the media. After that the filters are again aggressively backwashed to remove the excess permanganate.

The filter train should now be ready to be put back on line. Most importantly, you need to dose a small amount of potassium permanganate with adequate contact time, in addition to chlorine prior to filtration to address the silica issue in the long run. Keep in mind that if you don't dose up front, you will sooner or later have to regenerate the media, and eventually will have to replace it. None of us want that...

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## Report Criteria:

Report type: Summary

GL Period	Check Issue Date	Check Number	Vendor Number	Payee	Invoice Number	Invoice Sequence	Invoice GL Account	Discount Taken	Check Amount
11/18	11/05/2018	24271	1546	Jerry Angle	DRAW	1	100.000.201.00	.00	200.00
11/18	11/15/2018	24272	1527	Accountemps	Multiple	10	400.400.526.10	.00	1,558.00
11/18	11/15/2018	24273	1547	Archies	REFUND NO	2	400.400.750.00	.00	98.40
11/18	11/15/2018	24274	258	Chemeketa Community College	S1026529	1	100.104.710.00	.00	115.20
11/18	11/15/2018	24275	105	City of Dayton	Multiple	1	300.301.707.00	.00	1,154.04
11/18	11/15/2018	24276	362	City of Newberg	OCTOBER 2	4	100.106.716.00	.00	720.94
11/18	11/15/2018	24277	169	City of Yamhill	00325	1	101.101.705.40	.00	250.00
11/18	11/15/2018	24278	423	Comcast Cable	8778105130	1	300.301.602.00	.00	104.85
11/18	11/15/2018	24279	1127	Copiers Northwest, Inc	INV1847483	10	400.400.601.00	.00	475.24
11/18	11/15/2018	24280	414	Corporation Division	185384-96 2	1	300.301.706.00	.00	50.00
11/18	11/15/2018	24281	327	Cummins Inc.	Multiple	1	400.400.614.00	.00	5,961.16
11/18	11/15/2018	24282	148	Davison Auto Parts	Multiple	6	400.400.617.00	.00	147.92
11/18	11/15/2018	24283	111	DCBS Fiscal Services	OCTOBER 2	1	100.106.700.35	.00	59.97
11/18	11/15/2018	24284	789	Edge Analytical	18-41018	1	300.300.751.00	.00	60.00
11/18	11/15/2018	24285	513	Elizabeth Wytoski	NOV EXP	1	500.500.752.00	.00	50.00
11/18	11/15/2018	24286	614	Frontier	Multiple	1	300.300.602.00	.00	285.85
11/18	11/15/2018	24287	1530	Get it Painted	1584-GIP	2	100.100.707.30	.00	2,025.00
11/18	11/15/2018	24288	694	GPEC Electrical Contractors	5585	1	400.400.614.30	.00	778.13
11/18	11/15/2018	24289	167	GSI Water Solutions, Inc	Multiple	1	300.300.705.00	.00	1,330.00
11/18	11/15/2018	24290	1445	Hashina Monteith	REFUND NO	2	400.400.750.00	.00	24.44
11/18	11/15/2018	24291	1385	Hurley Engineering	45060	1	700.700.910.00	.00	10,600.00
11/18	11/15/2018	24292	134	Iron Mountain Records Mgmt	AGYH533	10	400.400.601.00	.00	60.60
11/18	11/15/2018	24293	108	Les Schwab	2020103490	6	400.400.614.00	.00	105.00
11/18	11/15/2018	24294	1534	Lone Oak Builders	Multiple	2	400.400.750.00	.00	102.00
11/18	11/15/2018	24295	139	Lowe's	Multiple	1	100.103.617.00	.00	585.30
11/18	11/15/2018	24296	124	Mid-Willamette Valley COG	1819151	1	100.105.705.20	.00	1,680.75
11/18	11/15/2018	24297	110	Northwest Logging Supply	261099	6	400.400.617.00	.00	20.65
11/18	11/15/2018	24298	871	Office Depot, Inc	Multiple	10	400.400.601.00	.00	101.26
11/18	11/15/2018	24299	758	OHA - Cashier	Multiple	1	300.300.706.00	.00	615.00
11/18	11/15/2018	24300	173	One Call Concepts, Inc.	8100356	2	400.400.799.00	.00	25.08
11/18	11/15/2018	24301	163	Oregon Dept of Revenue	OCTOBER 2	1	101.101.700.35	.00	45.00
11/18	11/15/2018	24302	244	OreVac West Inc.	Multiple	1	400.400.614.40	.00	1,280.00
11/18	11/15/2018	24303	122	Patty Ringnald	EXP 110518	2	500.500.752.10	.00	72.45
11/18	11/15/2018	24304	103	PGE	Multiple	1	300.301.600.00	.00	5,136.02
11/18	11/15/2018	24305	621	Portland Engineering, Inc	08118	2	300.301.705.10	.00	60.00
11/18	11/15/2018	24306	106	Recology Western Oregon	Multiple	1	100.103.619.00	.00	500.33
11/18	11/15/2018	24307	1194	Rochelle Roaden	EXP NOV 18	10	400.400.611.00	.00	60.61
11/18	11/15/2018	24308	994	Ron & Kellie Manning	REFUND NO	2	400.400.750.00	.00	51.00
11/18	11/15/2018	24309	937	Schulz-Clearwater Sanitation, Inc	530237	1	100.103.619.00	.00	141.00
11/18	11/15/2018	24310	119	Sprint	414585229-1	10	400.400.602.00	.00	403.54
11/18	11/15/2018	24311	141	Staples Credit Plan	Multiple	4	400.400.903.00	.00	972.13
11/18	11/15/2018	24312	316	Statesman Journal	SJ2193220 N	1	100.104.706.00	.00	245.02
11/18	11/15/2018	24313	171	Terminix Processing Center	380426803	10	100.104.707.00	.00	76.00
11/18	11/15/2018	24314	129	The Library Store	363602	1	100.104.601.00	.00	64.71
11/18	11/15/2018	24315	186	VFW post # 10626	18-010	1	101.101.705.00	.00	37.50
11/18	11/15/2018	24316	154	Westech Engineering, Inc	Multiple	2	600.600.930.10	.00	40,571.64
11/18	11/15/2018	24317	112	Wilco	Multiple	1	200.200.616.00	.00	2,154.13
11/18	11/15/2018	24318	865	Xylem Water Solutions USA	3556A37938	1	400.400.614.50	.00	1,128.00
11/18	11/15/2018	24319	105	City of Dayton	2005700.01	1	100.103.619.00	.00	59.00
11/18	11/28/2018	24320	403	C and D Landscape Co.	76935	1	100.103.705.00	.00	3,200.41
11/18	11/28/2018	24321	670	Corey Brown	PESTICIDE	2	400.400.706.00	.00	205.00
11/18	11/28/2018	24322	1526	First American Title Insurance Co	1031-308749	1	760.760.930.00	.00	1,291.00
11/18	11/28/2018	24323	475	Kizer Excavating Co	18-10 PAY A	1	700.700.910.40	.00	88,513.00

M = Manual Check, V = Void Check

GL Period	Check Issue Date	Check Number	Vendor Number	Payee	Invoice Number	Invoice Sequence	Invoice GL Account	Discount Taken	Check Amount
Grand Totals:								.00	175,612.27

**TO: MAYOR WYTOSKI AND CITY COUNCIL MEMBERS**

**THROUGH: ROCHELLE ROADEN  
CITY MANAGER**

**FROM: STEPHEN SAGMILLER  
PUBLIC WORKS DIRECTOR**

**SUBJECT: PUBLIC WORKS ACTIVITIES REPORT JANUARY 2019**

**Water:**

Repair water service on Ash  
Regulatory Samples bi weekly  
Meter installed at McDougal well  
Daily rounds  
Work orders  
Locates  
Meter reading  
Meter Re Reads  
Turn ons / turn offs  
Water Report to Lafayette  
Water report to State  
Emergency shut offs (various)  
Receive chemicals at Treatment Plant  
Repairs at Treatment Plant  
Add media to filters at Treatment Plant

**Wastewater:**

New trunk line installation continues  
New wet well excavation continues  
New flowmeter installed at influent  
Regulatory Samples bi weekly  
Daily Rounds  
Check operation of lift stations daily  
Locates  
DMR to DEQ  
9<sup>th</sup> St. Lift Station Control station put  
online  
Seasonal discharge  
Fencing poles installed at 9<sup>th</sup> St. control  
building

**Parks:**

Clean Restrooms at park daily  
Dump garbage all parks

**Facilities:**

Dump garbage at CC  
Fire extinguisher checks  
Fencing poles installed at shops

**Storm water:**

Locates

**Streets:**

Dump garbage on Ferry  
Street sweeping

**Misc:**

Deliver agendas