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Chapter 2.04 COUNCIL

Sections:

- 2.04.010 Rules for Procedures
- 2.04.020 Voting
- 2.04.030 Numbering of Council Positions
- 2.04.040 Future Descriptions
- 2.04.050 Regular Council Meetings

2.04.010 Rules for Procedures.

The order of business of the City Council shall be as follows:

- (1) Pledge of allegiance;
- (2) Miscellaneous correspondence;
- (3) Citizens comments;
- (4) Consent calendar;
- (5) Minutes and financial reports;
- (6) Unfinished business;
- (7) Public hearings at advertised time;
- (8) New business;
- (9) Adjournment.

The agenda shall be flexible to accommodate visitors. (Ord. 1982-04 § 1, 1982)

2.04.020 Voting.

Voting shall be conducted in accordance with the most recent edition of Roberts Rules of Order.

2.04.030 Numbering of Council Positions.

The four City Council positions provided for under the Tangent City Charter shall be numbered as Council positions one through four, with terms of four years, with the first two numbered positions ending two years prior to the second two numbered positions.

(Ord. 1986-12 § 1, 1986)

2.04.040 Future Descriptions.

The aforesaid numbering pattern shall be used with reference to all future descriptions of Council positions. (Ord. 1986-12 § 2, 1986)

2.04.050 Regular Council Meetings

All regular meetings of the City Council and Mayor shall be held on the second Monday of each month. The usual place of meeting shall be City Hall, provided that in any condition that renders the meeting place unfit to conduct any regular meeting of the Council, the meeting may be moved, with at least three (3) days public notice of the moved location site. 24 hour notice in the event of emergency situation.

(Ord. 2021-03 § 1, 2021)

Chapter 2.08
NOMINATION AND ELECTION OF OFFICERS

Sections:

- 2.08.010 Minimum Requirements for Nomination
- 2.08.020 Certification of Nominees

2.08.010 Minimum Requirements for Nomination.

A certificate of nomination for a candidate is sufficient if it bears signatures of at least 25 voters of the city, including the nominee, and if the certificate of nomination is filed with the City Recorder not earlier than August 1 and not later than 5:00 p.m. on August 30 in the year of the election. The signature of the candidate to the statement that he or she will accept the office if elected shall be counted as one of the 25 signatures. If more than one certificate of nomination is filed for a candidate, the aggregate number of voters signing certificates of nomination for the candidate determines whether the minimum requirement as been satisfied. (Ord. 76-02 § 1, Ord. 80-3 § 5, 1980)

2.08.020 Certification of Nominees.

Promptly upon the passing of the deadline for accepting certificates of nomination, the City Recorder shall complete the work of reviewing the certificates for sufficiency, and not later than September 2 in the year of the election the City Recorder shall file with the County Clerk of Linn County, Oregon, a certification of the names of all those persons duly nominated. That certification shall be, generally, in the following form: I certify that I am the City Recorder of the City of Tangent, Oregon. I further certify that the following persons have been duly nominated for the office of City Council member to be filled at the general election to be held this year: (List here the names of all nominees). The County Clerk of Linn County, Oregon, is requested to furnish ballots for that election. (Signed) City Recorder, City of Tangent, Oregon. (Ord. 76-02 § 2, 1976)

Chapter 2.12
MUNICIPAL COURT

Sections:

2.12.010	Municipal Court
2.12.020	Municipal Judge
2.12.030	Time for Holding Court
2.12.040	Conduct of Trial
2.12.050	Power of the Judge
2.12.060	Severability

2.12.010 Municipal Court.

There is hereby created in the City of Tangent a Municipal Court, which shall have jurisdiction to enforce the ordinances of the City of Tangent and such other laws and statutes as provided for under the statutes of the State of Oregon to the full extent possible. (Ord. 2002-05 § 1, 2002)

2.12.020 Municipal Judge.

The office of Municipal Judge of the Municipal Court of the City of Tangent is hereby created. The holder of the office shall be selected by the Council to serve at the pleasure of the Council. The Council may elect to select a Justice of the Peace from Linn County to serve as the Municipal Judge under O.R.S. 51.035. (Ord. 2002-05 § 2, 2002)

2.12.030 Time for Holding Court.

The Municipal Judge shall establish by appropriate order a regular time for holding court session. In addition to the regular time established by order of the court, Municipal Court may be held at such other times as the Judge deems necessary for the protective rights of a person charged with violations. (Ord. 2002-05 § 3, 2002)

2.12.040 Conduct of Trial.

Trials shall be conducted as herein provided and all matters not specifically provided for herein shall be governed by the applicable statutes of the state for justice of the peace courts and shall include applicable statutes of the state regarding the introduction or admission of evidence. (Ord. 2002-05 § 4, 2002)

2.12.050 Power of the Judge.

The Judge shall have all inherent and statutory powers and duties of a justice of the peace within the jurisdictional limits of the city. The Judge may, by order, designate a Clerk of the Court with authority to accept bail in accordance with a minimum bail schedule established by the Court. The Judge shall be responsible for the keeping of such dockets and accounts necessary to properly record all proceedings of the Municipal Court. In criminal cases in Municipal Court, the cost and disbursements shall be added to the fine, penalty or sentence imposed provided the Court, at its discretion in justifiable cases, may on behalf of the city, waive payment of all or part of the costs and disbursements. (Ord. 2002-05 § 5, 2002)

2.12.060 Severability.

If any phrase, clause, paragraph, subsection, section or part of this ordinance be declared void by any court of competent jurisdiction, such declaration shall not affect the remainder of this ordinance. (Ord.

2002-05 § 6, 2002)

Chapter 2.15 CIVIL ENFORCEMENT

Section:

2.15.010	Purpose and Applicability
2.15.020	Definitions
2.15.030	Enforcement Requirements and Civil Infractions
2.15.040	Citation for Civil Infractions
2.15.050	Contents of the Civil Infraction Citation
2.15.060	Judicial Proceeding and Procedures
2.15.070	Nuisance Abatement by the City and Cost Recovery
2.15.080	Civil Penalties
2.15.090	Recordation of Assessment Lien and Foreclosure

2.15.010 Purpose and Applicability.

This chapter provides a process for enforcing the requirements of the Tangent Zoning Ordinance, Land Division Ordinance, Nuisance Ordinance, Dangerous Buildings Ordinance and all other ordinances, regulations, permits, licenses or approvals issued by the city pursuant to the city's permitting or regulatory authority. Where any city ordinance provides its own or a different enforcement procedure or remedy, those procedures and remedies shall be in addition to those provided in this chapter. The civil process set forth in this chapter is designed to provide prompt notice to property owners and other interested parties that appear to be in violation of the city's legal requirements and regulations and to guarantee those accused of an infraction the right to an evidentiary hearing on the alleged infraction. The process is designed to provide a measure of certainty to the citizens of Tangent that violations will be addressed promptly and decisively and to ensure that the due process rights of those accused of infractions are protected. This chapter shall not apply to criminal matters and shall not result in the imposition of criminal sanctions. Unless indicated otherwise the Oregon Rules of Civil Procedure shall be applicable and may be used in any civil enforcement action under this chapter. (Ord. 2011-04)

2.15.020 Definitions. For the purposes of this chapter the following definitions shall apply:

- (1) "Civil infraction" means the violation or failure to comply with any provision of the Tangent Zoning Ordinance, Land Division Ordinance, Nuisance Ordinance and any other ordinance adopted by the city that imposes legal obligations or regulations on people, property or activities. Civil infraction also includes any violation or failure to comply with any provision or requirement of any permit, order, license or approval granted by an authorized city official, the city council or other decision maker. (Ord. 2011-04)
- (2) "Code" means, collectively, the Tangent Zoning Ordinance, Land Division Ordinance, Nuisance Ordinance and any other ordinance adopted by the city that imposes legal obligations, regulations or prohibitions on people, property or activities plus any other regulation adopted or administered by the City of Tangent. "Code" also means any

codification of ordinances that the city may adopt and from time to time amend. (Ord. 2011-04)

- (3) “Court” means any of the following: Tangent Municipal Court, Justice Court, Linn County Circuit Court, or the Tangent City Council sitting in a judicial capacity and reviewing a civil infraction under this chapter. (Ord. 2011-04)
- (4) “Officer” means a sworn peace officer or any person appointed by the mayor and authorized to administer and enforce the city’s code, including, but not limited to, the city coordinator, city recorder, city planner and the city attorney. (Ord. 2011-04)
- (5) “Permit” means permit, order, license or approval granted by an authorized city official, the city council or other governmental decision maker plus any other permit or approval administered or enforced by the City of Tangent. (Ord. 2011-04)
- (6) “Person” means any individual, corporation, property owner, limited liability corporation, partnership, unincorporated association, local government, government agency or other legal entity. (Ord. 2011-04)
- (7) “Respondent” means any person, corporation, limited liability corporation, partnership, unincorporated association, or other legal entity alleged to have committed a civil infraction and the owner of any property on which a civil infraction is alleged to have occurred. (Ord. 2011-04)

2.15.030 Enforcement Requirements and Civil Infractions.

- (1) No person shall engage in, or cause to occur, any use, development, construction, reconstruction, alteration, or maintenance of any property, building, structure or vehicle, or alter or use any land in violation of the Code, state law or any city-issued permit. No person shall engage in any use of property, or allow a use of property under their ownership or control, that is prohibited by the Code, state law or otherwise not allowed by a city-issued permit. No person shall fail to pay any charge due the city when such failure to pay is made a civil infraction. (Ord. 2011-04)
- (2) No permit for the construction, occupation or use of a property, building, structure or business shall be issued if such property, building, structure or business or proposed use, and the land upon which it is proposed to be located, is in violation with any applicable provisions of the Code or state law. (Ord. 2011-04)
- (3) Failure to obtain a permit or other approval, where one is required by the Code, shall constitute a nuisance and a civil infraction. Violation of any provision of the Code or a city-issued permit enforced under this chapter may constitute grounds for revocation, nonrenewal or denial of a permit issued by the city. (Ord. 2011-04)
- (4) Any violation of the Code, state law or a city-issued permit that is actionable under this chapter shall constitute a civil infraction and a nuisance. Each day of violation shall constitute a separate civil infraction that can give rise to a separate citation, conviction and fine. (Ord. 2011-04)

2.15.040 Citation for Civil Infractions.

- (1) Basis for the Citation: Upon a determination by an Officer that one or more civil infractions have occurred, the Officer shall issue a citation to the person or other entity who the Officer has probable cause to believe is responsible for the activity or failure to act that is deemed to be the civil infraction. The person or entity that committed the alleged violation shall be

responsible for the civil infraction. In addition, if the person who committed the alleged violation is on property owned by another, with the property owner's permission, the property owner shall be jointly and severally responsible for the violation. (Ord. 2011-04)

- (2) **Service of the Citation:** The Officer shall serve the citation on the respondent(s) by any of the following methods reasonably calculated to actually reach the respondent:
- (A) Personal service, or
 - (B) Certified first class mail, return receipt requested, to the respondent's last known mailing address or
 - (C) Any means provided in Rule 7 of the Oregon Rules of Civil Procedure reasonably calculated to apprise the respondent(s) of the violation, or
 - (D) Where a respondent avoids or eludes service or is otherwise not locatable for service, the City is entitled to use alternative service in the form of any of the following: posting the property, publication in a local newspaper, first class mail to the property. (Ord. 2011-04)

2.15.050 Contents of the Civil Infraction Citation.

- (1) The citation for a civil infraction shall include at least the following information:
- (A) The name and address of the respondent(s);
 - (B) The time, date and place the civil infraction was alleged to have occurred;
 - (C) A statement describing the civil infraction(s) alleged to have occurred with a reference to the pertinent Code references or other commonly understood reference to the law, ordinance or permit alleged to have been violated.
 - (D) A summons indicating the time, date and place for entering a plea in court, at which time the respondent(s) shall appear and enter a plea responding to the charge(s) alleged in the citation.
 - (E) A certification that the Officer issuing the citation has reasonable grounds to believe, and does believe, that the respondent(s) committed the civil infraction contrary to law. This certificate shall be deemed equivalent to a sworn complaint. (Ord. 2011-04)
- (2) A uniform traffic citation and complaint shall be deemed an acceptable form for any civil infraction citation under this chapter. (Ord. 2011-04)

2.15.060 Judicial Proceeding and Procedures.

- (1) Jurisdiction for civil infractions filed and processed under this chapter shall be in any of the following venues: Tangent Municipal Court, Justice Court, Linn County Circuit Court, or the City Council sitting in a judicial capacity. The municipal court and city council may adopt, and amend from time to time, procedural rules governing their proceedings. The city recorder shall serve as the Clerk to Municipal Court or the City Council in proceedings under this chapter. (Ord. 2011-04)
- (2) Unless an applicable provision of Oregon Rules of Civil Procedure provides otherwise, the following procedures shall be followed in proceedings initiated under this chapter:
- (A) The respondent(s) shall appear in Court at the time and date indicated in the citation for entering a plea, at which time the respondent(s) shall state whether the respondent(s) committed or did not commit the infraction(s) alleged. The respondent(s) may enter a plea by mail prior to the arraignment date indicated in the citation so long as the written plea is actually received by the court before the stated time of the arraignment.

- (B) If a respondent enters a plea of having committed the infraction, no contest, fails to appear or otherwise timely enter a plea, the court shall find that the respondent committed the infraction as alleged and shall enter an order directing the respondent to abate, correct or otherwise remedy the violation, and the court shall impose a civil penalty in accordance with this chapter.
- (C) If a respondent timely enters a plea of having not committed the infraction, the court shall schedule the matter for hearing.
- (D) At the hearing, the citing Officer shall present the case and evidence in support of the citation. The respondent shall be afforded an opportunity to review and rebut the Officer's evidence, cross-examine the Officer's witnesses, and present testimony, evidence and witnesses in support of respondent's case. Any party may be represented by an attorney, but the city shall not be responsible for providing any respondent with legal representation.
- (E) The Court shall enter an order in favor of the city if the Officer proves by a preponderance of the evidence that the respondent committed the infraction, in which case the Court shall enter an order directing the respondent to abate, correct or otherwise remedy the violation by a time certain, and the court shall impose a civil penalty in accordance with this Chapter.
- (F) The Court shall retain jurisdiction over the matter until the violation is fully remedied, abated or otherwise corrected in compliance with the Court's order and the applicable requirements of the Code, state law or city-issued permit.
- (G) Civil Inspection Warrants. At any time the City may seek, and the Court shall grant, a civil inspection warrant allowing entry onto private property for purposes of inspecting the property to determine compliance with the Code, state law or a city-issued permit. The warrant shall be issued upon oath or affirmation of a responsible city Officer seeking access to private property, including the interior of enclosed spaces and buildings, and shall allow inspection of the private property between 8:00 a.m. and 7:00 p.m., with reasonable advance notice to the owner or occupant. Any such warrant shall allow access and the ability to inspect by any responsible and suitably qualified officer, inspector, state or local official. The results of any such inspection shall be submitted as a written report to the Court.
- (H) Civil Contempt Proceedings. In the event that a respondent fails or refuses to comply with any order issued by the Court in a civil enforcement proceeding under this chapter, the City may seek a contempt citation that the respondent be held in contempt of court and shall be subject to any sanction imposed by the Court including monetary fine and/or incarceration. (Ord. 2011-04)

2.15.070 Nuisance Abatement by the City and Cost Recovery.

- (1) Nuisance and abatement order. Upon a finding that a respondent committed a civil infraction, the Court shall declare the civil infraction to be a nuisance, and if the violation still exists, the court shall order the respondent to abate, correct or otherwise remedy the nuisance. In the event the respondent fails to so abate or remedy the nuisance within the time provided for in the Court's order, the Officer, without further proceedings, may take any action the Officer deems to be reasonably necessary to abate or remedy the nuisance in compliance with the Court's order, or the Officer may seek a contempt order from Court against respondent for

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- failing to comply with the Court's order. (Ord. 2011-04)
- (2) Summary abatement by the City in emergency situations. With or without the respondent first having appeared, the Officer may seek, and the court may order, the summary abatement of the activity alleged in the civil infraction citation upon a finding that:
 - (A) An imminent and substantial threat to the public health, safety or welfare exists by virtue of the alleged action or inaction; and
 - (B) Immediate abatement of the activity or nuisance is necessary to prevent a threatened harm to the public health, safety or welfare. (Ord. 2011-04)
 - (3) Upon the issuance of a summary abatement order under this section, the Officer may, without further notice or proceedings, take whatever steps are necessary to abate, correct or remedy the nuisance that is the basis for the citation. The City may seek cost recovery against the respondent(s) for all of the Officer's expenses incurred in undertaking a summary abatement action. (Ord. 2011-04)
 - (4) Recovery of the City's Enforcement Prosecution and Abatement Costs: Following entry of an order against a respondent under this chapter, the City may petition the Court to recover from respondent(s) all of its reasonable costs associated with bringing and prosecuting a civil enforcement action under this chapter and for any abatement action that may be necessary if the respondent(s) fail to abate the violation. Reasonable costs include the City's attorney, administrative and staff time, inspection costs, contractor costs, materials and equipment, service and administrative expenses, the cost of work to demolish, remove, correct or otherwise abate the nuisance, and any associated disposal costs. The City shall file with the court and serve on respondent(s) a sworn statement of its costs incurred in the action. The Court shall review the sworn statement and any objections thereto, and shall issue an order awarding the City its reasonable costs incurred in the enforcement and abatement action, payable by the respondent(s). Any such award of costs pursuant to this chapter shall accrue interest at the rate of 9% per year until paid and may be recorded as a municipal assessment lien and foreclosed as provided in Section 2.15.090. (Ord. 2011-04)

2.15.080 Civil Penalties.

- (1) Upon determination by the Court that one or more respondents committed a civil infraction under this chapter, the Court shall impose a civil penalty up to \$500 per violation. (Ord. 2011-04)
- (2) Each day that a violation is found to exist shall constitute a separate citable and sanctionable civil infraction. (Ord. 2011-04)
- (3) Any civil penalties awarded by the Court pursuant to this chapter shall accrue interest at the rate of 9% per year until paid and may be recorded as a municipal assessment lien and foreclosed as provided in Section 2.15.090. (Ord. 2011-04)
- (4) The remedies and penalties provided in this chapter are in addition to, and not in lieu of, any other remedy or penalties provided by law, including, but not limited to revocation or nonrenewal of a permit or license, injunction, a city-initiated land use proceeding, abatement or civil damages as provided by the Code or state law in any court or agency of competent jurisdiction. (Ord. 2011-04)

2.15.090 Recordation of Assessment Lien and Foreclosure.

Any judgment awarding the city its abatement costs, fines and/or penalties against a respondent

pursuant this chapter may be recorded at any time after issuance without further notice or proceedings, in the city's lien docket and/or the Linn County real property deed records as a municipal assessment lien against the respondent(s) real property. The City's lien shall have priority ahead of all other liens except as prohibited by any applicable law. The City's lien may be foreclosed as a municipal assessment lien pursuant to ORS 223.505 to 223.595 or through any other legal process. This section shall apply to any judgment, award of costs, fines or penalties or associated lien that exists on the day of adoption of this 2011 ordinance. (Ord. 2011-04)

Chapter 2.16

PLANNING COMMISSION AND CITIZEN INVOLVEMENT COMMITTEE

Sections:

- 2.16.010 Establishment
- 2.16.020 State and Local Law Adopted (Powers and Authority)
- 2.16.030 Membership Regulations
- 2.16.040 Terms of Office
- 2.16.050 Member Roles
- 2.16.060 Vacancies and Removal
- 2.16.070 Presiding Members and Other Designations
- 2.16.080 Staff Services
- 2.16.090 Meetings
- 2.16.100 Powers and Duties
- 2.16.110 Recommendations to Council
- 2.16.120 Expenses
- 2.16.130 Conformity with the Law

2.16.010 Establishment.

There is established a combined Planning and Citizen Involvement Commission which shall act as the Planning, Land Use and the Citizen Involvement Advisory Committee. These responsibilities will assist the governing body with the development of all land use planning documents and the Citizen Involvement Program. (Ord. 2007-01 § 2.10.010, 2007)

2.16.020 State and Local Law Adopted (Powers and Authority).

- (1) The following provision of Oregon Revised Statutes (O.R.S.) and Oregon Administrative Regulations (OAR) are incorporated by reference and made a part of this code as though fully set forth herein: O.R.S. 227.010 through O.R.S. 227.170, 227.175, 227.180, and OAR 660-015-0000(1) and as amended hereafter.
- (2) Duties assigned by any section of the City of Tangent Land Use Development Code and the Citizens Involvement Program are also incorporated herein by reference and as amended hereafter.
- (3) No other powers are authorized unless specifically provided for by amendment to this ordinance/code. (Ord. 2007-01 § 2.10.020, 2007)

2.16.030 Membership Regulations.

- (1) The Commission shall consist of five members; all are voting members and are appointed by the Council as vacancies occur and at the last regular meeting of the year for the filling of expiring terms.
- (2) The voting members shall not be officials or employees of the city.
- (3) The Council person designee shall be assigned as primary liaison to the Planning Commission. The Council member will be a member of the audience and available when requested to do so, to take part in discussions, offer policy advice and interpretation, communicating priorities and other

- information between the Council and Planning Commission.
- (4) The Commission will select a member to serve as liaison to the City Council. The liaison may participate in Council discussions when land use issues are being discussed, but shall not have a vote.
 - (5) The concurrence of three voting members of the Commission shall be necessary to decide any question before the Commission.
 - (6) A quorum of any three members can conduct a work session.
 - (7) In the absence of a P & CIC quorum and the City Council is required to make a decision in a timely manner, the P & CIC members (1 or 2) may sit in on the deliberations, but will have no vote.
 - (8) Commission members shall receive no compensation.
 - (9) Member relationships to the Mayor and/or City Council and within the Commission will comply with the spirit and intent of Section 17 of the Tangent Charter of 1982. (Ord. 2007-01 § 2.10.030, 2007)

2.16.040 Terms of Office.

The term of a Commissioner will be five years if the appointment is made to fill a regularly scheduled expiration of a term. In the event of a term becoming vacant prior to the term ending date, the position appointment will be for the balance of that term only. (Ord. 2007-01 § 2.10.40, 2007)

2.16.050 Member Roles.

The general role of the P&CI Commission shall cover, but not be limited to:

- (1) Use of judgment as it applies to state law and community values as expressed in the Tangent Vision and/or public meetings to the land use planning process.
- (2) Education of the general public about land use planning, always stating the city’s policy first if a member is not in agreement.
- (3) Perform the various duties and responsibilities as provided by state and local law (Section 2.16.020):
 - (A) A continuing review of and submission of written recommendations for improvement of the Comprehensive Plan and all related documents (in the plan or referenced to the plan) as they relate to land use planning.
 - (B) Provides recommendations as to the content of other documents, ordinances and resolutions that may directly affect implementation of land use planning policies or decisions. Project plans shall be submitted for Council approval of each project and any necessary budget.
 - (C) The Commission shall suggest in its program of work on its own accord or at the request of the Council studies that relate to land use planning. The Commission may appoint short term (not to exceed one year) study committees (no more than three members) to assist in these studies once approved. (Ord. 2007-01 § 2.10.050, 2007)

2.16.060 Vacancies and Removal.

- (1) A position shall be deemed vacant upon the incumbent’s death, resignation (subject to a three working day reconsideration period), Council removal (after a hearing for just cause), abandonment of the position, or relocation out of the area.

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- (2) A member who is absent for three consecutive meetings, or for 25% of any period of six months without an acceptable excuse by the members of the Commission shall be considered to be in nonperformance or abandonment of the position of duty, unless found otherwise by the hearing. (Ord. 2007-01 § 2.10.060, 2007)

2.16.070 Presiding Members and Other Designations.

At its first meeting of each calendar year, the Commission shall elect a chairperson and vice-chairperson to serve for a term that ends with the first meeting of the next year. (Ord. 2007-01 § 2.10.070, 2007)

2.16.080 Staff Services.

- (1) The City Administrator shall provide for the necessary administrative support needed by the Commission in its normal course of business. Both written (in summary form) and tape recorded records Commission proceedings will be provided.
- (2) Contracted staffing (City Attorney, Planner and Engineer) will be consulted and their expert advice will be included in any recommendation(s) to the Council. (Ord. 2007-01 § 2.10.080, 2007)

2.16.090 Meetings.

- (1) Three voting members of the Commission shall constitute a quorum for decision making. A regular meeting will be held once a month. A work session can be held by any three members. Any two voting members can request and be granted a special meeting in compliance with the Oregon Open Meetings Law.
- (2) All meetings held by the Commission will be open to the public. The Commission will have no authority to hold "executive" or other private meetings.
- (3) In the absence of a Commission quorum, the City Council shall render any necessary decision. The available Commission members shall sit with the Council and offer suggestions, advice and information, but will have no voting authority.
- (4) The Council and the Commission shall schedule at least one joint meeting no later than March 31 and October 31, to make a report of its current year's accomplishments, present the current year's work program and budget requests, etc. The Council shall make known its priorities and a joint program of work will be agreed to.
- (5) Approval of, and accomplishment of, the previous year's and current year's program of work shall be a condition of performance. (Ord. 2007-01 § 2.10.090, 2007)

2.16.100 Powers and Duties.

- (1) The Commission's primary duty is to maintain the Comprehensive Plan by recommendation(s) so it is available and in effect for the city's business at all times, and perform all duties required by the City's Citizen Involvement Program as defined in Goal One of the Comprehensive Plan.
- (2) The Commission shall have the powers and duties which are or may be assigned to it by the Council, existing ordinances or resolutions of this city and general laws of the State or Linn County. The Council will resolve any conflicts of Commission powers and duties. (Ord. 2007-01 § 2.10.100, 2007)

2.16.110 Recommendations to the Council.

All recommendations to the Council will be in writing and indicate any alternatives that were considered in the process of arriving at the recommendation(s) put forth. (Ord. 2007-01 § 2.10.110, 2007)

2.16.120 Expenses.

The Commission shall have no authority to make expenditures or other monetary agreements on behalf of the city, or to obligate the city for the payment of any sum of money without an approved budget for that purpose. The Council shall approve all grant applications for the city. (Ord. 2007-01 § 2.10.120, 2007)

2.16.130 Conformity with the Law.

This ordinance shall not substitute for, or eliminate the necessity for conformity with all laws or rules of the United States or the State of Oregon or their agencies, or in any applicable ordinance rule or regulation of Linn County.

Chapter 2.20
PARKS AND RECREATION

Sections:

- 2.20.010 Park Rules
- 2.20.020 Parks Master Plan
- 2.20.030 Memorial Flag Site

2.20.010 Park Rules.

- (1) The following rules are in effect upon passage of this ordinance:
 - (A) The City of Tangent's parks are closed from dusk to dawn.
 - (B) No equipment shall be brought into the parks without written approval of the Parks and Recreation Commission.
 - (C) The Wayside Community Park shall be designated as the only park to have skateboard equipment and allow that use within a park.
- (2) The P & R Commission shall seek to gain the Linn County Sheriff's Department enforcement of the City of Tangent Park Rules through adoption of appropriate Linn County Rules or some other appropriate arrangement as soon as possible, but no later than approval by July 10, 2006. (Ord. 2006-06, 2006)

2.20.020 Parks Master Plan.

- (1) The city is authorized under O.R.S. 223.297 to 223.314 to adopt certain capital improvement plans and that such plans may include a capital improvement plan relating to parks and recreational needs of the city.
- (2) The city has adopted a system for imposing improvement fees by way of system development charges related to those certain improvements described in officially adopted capital improvement plans.
- (3) There is a need for parks and recreational opportunities for the city's residents now and in the future, and those needs have been specified in a Parks Master Plan.
- (4) The Parks Master Plan is adopted by Ordinance as Exhibit A. (Ord. 2011-02)

2.20.030 Memorial Flag Site.

- (1) The city is authorized under O.R.S. 223.297 to 223.314 to adopt certain capital improvement plans and that such plans may include a capital improvement plan relating to parks and recreational needs of the city.
- (2) The city has adopted a system for imposing improvement fees by way of system development charges related to those certain improvements described in officially adopted capital improvement plans.
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- (4) The Parks Master Plan is adopted by Ordinance as Exhibit A. (Ord. 2011-02)

Chapter 2.30
PUBLIC RECORDS REQUEST PROCEDURES

Sections:

- 2.30.010 Purpose and Policy
- 2.30.020 Definitions
- 2.30.030 Right to Inspect Public Records; Notice to City Attorney
- 2.30.040 City Obligation to Maintain Public Records and Make Them Available for Inspection and Copying
- 2.30.050 City Response to a Public Records Request, Cost Estimate and Charge for City Costs

2.30.010 Purpose and Policy.

- (1) The city adopts the policy and procedures for accepting, processing and responding to public records requests under O.R.S. 192.410 to 192.505 set forth in Exhibit A attached hereto and incorporated herein by this reference. Public record requests shall be submitted to the city on a form similar to the form set forth in Exhibit B attached hereto and incorporated herein by this reference.
- (2) This chapter is adopted to implement the requirements and authority of O.R.S. 192.410 to 192.505, Oregon's Public Records Act. It is the city's policy that all documents, including hard copy, video, audio, magnetic, CD ROM and electronic format, that are submitted to it or are in its possession are public documents. Some of these documents are exempt from disclosure pursuant to statutory disclosure exemptions, e.g. O.R.S. 192.501 and 192.502. The City Council may adopt, in which case all elected and appointed city officials shall follow, a records retention policy consistent with applicable state law. The City Council may also, by resolution, adopt a detailed fee schedule establishing the costs and rates for responding to public records request. This chapter shall be administered and interpreted in a manner consistent with Oregon's Public Records Act. (Ord. 2009-03)
- (3) The city shall establish by resolution, and may from time to time amend, a schedule of administrative fees that it will charge to public records requestors to reimburse the city for its actual or average reasonable cost associated with processing an responding to public records requests. (Ord. 2009-03)
- (4) The city shall establish by resolution, and may from time to time amend, a schedule of administrative fees that it will charge parties whenever checks received in payment of city billing statements for the production of public records, city utilities, park use fees, stormwater fees and the like are returned, dishonored, refused (NSF) and reissued; whenever checks for payment of city billing statements are stopped or received late. (Ord. 2009-03)
- (5) This chapter and the fee schedules it authorizes are immediately necessary to assure a clear and immediate revision of fees authorized herein. For that reason, an emergency is declared, and this ordinance shall take effect upon passage. (Ord. 2009-03)

2.30.020 Definitions.

- (1) For purposes of this chapter, the definitions set forth in O.R.S. 192.410 are adopted and incorporated herein by this reference except as specifically provided in this section.
- (2) Notwithstanding O.R.S. 192.410, the following definitions shall apply to the City of Tangent and this chapter.
 - (A) “City” means the City of Tangent, Oregon.
 - (B) “Custodian” means the City Clerk/Recorder, City Administrator or City Coordinator or other employee of the City of Tangent who has access to public records, for the City of Tangent.
 - (C) “Exempt documents” means any document or part thereof that is exempt from public disclosure pursuant to any of the provisions of O.R.S. 192.501 or 192.503.
 - (D) “Person” includes any natural person, corporation, partnership, firm, association or member or committee of the Legislative Assembly.
 - (E) “Public record” includes any writing that exists and is in the city’s possession that contains information relating to the conduct of the public’s business, including but not limited to court records, mortgages, and deed records, prepared, owned, used or retained by a public body regardless of physical form or characteristics. “Public record” does not include any writing that does not relate to the conduct of the public’s business and that is contained on a privately owned computer.
 - (F) “Requestor” is a person who has made a written request to the city to inspect and/or copy public documents.
 - (G) “Writing” means handwriting, typewriting, printing, photographing and every means of recording, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, files, facsimiles or electronic recordings. (Ord. 2009-03)

2.30.030 Right to Inspect Public Records; Notice to City Attorney.

- (1) Every person has a right to inspect any public record in the possession of the city, except for the exempt documents or exempt portions thereof described in O.R.S. 192.501 to 192.505. To inspect and/or obtain copies of a non-exempt public record in the city’s possession, the requestor must submit a request in writing to the Custodian describing with particularity the document or documents sought. The request should specify whether the requestor wishes to inspect or obtain copies or both, and should include complete contact information so that the Custodian can respond. All public records requests become public records upon submission to the city.
- (2) If a person who is a party to a civil judicial proceeding to which the city is a party, or who has filed a notice under O.R.S. 30.275(5)(a) asks to inspect or copy a public record that the person knows relates to the proceeding or notice, the person must submit the request in writing to the Custodian and, at the same time, to the City Attorney. (Ord. 2009-03)

2.30.040 City Obligation to Maintain Public Records and Make Them Available for Inspection and Copying.

The Custodian shall maintain the public records of the city in hard-copy, machine readable or electronic form and retain those records for so long as required to do so by state law. The Custodian shall furnish proper and reasonable opportunities for inspection and examination of public records at city hall during usual business hours. If a public record is maintained in machine readable or electronic form, the Custodian shall furnish proper and reasonable opportunity to assure access to the document. The city will not open its files to public inspection, but will make specific requested documents available for inspection and copying if desired. Likewise, the city will not allow its original documents to leave the custodian's control. If copies are desired, the city will have the originals duplicated and provide the copies at the city's cost. If any public record contains material that is not exempt under O.R.S. 192.501 and 192.502, as well as material that is exempt from disclosure, the city shall separate the exempt and nonexempt material and make the nonexempt material available for examination upon request. (Ord. 2009-03)

2.30.050 City Response to a Public Records Request, Cost Estimate and Charge for City Costs.

- (1) Within seven days of receipt of a written request, the Custodian or City Attorney shall respond to the public records request by either providing the requested documents or an estimate of the amount of time it will take an estimate of the cost to search, compile and make available the requested documents for review.
- (2) If the requested documents are not provided in the city's initial response, the city's first written response will include an estimate of the cost and time involved in making the requested documents available. The city may incur and charge a fee of up to \$25 without prior approval by the requestor. However, when the fee is estimated exceed \$25, the city will first provide the requestor with a written estimate of the cost and defer any further response until the requestor confirms that the requestor wants the city to proceed with making the public record available. The city may require the requestor to pay the estimated response costs prior to beginning any work to compile or make available the requested public records.
- (3) The city may establish and charge requestors a fee reasonably calculated to cover the city's actual cost of making public records available, including costs for summarizing, compiling or tailoring the public records, either in organization or media, to meet the request. The city shall be entitled to recover the administrative costs associated with searching, retrieving, compiling, summarizing, redacting, duplicating and shipping public records in response to a request. The city's recoverable administrative costs include the cost of time spent by the custodian responding to the request and time spent by the City Attorney reviewing the public records for exemptions under O.R.S. 192.501 and 192.502, redacting information that is exempt from disclosure or segregating the public records into exempt and nonexempt records. The city shall not include or recover from a requestor the cost of time spent by the City Attorney determining the application of the provisions of O.R.S. 192.410 to 192.505. (Ord. 2009-03)

Chapter 2.40

RULES OF DECORUM

Sections:

- 2.40.010 Purpose of Rules of Decorum
- 2.40.020 Rules for the Council Members
- 2.40.030 Rules for the Speaker
- 2.40.040 Rules for the Public
- 2.40.050 Enforcement of Rules of Decorum

2.40.010 Purpose of Rules of Decorum.

- (1) To ensure that meetings of the Council are conducted in a way that allows the business of the City to be effectively undertaken.
- (2) To ensure that members of the public who attend Council meetings can be heard in a fair, impartial manner.
- (3) To ensure that Council meetings are conducted in a way which is open to all viewpoints and which is protected of the content of each speaker's speech and expression, yet is free from abusive, distracting or intimidating behavior.
- (4) To ensure that these Rules of Decorum are understood by persons attending Council meetings.
- (5) To ban egregious, inappropriate and obstructive behavior at Council meetings.

2.40.020 Rules for the Council Members.

While the Council is in session, the members must preserve order and decorum. A member shall not delay or interrupt the proceedings or the rules of the Council. All members of the Council shall accord the utmost courtesy to each other, to city employees and to public persons appearing before the Council and shall:

- (1) Obey the orders of the Council and/or its presiding officer;
- (2) Confine questions and remarks to the issues before the Council.
- (3) Not defame, intimidate, make personal affronts, make threats of violence, or use profanity.

2.40.030 Rules for the Speaker.

The public shall be allowed to speak during the period of the meeting designated for such purposes. Speakers must stand and provide their name, address and organization, if any. Speakers must be recognized by the presiding officer and shall ensure the below rules are followed:

- (1) The speaker shall conduct himself/herself in a professional and respectful manner.
- (2) All remarks shall be directed to the Council and not to City staff or the public in attendance.
- (3) The speaker shall not defame, intimidate, make personal affronts, make threats of violence, or use profanity.

2.40.040 Rules for the Public.

Members of the public in the audience shall not engage in any of the following activities during a Council meeting:

- (1) Shouting, unruly behavior, distracting side conversations, or speaking out;
- (2) Clapping while another person is addressing the Council;
- (3) Defamation, intimidation, personal affronts, threats of violence or profanity; or
- (4) Any behavior that disrupts the orderly conduct of the meeting.

2.40.050 Enforcement of Rules of Decorum.

- (1) The presiding officer requests that a person who is violating a rule cease the violation.
- (2) If the violation continues, the presiding officer warns the person that s/he may be required to leave the meeting room if the violation continues.
- (3) If the person does not cease the violation and the presiding officer declares the person out of order, the presiding officer shall provide instructions to the City Manager and/or designee(s) to facilitate removal of such person from the meeting room.

Chapter 2.66 PROCUREMENT

Sections:

2.66.010	Title
2.66.012	Policy
2.66.015	Application of Public Contracting Regulations
2.66.020	Authority of City Council
2.66.025	Authority of City Administrator
2.66.027	Model Rules
2.66.030	Definitions
2.66.040	Transportation Contracts that Exceed \$50,000 and All Other Public Improvement Contracts Exceeding \$100,000
2.66.050	Personal Services Contracts
2.66.060	Public Contract Exemptions and Process for Approval of Special Solicitation Methods
2.66.070	Solicitation Methods for Classes of Public Contracts
2.66.080	Sole Sources
2.66.090	Informal Solicitation Procedures and Qualified Pools
2.66.095	Requirements for Invitations to Bid and Requests for Proposals
2.66.097	Use of Brand Name Specifications for Public Improvements
2.66.100	Bid, Performance and Payment Bonds
2.66.110	Electronic Advertisement of Public Contracts
2.66.120	Protests and Appeals
2.66.130	Public Contract Amendments

2.66.010 Title.

The provisions of this ordinance and all rules adopted under this ordinance may be cited as the City of Tangent's "Public Contracting Regulations". (Ord. 2005-08, Exhibit "A", § 1, 2005)

2.66.012 Policy.

- (1) Purpose of Public Contracting Regulations. These regulations are promulgated by the Council as the local contract review City Council ("City Council"), as the governing body and local contract review City Council of the City of Tangent; for the purpose of establishing the rules and procedures for contracts entered into by the City of Tangent. It is the policy of the city in adopting the public contracting regulations to utilize public contracting practices and methods that maximizes the efficient use of public resources and the purchasing power of public funds by:
 - (A) Promoting impartial and open competition;
 - (B) Using solicitation materials that are complete and contain a clear statement of contract specifications and requirements; and
 - (C) Taking full advantage of evolving procurement methods that suit the contracting needs of the city as they emerge within various industries.
- (2) Interpretation of public contracting rules. In furtherance of the purpose of the objectives set forth in subsection (1), it is the city's intent that the City of Tangent's public contracting regulations be interpreted to authorize the full use of all contracting powers and authorities described in O.R.S. Chapters 279A, 279B, and 279C. (Ord. 2005-08, Exhibit "A", § 2, 2005)

2.66.015 Application of Public Contracting Regulations.

- (1) In accordance with O.R.S. 279A.025 the city's public contracting regulations and the Oregon Public Contracting Code do not apply to the following classes of contracts:
 - (A) Between Governments. Contracts between the city and other cities, special districts, the state or any subdivision of the state, counties or an agency of the federal government.
 - (B) Grants, but not the expenditure of grant funds.
 - (C) Legal Witnesses and Consultants. Contracts for professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which the city is or may become interested.
 - (D) Real Property. Acquisition or disposal of real property or interests in real property.
 - (E) Textbooks. Contracts for the procurement or distribution of textbooks.
 - (F) Oregon Corrections Enterprises. Procurements from an Oregon corrections enterprises program.
 - (G) Finance. Contracts, agreements or other documents entered into, issued or established in connection with:
 - i. The incurring of debt by the city, including any associated contracts, agreements or other documents, regardless of whether the obligations that the contracts, agreements or other documents establish are general, special, or limited;
 - ii. The making of program loans and similar extensions or advances of funds, aid of assistance by the city to a public or private person for the purpose of carrying out, promoting or sustaining activities or programs authorized by law other than for the construction of public works or public improvements;
 - iii. The investment of funds by the city as authorized by law; or
 - iv. Other predominantly financial transactions of the city that, by their character, cannot practically be established under the competitive contractor selection procedures, as determined by the City Administrator.
 - (H) Employee Benefits. Contracts for employee benefit plans as provided in O.R.S. 243.105(1), 243.125 (4), 243.221, 243.275, 243.291, 243.303 and 243.565.
 - (I) Contracts Exempt Under State Laws. Any other public contracting specifically exempted from the Oregon Public Contracting Code by another provision of state law.
 - (J) Contracts Exempt Under Federal Law. Except as otherwise expressly provided in O.R.S. 279C.800 to 279C.870, applicable federal statutes and regulations govern when federal funds are involved and the federal statutes or regulations conflict with any provision of the Oregon Public Contracting Code or these regulations, or require additional conditions in public contracts not authorized by the Oregon Public Contracting Code or these regulations. (Ord. 2005-08, Exhibit "A", § 3, 2005)

2.66.020 Authority of City Council.

Except as expressly delegated under these regulations the Council reserves to itself the exercise of all of the duties and authority of a contract review board and a contracting agency under state law, including, but not limited to:

- (1) Approve the use of contracting methods and exemptions from contracting methods for a specific contract or certain classes of contracts;
- (2) Exempt the use of brand name specifications for public improvement contracts;
- (3) Approve the partial or complete waiver of the requirement for the delivery of a performance or payment bond for construction of a public improvement, other than in cases of emergencies;

- (4) Electronic advertisement of public contracts;
- (5) Hear properly filed appeals of the City Administrator's determination of debarment, or concerning prequalification;
- (6) Adopt contracting rules under O.R.S. 279A.065 and O.R.S. 279A.070 including, without limitation, rules for the procurement, management, disposal and control of goods, services, personal services and public improvements; and
- (7) Award all contracts that exceed the authority of the City Administrator. (Ord. 2005-08, Exhibit "A", § 4, 2005)

2.66.025 Authority of City Administrator.

- (1) General Authority.
 - (A) Solicitation Agent. The City Administrator is designated as the solicitation agent for all city contracts and concession agreements. The solicitation agent may award individual contracts, for which the contract price does not exceed \$50,000, without additional authorization of the City Council; provided there is a current fiscal year budget appropriation; or supplemental budgetary authority from the City Council, with respect to the contract, is approved. For all other contracts the solicitation agent shall conduct the solicitation and make a recommendation to the City Council. The solicitation agent shall award all concession that can be awarded under an informal solicitation or by direct appointment, and shall have authority to award all purchases of surplus property.
 - (B) Execution and Delivery. The City Administrator has the authority to execute and deliver on behalf of the city all contracts that the City Administrator has the power to award, and all amendments to such contracts. All other contracts and amendments shall be executed by the officer designated by the City Council or designee.
 - (C) Promulgation of Forms and Materials. Subject to the provisions of this ordinance, the City Administrator may adopt and amend all solicitation materials, contracts and forms required or permitted to be adopted by contracting agencies under the Oregon Public Contracting Code or otherwise convenient for the city's contracting needs. The City Administrator shall hear all solicitation and award protests.
- (2) Delegation of City Administrator's Authority. Any responsibilities or authorities of the solicitation agent or the City Administrator under this ordinance may be delegated and sub-delegated by Council resolution.
- (3) Solicitation Preferences. When possible, the City Administrator shall use solicitation documents and evaluation criteria that:
 - (A) Give preference to goods and services that have been manufactured or produced in the State of Oregon if price, fitness, availability and quality are otherwise equal; and

- (B) Give preference to goods that are certified to be made from recycled products when such goods are available, can be substituted for non-recycled without a loss in quality, and the cost of goods made from recycled products is not significantly more than the cost of goods made from non-recycled products.
- (4) Purchasing from City Officials. The City Administrator shall not make any purchase of goods and services from any city official, or any business with which a city employee is associated; except when the purchase is expressly authorized by the City Council; or during a state of emergency. In any situation in which the City Administrator believes that a purchase would cause an appearance of impropriety, regardless of whether the purchase is prohibited by this or any other public contracting code provision, the City Administrator may forward the proposed purchase to the City Council for approval.
- (5) Mandatory Review of Rules. Whenever the Oregon State Legislative Assembly enacts laws that cause the Attorney General to modify the Model Rules, the City Administrator and City Attorney shall review the public contracting regulations, other than the Model Rules, and recommend to the City Council any modifications required to ensure compliance with statutory changes. (Ord. 2005-08, Exhibit "A", § 5, 2005)

2.66.027 Model Rules.

The Model Rules adopted by the Attorney General under O.R.S. 279A.065, do not apply to the contracts of the city; except when the City Administrator deems they are necessary to supplement this Ordinance, and then they will apply only to the extent that they do not conflict with the contracting regulations adopted by City Council.

2.66.030 Definitions.

- (1) "Addendum or Addenda." Additions or deletions to, material changes in or general interest explanations of the city's solicitation documents.
- (2) "Affected Person." A person whose ability to participate in a procurement is adversely affected by the city.
- (3) "Authorized Representative." The owner of a sole proprietorship, a partner in a firm or partnership or a person authorized to bind by a corporation's City Council of directors.
- (4) "Award." The selection of a person to provide goods, services or public improvements under a public contract. The award of a contract is not binding on the city until the contract is executed and delivered by the city.
- (5) "Bid." A binding, sealed, written offer to purchase surplus property, or provide goods, services or public improvements for a specified price or prices.
- (6) "Bid or Proposal Bond/Bid or Proposal Security." A means of securing execution of an awarded contract.
- (7) "Bidder." An offeror who submits a bid in response to the city's invitation to bid.
- (8) "Closing." The closing of a solicitation is the end of the period in which bids or proposals may be submitted. The closing date and time must be specified in the solicitation documents.
- (9) "City." City of Tangent, Oregon.
- (10) "Concession Agreement." A contract that authorizes and requires a private entity or individual to promote or sell, for its own business purposes, goods or services, specified by the City Administrator, from real property owned or managed by the city, and under which the concessionaire makes payments to the city based, at least in part, on the concessionaire's revenues

or sales. The term Aconcession agreement@ does not include a mere rental agreement, license, lease or permit for the use of the premises.

- (11) "Conduct Disqualification." A disqualification pursuant to O.R.S. 279C.440.
- (12) "Contract." See definition for "Public Contract."
- (13) "Contract Price." The total amount paid or to be paid under a contract, including bonuses, incentives, contingency amounts, approved alternatives, and any fully executed change orders or amendments; if the contractor fully performs under the contract; or the maximum not-to-exceed amount of payments specified in the contract; or the unit price for goods or services or personal services set forth in the contract.
- (14) "Contracting Agency.@ "A public body authorized by law to conduct a procurement and includes persons delegated by the public body to conduct procurements on the public body's behalf. (O.R.S. 279A.010(B))
- (15) "Contractor." The person with whom the city executes a public contract.
- (16) "Cooperative Procurement." A procurement conducted by or on behalf of one or more contracting agencies.
- (17) "Debarment." A declaration by the Council or City Administrator under O.R.S. 279B.130 or O.R.S. 279C.440 that prohibits a potential contractor from competing for the city's public contracts for a prescribed period of time.
- (18) "Disposal." Any arrangement for the transfer of property by the city under which the city relinquishes ownership.
- (19) "Emergency." Circumstances that create a substantial risk of loss, damage or interruption of services or a substantial threat to property, public health, welfare or safety; and requires prompt execution of a contract to remedy the condition.
- (20) "Energy Savings Performance Contract." A contract with a qualified energy service company for the identification, evaluation, recommendation, design and construction of energy conservation measures that guarantee energy savings or performance.
- (21) "Findings." Statements of fact that provide justification for a determination. Findings may include, but are not limited to, information regarding operation, budget and financial data; public benefits; cost savings; competition in public contracts; quality and aesthetic considerations, value engineering; specialized expertise needed; public safety; market conditions; technical complexity; availability; performance and funding sources.
- (22) "Goods and services/goods or services." Any item or combination of supplies, equipment, materials and services other than personal services designated under O.R.S. 279A.055, or other personal property, including tangible, intangible and intellectual property and rights and licenses in relation thereto.
- (23) "Grant contract." An agreement under which the city is either a grantee or a grantor of money, property or other assistance, including loans, loan guarantees, credit enhancements, gifts, bequests, commodities or other assets, for the purpose of supporting or stimulating a program or activity of the grantee and in which no substantial involvement by the grantor is anticipated in the program or activity other than involvement associated with monitoring compliance with grant conditions. The making or receiving of a grant is not a public contract subject to the Oregon Public Contracting Code; however, the expenditure of any grant received by the city is subject to these regulations and the expenditure of grants made by the city to construct a public improvement or public works project is subject to these public contracting regulations.

- (24) “Informal Solicitation.” A solicitation made in accordance with the city’s public contracting regulations in which the solicitation agent attempts to obtain at least three written quotes or proposals.
- (25) “Invitation to Bid.” A publicly advertised request for competitive sealed bids.
- (26) “Model Rules.” The public contracting rules adopted by the Attorney General under O.R.S. 279A.065.
- (27) “Nonresident Bidder” A bidder who is not a resident bidder as defined in this section.
- (28) “Offeror.” A person who submits a bid, quote or proposal to enter into a public contract with the city.
- (29) “Opening.” The date, time and place announced in the solicitation document for the public opening of written, sealed offers.
- (30) “Oregon Public Contracting Code.” O.R.S. Chapters 279A, 279B and 279C.
- (31) “Owner.” The City of Tangent, acting through its legally constituted City Council.
- (32) “Person.” A natural person or any other private or governmental entity having the legal capacity to enter into a binding contract.
- (33) “Personal Service Contract.” A contract with an independent contractor predominantly for services that require special training or certification, skill, technical, creative, professional or communication skills or talents, unique and specialized knowledge or the exercise of judgment skills, and for which the quality of the service depends on attributes that are unique to the service provider. Such services include, but are not limited to, the services of architects, engineers, land surveyors, attorneys, auditors and other licensed professionals, administrators, artists, computer programmers, consultants, designers, performers and property managers. The City Administrator shall have discretion to determine whether additional types of services not specifically mentioned in this subsection fit within the definition of personal services.
- (34) “Personal Services.” The services or type of services performed under a personal services contract.
- (35) “Procurement.” The act of purchasing, selling, leasing, renting or other acquisition or disposal by the city of goods, services, public improvements, public works and personal property and personal services. Procurement includes each function and procedure undertaken or required to be undertaken by the city to enter into a contract, administer a contract and obtain the performance of a contract under the State Public Contracting Code.
- (36) “Proposal.” A binding offer to provide goods, services or public improvements with the understanding that acceptance will depend on the evaluation of factors other than, or in addition to, price. A proposal may be made in response to a request for proposals or under an informal solicitation.
- (37) “Public Contract.” A sale or other disposal, or a purchase, lease, rental or other acquisition, by the city of personal property, services, including personal services, public improvements, public works, minor alterations, or ordinary repair or maintenance necessary to preserve a public improvement. Public contract does not include grants.
- (38) “Public Contract Amendment.” Any change or modification of any term or condition of a contract or any addition or deletion of any term or provision of a contract. Amendments include, but are not limited to change directives, change orders, and any addition, deletion or modification that affects the nature, quantity, degree, or scope of the goods or services or improvements to be provided under a contract or the time of performance or price or that affects any provision concerning the rights or obligations of a party.

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- (39) “Public Improvement.” A project for construction, reconstruction or major renovation (a renovation that exceeds \$50,000) on real property by or for the city. “Public improvement” does not include:
- (A) Projects for which no funds of the city are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection; or
 - (B) Emergency work, minor alteration, ordinary repair or maintenance necessary to preserve improvement.
- (40) “Qualified Pool.” A pool of vendors who are pre-qualified to compete for the award of contracts for certain types of contracts or to provide certain types of services.
- (41) “Quote.” A price offer made in response to an informal or qualified pool solicitation to provide goods, services or public improvements.
- (42) “Request for Proposals.” A publicly advertised request for sealed competitive proposals.
- (43) “Resident Bidder.” A bidder that has paid unemployment taxes or income taxes in this state during the 12 calendar months immediately preceding submission of the bid, has a business address in this state and has stated in the bid whether the bidder is a Resident bidder@ under this subsection.
- (44) “Sole Source.” A sole contract with a vendor who is the only responsible source for the goods, services, or personal services required by the city.
- (45) “Solicitation.” An invitation to one or more potential contractors to submit a bid, proposal, quote, statement of qualifications or letter of interest to the city with respect to a proposed project, procurement or other contracting opportunity. The word *Solicitation@* also refers to the process by which the city requests, receives, and evaluates potential contracts and awards public contracts.
- (46) “Solicitation Agent.” With respect to a particular solicitation or contract the staff member charged with the responsibility for conducting the solicitation and making an award, or making a recommendation on award to the City Council.
- (47) “Solicitation Documents.” All informational materials issued by the city for a solicitation including, but not limited to, advertisements, instructions, submission requirements and schedules, award criteria, contract terms and specifications, and all laws, regulations and documents incorporated by reference.
- (48) “Standards of Responsibility.” The qualifications of eligibility for award of a public contract. An offeror meets the standards of responsibility if the offeror has:
- (A) Available the appropriate financial, material, equipment, facility and personnel resources and expertise, or ability to obtain the resources and expertise, necessary to indicate the capability of the offeror to meet all contractual responsibilities;
 - (B) A satisfactory record of performance. The solicitation agent shall document the record of performance of an offeror if the solicitation agent finds the offeror to be not responsible under this subsection;
 - (C) Satisfactory record of integrity. The solicitation agent shall document the record of integrity of an offeror if the solicitation agent finds the offeror to be not responsible under this subsection;
 - (D) Qualified legally to contract with the city;
 - (E) Supplied all necessary information in connection with the inquiry concerning responsibility. If an offeror fails to promptly supply information requested by the solicitation agent concerning responsibility, the solicitation agent shall base the determination of responsibility upon any available information or may find the offeror

non-responsible; and

- (F) Not been debarred by the city, and, in case of public improvement contracts, has not been listed by the construction contractors City Council as a contractor who is not qualified to hold a public improvement contract.
- (49) “Surplus Property.” Personal property owned by the city which is no longer needed for use by the city. (Ord. 2005-08, Exhibit “A”, § 7, 2005)

2.66.040 Transportation Contracts that Exceed \$50,000 and All Other Public Improvement Contracts Exceeding \$100,000.

Except as otherwise provided for in this ordinance, public improvement contracts that exceed \$100,000 and transportation project exceeding \$50,000, shall use either the competitive bidding or the competitive proposal processes set forth in O.R.S. Chapter 279C and implementing administrative rules. (Ord. 2005-08, Exhibit “A”, § 8, 2005)

2.66.050 Personal Service Contracts.

Personal services contracts are subject to the regulations established by this section. Procedures for the screening and selection of persons to perform personal services:

- (1) Any Personal Services Contract. Personal services contracts in any amount may be awarded under a publicly advertised request for proposals in accordance with O.R.S. 279B.060.
- (2) Discretionary Award. The following contracts may be awarded under any method deemed in the city’s best interest by the City Administrator, including by direct appointment; subject to approval by the City Council when required by this ordinance:
 - (A) Contracts for which the solicitation agent estimates that payments will not exceed \$20,000 in any fiscal year;
 - (B) Contracts for legal services for the city; and
 - (C) City engineering contracts.
- (3) Personal Service Contracts Not Exceeding \$150,000. Contracts for personal services for which the estimated contract price does not exceed \$150,000, may be awarded using an informal solicitation for proposals.
- (4) Personal Service Contracts for Continuation of Work. Contracts of not more than \$200,000 for the continuation of work by a contractor who performed preliminary studies, analysis or planning for the work under a prior contract may be awarded without competition, if the prior contract was awarded under a competitive process, and the City Administrator determines that use of the original contractor will significantly reduce the costs of, or risks associated with, the work.
- (5) \$75,000 Award from Qualified Pool. Contracts for personal services for which the estimated contract price does not exceed \$75,000 may be awarded by direct appointment without competition from a qualified pool. (Ord. 2005-08, Exhibit “A”, § 9, 2005)

2.66.060 Public Contract Exemptions and Process for Approval of Special Solicitation Methods.

- (1) Authority of the City Council. In its capacity as contract review board for the city, the City Council upon its own initiative, or upon request of the city administrator, may create special selection, evaluation, and award procedures for, or may exempt from competition, the award of a specific contract or class of contracts as provided in this section.

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- (2) Basis for Approval. The approval of an exemption from competition or special solicitation methods must be based upon a record before the City Council that includes the following:
- (A) The nature of the contract or class of contracts for which the special solicitation or exemption is requested;
 - (B) The estimated contract price or cost of the project, if relevant;
 - (C) Findings that identify the characteristics of the class (such as specialty goods or services; response time, etc.);
 - (D) Findings to support the substantial cost savings, enhancement in quality or performance or other public benefit anticipated by the proposed selection method or exemption from competitive solicitation;
 - (E) Findings to support the reason that approval of the request would be unlikely to encourage favoritism or diminish competition for the public contract or class of public contracts, or would otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with the solicitation requirements that would otherwise be applicable under these regulations;
 - (F) A description of the proposed alternative contracting methods to be employed;
 - (G) The estimated date by which it would be necessary to let the contract(s).
- In making a determination regarding a special selection method, the City Council may consider the type, cost, amount of the contract or class of contracts, number of persons available to make offers, and such other factors as it may deem appropriate.
- (3) Hearing.
- (A) Notice. The city shall approve the special solicitation or exemption after a public hearing before the City Council following notice by publication in at least one newspaper of general circulation in the city. The notice shall be published at least seven days prior to the hearing. The notice shall state that the purpose of the hearing is to consider findings in support of, as applicable:
 - i. A special procurement for a single contract or classes of contracts under O.R.S. 279B.085; or
 - ii. An exemption from competitive bidding for a single contract or class of contracts under O.R.S. 279C.335

The notice shall describe how copies of the draft findings may be obtained for review prior to the hearing and state that persons who wish to comment on or protest the considered action may appear and present testimony at the hearing.
 - (B) At the public hearing, the city shall offer an opportunity for any interested party to appear and present comment.
 - (C) The City Council will consider the findings and may approve the special solicitation or exemption as proposed or as modified by the City Council after providing an opportunity for public comment.
 - (D) If the City Council approves the special procurement(s) or exemption(s) at the public meeting of the City Council following the hearing, or at a subsequent public meeting of the City Council, no published notice of the approval shall be required.
- (4) Public Improvement Contract Exemption Special Requirements.
- (A) Notification of the public hearing for exemption of a public improvement contract, or class of public improvement contracts, shall be published in a trade newspaper of general statewide circulation at least 14 days prior to the hearing.

- (B) The notice shall state that the public hearing is for the purpose of taking comments on the city's draft findings for an exemption from the standard solicitation method. At the time of the notice, copies of the draft findings shall be made available to the public.
- (5) Commencement of Solicitation Prior to Approval. A solicitation may be issued prior to the approval of a special exemption under this section, provided that the closing of the solicitation may not be earlier than five days after the date of the hearing at which the City Council approves the exemption. If the City Council fails to approve a requested exemption, or requires the use of a solicitation procedure other than the procedures described in the issued solicitation documents, the issued solicitation may either be modified by addendum, or canceled. (Ord. 2005-08, Exhibit "A", § 10, 2005)

2.66.070 Solicitation Methods for Classes of Public Contracts.

The city may encourage meaningful competition through a variety of solicitation methods. The solicitation agent shall choose the solicitation method that is most likely to encourage offers representing optimal value to the city. The following classes of public contracts and the method(s) that are approved for the award of each of the classes are hereby established by the City Council. However, nothing in this section may be construed as prohibiting the city from conducting a procurement under competitive bidding or competitive proposal procedures.

- (1) Small Procurements - Direct Purchase or Appointment. The following classes of contracts may be awarded in any manner, which the solicitation agent deems appropriate to the city's needs, including by direct purchase or appointment.
 - (A) Contracts Up to \$5,000. Contracts of any type for which the contract price does not exceed \$5,000, may be awarded as a small procurement. Notwithstanding any other rules or policies of the city, a contract awarded as a small procurement may be amended or re-negotiated without additional competition, with prior approval of the City Administrator if it is advantageous to the city; but the cumulative amendments shall not increase the total contract price to greater than \$6,000. A procurement may not be artificially divided or fragmented, so as to constitute a small procurement under this section.
 - (B) Amendments. Contract amendments shall not be considered separate contracts, if made in accordance with the public contracting regulations.
 - (C) Advertising. Contracts for the placing of notice or advertisements in any medium.
 - (D) Animals. Contracts for the purchase of animals.
 - (E) Small Concessions. Concession for which the City Administrator estimates that receipts by the city will not exceed \$5,000 in any fiscal year and \$50,000 in the aggregate may be awarded by any method deemed appropriate by the solicitation agent; including without limitation, by direct appointment, private negotiation, from a qualified pool, or using a competitive process.
 - (F) Copyrighted Materials; Library Materials. Contracts for the acquisition of materials entitled to copyright, including, but not limited to, works of art and design, literature and music, or materials even if not entitled to copyright, purchased for use as library lending materials.
 - (G) Equipment Repair. Contracts for equipment repair or overhauling, provided the service or parts required are unknown and the cost cannot be determined without preliminary dismantling or testing.

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- (H) Government Regulated Items. Contracts for the purchase of items for which prices or selection of suppliers are regulated by a governmental authority.
 - (I) Insurance. Insurance and service contracts as provided for under O.R.S. 414.115, 414.125, 414.135 and 414.145.
 - (J) Non-Owned Property. Contracts or arrangements for the sale or other disposal of abandoned property or other personal property not owned by the city.
 - (K) Sole Source Contracts. Contracts for goods or services, which are available from a single source, may be awarded without competition.
 - (L) Specialty Goods for Resale. Contracts for the purchase of specialty goods by city for resale to consumers.
 - (M) Sponsor Agreements. Sponsorship agreements, under which the city receives a gift or donation in exchange for recognition of the donor.
 - (N) Structures. Contracts for the disposal of structures located on city-owned property.
 - (O) Renewals. Contracts that are being renewed in accordance with their terms are not considered to be newly issued Contracts and are not subject to competitive procurement procedures.
 - (P) Temporary Extensions or Renewals. Contracts for a single period of one year or less, for the temporary extension or renewal of an expiring and non-renewable, or recently expired, contract, other than a contract for public improvements.
 - (Q) Temporary Use of City-Owned Property. The city may negotiate and enter into a license, permit or other contract for the temporary use of city-owned property without using a competitive selection process if:
 - i. The contract results from an unsolicited proposal to the city based on the unique attributes of the property or the unique needs of the proposer;
 - ii. The proposed use of the property is consistent with the city's use of the property and the public interest; and
 - iii. The city reserves the right to terminate the contract without penalty, in the event that the city determines that the contract is no longer consistent with the city's present or planned use of the property or the public interest.
 - (R) Used Property. The City Administrator, for procurements up to \$50,000 may contract for the purchase of used property by negotiation, if such property is suitable for the city's needs and can be purchased for a lower cost than substantially similarly new property. For this purpose the cost of used property shall be based upon the life-cycle cost of the property over the period for which the property will be used by the city. There shall be a written record of the purchase.
 - (S) Utilities. Contracts for the purchase of steam, power, heat, water, telecommunications services, and other utilities.
 - (T) Hazardous Material Removal and Oil Clean-Up. The city may acquire services to remove or clean up hazardous material or oil from any vendor when ordered to do so by the Oregon Department of Environmental Quality pursuant to its authority under O.R.S. Chapter 466.
- (2) The following classes of contracts may be awarded using the informal solicitation procedures in Section 2.66.090 of these regulations. A procurement may not be artificially divided or fragmented, so as to constitute an intermediate procurement under this section.

- (A) Public Improvement Contracts.
- i. Non-Transportation. Public Improvements up to \$100,000. Public improvement contracts other than contracts for a highway, bridge or other transportation project for which the estimated contract price exceeds \$5,000, but does not exceed \$100,000, may be awarded using an informal solicitation for quotes. Contracts in excess of \$100,000, unless approved for a special exemption, shall be issued in accordance with the provisions of O.R.S. 279C;
 - ii. Transportation. Public Improvements up to \$50,000. Contracts for which the estimated contract price exceeds \$5,000, but does not exceed \$50,000, for highways, bridges or other transportation projects may be awarded using an informal solicitation for quotes. Contracts in excess of \$50,000, unless approved for a special exemption, shall be issued in accordance with the provisions of O.R.S. 279C;
 - iii. Requests for a price quotation for a public works projects estimated to exceed \$25,000 shall include the Bureau of Labor and Industries (BOLI) provisions regarding the prevailing wage.
 - iv. If the estimated cost is less than \$25,000 but all price quotations equal or exceed \$25,000 then the solicitation shall be cancelled and a new request for written price quotations containing the BOLI provisions regarding prevailing wages, shall be included.
 - v. Use of Existing Contractors. When a public improvement is in need of minor alteration, repair or maintenance at or near the site of work being performed by another city contractor, the city may hire that contractor to perform the work provided:
 - 1) The contractor was hired through a competitive selection process permitted by these regulations;
 - 2) The solicitation agent first obtains a price quotation from the contractor that is competitive and reasonable or based on unit prices in the current contract;
 - 3) Any prevailing wage requirements are complied with; and
 - 4) A change order is issued for the work.
- (B) Contracts for Goods and Services Exceeding \$5,000. The procurement of goods or services, for which the estimated contract price exceeds \$5,000, but not exceeding \$150,000, may be awarded under an informal solicitation for either quotes or proposals. Public contracts for good or services in excess of \$150,000 shall be let in accordance with the provisions of O.R.S. 279B.
- (C) Intermediate and Major Concessions. For Concession Agreements for which receipts by the city exceed \$5,000 in a fiscal year or \$50,000 in the aggregate, and the concessionaire's projected annual gross revenues are estimated to be \$500,000 or less; the City Administrator has discretion to use either an informal solicitation or formal request for proposals process applicable to contracts for personal services. If the proposals received indicate a probability that the concessionaire's annual gross revenues will exceed \$500,000, the Solicitation Agent may, but shall not be required to, reissue the solicitation as a request for proposals. Major concession agreements, for which the concessionaire's projected annual gross revenues under the contract are estimated to exceed \$500,000 annually, shall be awarded using a request for proposals.

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- (3) The following classes of contracts include elements of construction of public improvements as well as personal services and may be awarded under a request for proposals, unless exempt from competitive solicitation:
 - (A) Design/Build and CM/GC Contracts. Contracts for the construction of public improvements using a design/build or construction manager/general contractor construction method may be approved by the City Council if the construction of the improvement under the proposed method is likely to result in cost savings, higher quality, reduced errors, or other benefits to the city.
 - (B) Energy Savings Performance Contracts. Unless the contract qualifies for award under another classification in this Section 11, contractors for energy savings performance contracts shall be selected under a request for proposals in accordance with the city's public contracting regulations.
- (4) The city shall purchase goods, services and public improvements available from qualified nonprofit agencies for disabled individuals in accordance with the provisions of O.R.S. 279.835 through 279.850.
- (5) Emergency Procurements.
 - (A) In General. When an official with authority to enter into a contract on behalf of the city determines that immediate execution of a contract, within the official's authority, is necessary to prevent a substantial risk of loss, damage or interruption of services; or a substantial threat to property, public health, welfare or safety, the official may execute the contract without competitive selection and award or city approval; but, where time permits, the official shall attempt to use competitive price and quality evaluation before selecting an emergency contractor.
 - (B) Emergency Public Improvement Contracts. A public improvement contract may only be awarded under emergency circumstances if the City Administrator or City Council has made a written declaration of emergency. Any public improvement contract awarded under emergency conditions must be awarded within 60 days following the declaration of an emergency, unless the City Council grants an extension of the emergency period. All such contracts, whether or not signed by the contractor, shall be deemed to contain a termination for convenience clause permitting the city to immediately terminate the contract at its discretion and, unless the contract was void, the city shall pay the contractor only for work performed prior to the date of termination plus the contractor's unavoidable costs incurred as a result of the termination. In no event will the city pay for anticipated lost profits or consequential damages as a result of the termination. Where the time delay needed to obtain a payment or performance bond for the contract could result in injury or substantial property damage, the City Administrator or City Council may waive the requirement for all or a portion of required performance and payment bonds.
 - (C) Reporting. An official who enters into an emergency contract shall, as soon as possible, in light of the emergency circumstances, document the nature of the emergency; and for good or services contracts, describe the method used for the selection of the particular contractor, and the reason why the selection method was deemed in the best interest of the city and the public; and notify the City Council of the facts and circumstances surrounding the emergency execution of the contract.

- (6) Surplus Property.
- (A) Disposal of Property with Minimal Value. Surplus property which has a value of less than \$500, or for which the costs of sale are likely to exceed sale proceeds may be disposed of by any means determined to be cost-effective, including by disposal as waste. The official making the disposal shall make a record of the estimated value of the item and the manner of disposal.
- (B) General Methods. Surplus property may be disposed of by any of the following methods upon a determination by the solicitation agent that the method of disposal is in the best interest of the city. Factors that may be considered by the solicitation agent include costs of sale, administrative costs, and public benefits to the city. The solicitation agent shall maintain a record of the manner of disposal, including the name of the person to whom the surplus property was transferred.
- i. By publicly advertised auction to the highest bidder.
 - ii. By public advertised invitation to bid.
 - iii. By donation to any non-profit cause or organization operating within or providing a service to residents of the city.
 - iv. Without competition, by transfer or sale to another public agency.
 - v. The solicitation agent may establish a selling price based upon an independent appraisal or published schedule of values generally accepted by the insurance industry, schedule and advertise a sale date, and sell to the first buyer meeting the sales terms.
 - vi. By liquidation sale using a commercially recognized third-party liquidator selected in accordance with rules for the award of personal services contracts.
 - vii. By trade-in, in conjunction with acquisition of other price-based item under procurement. The solicitation shall require the offer to state the total value assigned to the surplus property to be traded.
- (C) Restriction on Sale to City Employees. City employees shall not be restricted from competing, as members of the public, for the purchase of publicly sold surplus property, but shall not be permitted to offer to purchase property to be sold to the first qualifying bidder until at least three days after the first date on which notice of the sale is first publicly advertised.
- (D) Personal Use Items. An item(or indivisible set) of specialized and personal use, other than police officer's handguns, with a current value of less than \$100 may be sold to the employee or retired or terminated employee for whose use it was purchased. These items may be sold for fair market value without bid and by a process deemed most efficient by the City Administrator.
- (E) Police Officers' Handguns. Upon honorable retirement from service with the city, a police officer may purchase the handgun that she or he was using at the time of retirement. The purchase price shall be the fair market value of the handgun as determined by an independent appraisal performed by a qualified weapons appraiser. An officer electing to exercise this option shall notify the city at least 30 days prior to his or her expected retirement date and request an appraisal of the handgun. Upon receipt of the appraisal fee from the officer the city shall arrange for the appraisal. A copy of the completed appraisal shall be provided to the officer, who shall have up to 30 days from the date of retirement to purchase the handgun for the appraised fair market value.

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- (F) Conveyance to Purchaser. Upon the consummation of a sale of surplus personal property, the city shall make, execute and deliver, a bill of sale signed by the City Administrator, conveying the property in question to the purchaser and delivering possession, or the right to take possession, of the property to the purchaser.
- (7) Federal and State Purchasing Programs. Goods and services may be purchased without competitive procedures under a local government purchasing program administered by the United States General Services Administration (“GSA”) and/or the Oregon Department of Administrative Services (“DAS”) as provided in this subsection.
 - (A) The procurement must be made in accordance with procedures established by GSA or DAS for procurements by local governments, and under purchase orders or contracts submitted to and approved by the City Administrator with a copy of the letter, memorandum or other documentation from GSA establishing permission to the city or purchase under the federal program.
 - (B) The price of the goods or services must be established under price agreements between the federally approved vendor and GSA or DAS.
 - (C) The price of the goods or services must be less than the price at which such goods or services are available under local cooperative purchasing programs that are available to the city.
 - (D) If a single purchase of goods or services exceeds \$150,000, the solicitation agent must obtain informal written quotes or proposals from at least two additional vendors (if reasonably available) and find, in writing, that the goods or services offered by GSA or DAS represent the best value for the city. This subsection does not apply to the purchase of equipment manufactured or sold solely for military or law enforcements purposes.
- (8) Cooperative Procurement Contracts. Cooperative procurements may be made without competitive solicitation as provided in the Oregon Public Contracting Code, O.R.S. 279A.200 - 279A.225.
- (9) Report to City Council on Non-Bid Public Projects.
 - (A) Upon completion of and final payment for any public improvement contract, or class of public improvement contracts described in O.R.S. 279A.050 (3) (b), in excess of \$100,000; for which the city did not use the competitive bidding process, city staff shall prepare and deliver to the City Council an evaluation of the public improvement project, or class of public improvement contracts. The evaluation shall include but not be limited to the following matters:
 - i. The actual project cost as compared with original project estimates;
 - ii. The amount of any guaranteed maximum price;
 - iii. The number of project change orders issued by the owner;
 - iv. A narrative description of successes and failures during the design, engineering and construction of the project; and
 - v. An objective assessment of the use of the alternative contracting process as compared to the findings required by O.R.S. 279C.335.
 - (B) Evaluations required by this section must be made available for public inspection, and be completed within 30 days of the date the contracting agency accepts:
 - i. The public improvement project; or
 - ii. The last public improvement project if the project falls within a class of public improvement contracts. (Ord. 2005-08, Exhibit “A”, § 11, 2005)

2.66.080 Sole Sources.

- (1) Determination of Sole Source. A determination of sole source may be made by the City

Administrator based upon written findings that demonstrate that the contractor is a sole source, and that alternative goods, services or personal services would be unsatisfactory for the city's needs based on factors that may include any of the following:

- (A) A record that no qualified vendors responded to a notice issued in accordance with subsection B;
 - (B) A written statement from a manufacturer established as a sole source that the product is only available to the city from a single point of sale;
 - (C) Written evidence that the contract is for a patented product and that the proposed vendor is the exclusive holder of a right to sell the product;
 - (D) Records of research that demonstrate that only one suitable source for the goods or service exists and that alternate goods or services do not meet the city's requirements, including, without limitation, that efficient utilization of existing goods requires the acquisition of compatible goods or services; or
 - (E) A statement that the goods or services are for use in a pilot or experimental project.
- (2) Manner of Notice. The record that a contractor is a sole source may be established if no qualified alternative sources responded to a public notice of the city's requirements. The notice shall be published at least five business days before contract execution and shall:
- (A) Describe the goods, services, or personal services sought;
 - (B) State the estimated amount of the contract;
 - (C) Request statements of ability to provide the identified goods, services or personal services from vendors who are qualified to compete for the contract; and
 - (D) State that if no responses are received from qualified vendors within the time period specified in the notice, the purchasing manager will proceed with a sole-source award.
- (3) Method of Selection. Sole source contracts may be awarded pursuant to direct negotiation with the sole source contractor, without competitive solicitation. (Ord. 2005-08, Exhibit "A", § 12, 2005)

2.66.090 Informal Solicitation Procedures and Qualified Pools.

When authorized by these regulations the city may use the following procedures for informal solicitations, and a contract may be awarded using the informal solicitation procedures described in this section.

- (1) Record of Contract Requirements and Evaluation Criteria. The solicitation agent shall make a written record of the contract requirements and criteria upon which the award will be based before conducting the solicitation. This record shall be used to provide all potential offerors with the same information concerning the contract requirements and the manner in which their offers will be evaluated.
- (2) Contact with Potential Offerors. The solicitation agent request for quotes or proposals may be by general or limited distribution to a certain group of vendors, by direct inquiry to persons selected by the solicitation agent, or in any other manner that the solicitation agent deems suitable for obtaining a sufficient number of competitive quotes or proposals.
- (3) Number of Offers. The solicitation agent shall attempt to obtain at least three responsive quotes or proposals from offerors who are qualified to perform the contract unless three offers cannot be reasonably obtained. If fewer than three quotes or proposals are reasonably available, fewer will suffice, but the solicitation agent shall make a record of the efforts made to obtain the offers. (O.R.S. 279B.070; § 133, Chapter 794, Oregon Laws 2003)
- (4) When Written Solicitation Required. The request for offers and the receipt of offers shall be made

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in writing in the following cases:

- (A) Contracts for Goods, Services or Personal Services. If the estimated contract price will exceed \$75,000, the solicitation agent shall request written quotes or proposals using a written description of contract requirements and award criteria.
 - (B) Contracts for Public Improvements. The solicitation agent shall request written quotes for all public improvement contracts, and shall present the description of contract requirements and award criteria using written materials unless the information can be given by other means in a conference or oral presentation at which all potential offerors are present and have an opportunity to ask questions. Notwithstanding the foregoing sentence, when soliciting quotes for a public works project, the solicitation agent must deliver all written materials, including written copies of the prevailing wage rates required by the Bureau of Labor and Industries.
- (5) Basis for Award. Selection of contractors for goods, services and personal services shall be based on the quote or proposal that is most advantageous to the city. The selection criteria for public improvement contracts shall be based on quotes but may include a consideration of, and ranking of other factors in addition to, price, such as experience, specific expertise, availability, project understanding, contractor capacity, responsibility and similar factors. The solicitation agent shall make a written record of all offerors, the prices quoted and, if the award was made on a basis other than price, a record of the evaluation of each offer and the basis for award.
- (6) Discussions and Negotiations. The solicitation agent may discuss the solicitation requirements for any type of informal solicitation with potential offerors and may discuss a quote or proposal with an offeror to clarify its quote or proposal or to effect modifications that will make the quote or proposal responsive to the solicitation requirements. Except for solicitations involving public improvements, after all initial quotes have been received and recorded, the solicitation agent may negotiate with an offeror to effect modifications that will make the quote or proposal more advantageous to the city. The solicitation agent may not disclose the price offer or terms of one offeror to another during discussions prior to contract award.
- (7) Amendment. A contract awarded using an informal solicitation may be amended only as provided in these regulations.
- (8) Qualified Pools.
- (A) Purpose of Qualified Pools. In lieu of prequalification on a contract-by-contract basis, the city may establish qualified pools that can be used on a continuous basis for the selection of contractors when direct appointment or informal solicitation is otherwise authorized by these regulations.
 - (B) Creation of Qualified Pool. To create a qualified pool, the City Administrator may invite prospective contractors to submit their qualifications to the city for inclusion as participants in a pool of contractors qualified to provide certain types of goods, services, or projects, including personal services and public improvements.
 - (C) Advertisement. The invitation to participate in a qualified pool shall be advertised, at the discretion of the solicitation agent, by publication in a newspaper of general circulation in the Tangent area, by electronic publication as permitted in these regulations or by any other method that the solicitation agent deems desirable to develop a sufficient pool of qualified vendors. The advertisement shall be made at the time of initial formation and whenever the qualified pool contract is subject to re-opening or renewal. If the pool is open to entry at any time, and is continuously advertised on the city's website, no additional advertisement shall be required.

- (D) **Qualification for Participation.** A qualified pool shall be open for entry not less than once in each three years. Standards for participation in a qualified pool may include the applicant's financial stability, contracts with manufactures or distributors, certification as an emerging small business, insurance, licensure, education, training, experience and demonstrated skills of key personnel, access to equipment, and other relevant qualifications that are important to the contracting needs of the city. The city may also require, as a condition to participation, that the applicant furnish additional materials such as proof of licensure, insurance, insurance endorsements to protect the interests of the city, material concerning performance and fidelity bonds, and that the applicant agree to the terms and conditions of participation in the qualified pool. The qualifications for participation in each qualified pool shall be set forth in writing, but may be changed at any time, provided that all participants are notified of the change.
- (E) **Contents of Solicitation.** Requests for participation in a qualified pool shall describe the scope of goods or services or personal services for which the pool will be maintained, and the minimum qualifications for participation in the pool.
- (F) **Use of Qualified Pools.** The solicitation agent may use a qualified pool to make direct appointments as authorized in these regulations or to obtain quotes or proposals for an informal solicitation, but shall not be limited to selection from a qualified pool. Participation in a qualified pool shall not entitle any participant to the award of a city contract.
- (G) **Amendment and Termination.** The solicitation agent may discontinue a qualified pool at any time, or may change the requirements for eligibility as a participant in the pool at any time, by giving notice to all participants in the qualified pool.
- (H) **Protest of Failure to Qualify.** The solicitation agent shall notify any applicant who fails to qualify for participation in a pool that it may appeal the solicitation agent's decision to the City Administrator in the manner described in Section 2.66.120. (Ord. 2005-08, Exhibit "A", § 13, 2005)

2.66.095 Requirements for Invitations To Bid and Requests for Proposals.

Unless otherwise provided in these regulations, all formal bids and proposals made to the city shall:

- (1) Be in writing;
- (2) Be filed with the solicitation agent before the closing. Any offer received after the closing is late. An offeror's request for withdrawal or modification of an offer received after the closing is late. The city shall not consider late offers or late modification of an offer or late withdrawal of an offer;
- (3) Be opened publicly by the city at the date, time and place designated in the solicitation. (Ord. 2005-08, Exhibit "A", § 14, 2005)

2.66.097 Use of Brand Name Specifications for Public Improvements.

- (1) **In General.** Specifications for contracts shall not expressly or implicitly require any product by one brand name or make, nor the product of one particular manufacturer or seller, except for the following reasons:
 - (A) It is unlikely that such exemption will encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts; or
 - (B) The specification of a product by brand name or mark, or the product of a particular

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- manufacturer or seller, would result in substantial cost savings to the city; or
 - (C) There is only one manufacturer or seller of the product of the quality required; or
 - (D) Efficient utilization of existing equipment, systems or supplies requires the acquisition of compatible equipment or supplies.
- (2) Authority of City Administrator. The City Administrator shall have authority to determine whether an exemption for the use of specific brand name specification should be granted by recording findings that support the exemption based on the provisions of Section 2.66.097 (1)
 - (3) Brand Name of Equivalent. Nothing in this Section 2.66.097 prohibits the city from using a Abrand name or equivalent@ specification, from specifying one or more comparable products as examples of the quality, performance, functionality or other characteristics of the product needed by the city, or from establishing a qualified product list. (Ord. 2005-08, Exhibit "A", § 15, 2005)

2.66.100 Bid, Performance and Payment Bonds.

- (1) Solicitation Agency May Require Bonds. The solicitation agent may require bid security and a good and sufficient performance and payment bond even though the contract is of a class that is exempt from the requirement.
- (2) Bid Security. Except as otherwise exempted, the solicitations for all contracts that include the construction of public improvement and for which the estimated contract price will exceed \$75,000 shall require bid security. Bid security for a request for proposal may be based on the city's estimated contract price.
- (3) Performance Bonds.
 - (A) General. Except as provided in these regulations, all public contracts are exempt from the requirement for the furnishing of a performance bond.
 - (B) Contracts Involving Public Improvements. Prior to executing a contract for more than \$50,000, that includes the construction of a public improvement, contractor must deliver a performance bond in an amount equal to the full contract price conditioned on the faithful performance of the contract in accordance with the plans, specifications and conditions of the contract. The performance bond must be solely for the protection of the city and any public agency that is providing funding for the project for which the contract was awarded.
 - (C) Cash-in-Lieu. The City Administrator may permit the successful offer to submit a cashier's check or certified check in lieu of all or a portion of the required performance bond.
- (4) Payment Bonds.
 - (A) General. Except as provided in these regulations, all public contracts are exempt from the requirement for the furnishing of a payment bond.
 - (B) Contracts Involving Public Improvements. Prior to executing a contract for more than \$100,000 that includes the construction of a public improvement, the contractor must deliver a payment bond equal to the full contract price, solely for the protection of claimants under O.R.S. 279C.600.
- (5) Design/Build Contracts. If the public improvement contract is with a single person to provide both design and construction of a public improvement, the obligation of the performance bond for the faithful performance of the contract must also be for the preparation and completion of the design and related services covered under the contract. Notwithstanding when a cause of action, claim or demand accrues or arises, the surety is not liable after final completion of the contract, or longer if provided for in the contract, for damages of any nature, economic or otherwise and including corrective work, attributable to the design aspect of a design-build project, or for the costs of

- design revisions needed to implement corrective work.
- (6) **Construction Manager/General Contractor Contracts.** If the public improvement contract is with a single person to provide construction manager and general contractor services, in which a guaranteed maximum price may be established by an amendment authorizing construction period services following preconstruction period services, the contractor shall provide the bonds required by subsection (1) of this section upon execution of an amendment establishing the guaranteed maximum price. The city shall also require the contractor to provide bonds equal to the value of construction services authorized by any early work amendment in advance of the guaranteed maximum price amendment. Such bonds must be provided before construction starts.
 - (7) **Surety; Obligation.** Each performance bond and each payment bond must be executed solely by a surety company or companies holding a certificate of authority to transact surety business in Oregon. The bonds may not constitute the surety obligation of an individual or individuals. The performance and payment bonds must be payable to the city or to the public agency or agencies for whose benefit the bond is issued, as specified in the solicitation documents, and shall be in a form approved by the City Administrator.
 - (8) **Emergencies.** In cases of emergency, or when the interest or property of the city probably would suffer material injury by delay or other cause, the requirement of furnishing a good and sufficient performance bond and a good and sufficient payment bond for the faithful performance of any public improvement contract may be excused, if a declaration of such emergency is made in accordance with the provisions of Section 2.66.060(5), unless the City Council requires otherwise. (Ord. 2005-08, Exhibit "A", § 16, 2005)

2.66.110 Electronic Advertisement of Public Contracts.

In lieu of publication in a newspaper of general circulation in the city area, the advertisement for an invitation to bid or request for proposals for any type of public contract may be published electronically by posting on the city's website, provided that the following conditions are met:

- (1) The placement of the advertisement is on a location within the website that is maintained on a regular basis for the posting of information concerning solicitations for project of the type for which the invitation to bid or request for proposals is issued; and
- (2) The solicitation agent determines that the use of electronic publication will be at least as effective in encouraging meaningful competition as publication in a newspaper of general circulation in the area and will provide costs savings for the city, or that the use of electronic publication will be more effective than publication in a newspaper of general circulation in the area in encouraging meaningful competition. (Ord. 2005-08, Exhibit "A", § 17, 2005)

2.66.120 Protests and Appeals.

- (1) **Protests of Solicitation Procedures.**
 - (A) **Protests Generally.** A prospective offeror for a public contract may file a protest with the city if the prospective offeror believes that the procurement process is contrary to law or that a solicitation document is unnecessarily restrictive, is legally flawed or improperly specifies a brand name. If a prospective offeror fails to timely file such a protest, the prospective offeror may not challenge the contract for any of the foregoing reasons in any future legal or administrative proceeding.
 - (B) **Exception of Special Procurements.** The procedures for a contract-specific special procurement approved by the City Council may not be protested, challenged or reviewed

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unless the approval of the special procurement by the City Council has been invalidated by a reviewing circuit court under O.R.S. 279B.400.

- (C) Time for Submission of Protest. Protests of a Solicitation shall only be considered when presented to the City Administrator in writing in accordance with the following timelines.
 - i. Protests shall be submitted in writing, not less than five days prior to the solicitation closing unless the solicitation period is shorter than seven days, in which case the solicitation documents shall recite another protest deadline that allows a period of at least one business day after the issue date of the solicitation to submit protest; and
 - ii. Protests not asserted or not properly asserted within these timelines shall be deemed waived by the protester.
 - (D) Identification of Protest. It is the protester's responsibility to ensure that the protest is received by the city within the stated timelines. The protest should be delivered in an envelope that is clearly marked with the protester's name and sufficient information to identify the solicitation being protested, identified as a protest, and directed to the person identified in the solicitation documents for receipt of protests. Faxed protests may not be accepted.
 - (E) Eligibility for Consideration. The City Administrator shall consider the protest if the protest is timely filed and contains the following:
 - i. Sufficient information to identify the solicitation that is the subject of the protest;
 - ii. The grounds that demonstrate how the procurement process is contrary to law or how the solicitation document is unnecessarily restrictive, is legally flawed or improperly specifies a brand name;
 - iii. Evidence or supporting documentation that supports the grounds on which the protest is based; and
 - iv. The relief sought.
 - (F) Form of Decision. If the protest is timely submitted and contains the required information, the City Administrator shall consider the protest and issue a decision in writing. Otherwise, the City Administrator shall promptly notify the prospective protesting offeror that the protest is untimely or that the protest failed to meet the requirements of Section 2.66.120(1)(A) and gives the reasons for the failure.
 - (G) Time of Decision. The decision of the City Administrator shall be the final determination of the city on the protest.
 - (H) Finality of Decision. The decision of the City Administrator shall be the final determination of the city on the protest.
 - (I) Delay of Solicitation Closing. If the city receives a protest from an offeror in accordance with Section 2.66.120(1)(A), the City Administrator may in his or her discretion extend the date of solicitation closing if the City Administrator determines an extension is necessary to consider the protest and, if necessary, to issue addenda to the solicitation documents or otherwise cancel the solicitation.
- (2) Protest of competitive range decisions and contract awards.
- (A) Delay of Evaluation or Award. The City Administrator will not proceed with a subsequent tier or evaluation, or award a contract under an invitation to bid or request for proposals, until the period of time for filing a protest of competitive range determination, or award, as applicable, has expired, and the City Administrator has responded to all timely filed protests of aggrieved offerors.

- (B) Definition of Aggrieved Offeror. An offeror is an aggrieved offeror only if the person is one to whom a notice of selection of a competitive tier or notice of intent to award has been, or should have been, sent and such person has been erroneously denied the award of a contract, or has been erroneously eliminated from competition because:
 - i. All higher-ranked offers were non-responsive or all higher-ranked offerors clearly failed to meet the standards of responsibility;
 - ii. The evaluation of offers was not conducted in accordance with the criteria or processes described in the solicitation documents;
 - iii. The evaluator abused its discretion in disqualifying the protestor's offer as non-responsive or as failing to meet the standards of responsibility; or
 - iv. The evaluation of offers or subsequent determination of award was otherwise made in violation of the Oregon Public Contracting Code or these regulations.
 - (C) Filing of Protests. Unless a longer or shorter time period is provided in the solicitation documents, an aggrieved offeror shall have five days after the date of issuance of the notice of intent to award, and three days, if mailed, or 72 hours, if issued electronically after a notice of competitive range determination, to submit to the City Administrator a written protest of the matter described in the award. The written protest must specify the grounds upon which the protest is based, demonstrate the basis for the protestor's status as an aggrieved offeror, and include an electronic or postal address at which the protestor will receive the City Administrator's response. Notwithstanding the foregoing, the period of protest may not be shorter than five days after the date of notice of award, unless the City Administrator determines that the immediate execution of a contract is necessary to avoid a loss of funding for the contract or that further delay in execution will result in injury, property damage or other serious adverse consequences.
 - (D) Authority to Resolve Protests. The City Administrator shall consider a written protest and issue a written decision on the protest. The City Administrator may not consider a protest that is filed in an untimely manner or that fails to allege facts that would support a finding that the protestor is an aggrieved offeror. The decision of the City Administrator shall be the final decision of the city on the protest.
 - (E) Delay of Award; Cancellation of Solicitation. If the city receives a protest from an offeror in accordance with Section 2.66.097(2) the City Administrator shall not submit the contract for execution until the protest is resolved. In addition, the City Administrator shall have discretion to delay or cancel an award or a solicitation in response to a protest, regardless of the final decision on the protest and may, but shall not be required to, reissue the solicitation, if the City Administrator determines that such action best serves the city's interests.
- (3) Appeal of Debarment or Prequalification Decision.
- (A) Right to Hearing. Any person who has been debarred from competing for city contracts or for whom prequalification has been denied, revoked or revised may appeal the city's decision to the City Council as provided in Section 2.66.097.
 - (B) Filing of Appeal. The person must file a written notice of appeal with the City Administrator within three business days after the prospective contractor's receipt of notice of the determination of debarment, or denial of prequalification.
 - (C) Notification of City Council. Immediately upon receipt of such notice of appeal, the City Administrator shall notify the City Council of the appeal.
 - (D) Hearing. The procedure for appeal from a debarment or denial, revocation or revision of

prequalification shall be as follows:

- i. Promptly upon receipt of notice of appeal, the city shall notify the appellant of the time and place of the hearing;
- ii. The City Council shall conduct the hearing and decide the appeal within 30 days after receiving notice of the appeal from the City Administrator; and
- iii. At the hearing, the City Council shall consider de novo the notice of debarment, or the notice of denial, revocation or revision of prequalification, the standards of responsibility upon which the decision on prequalification was based, or the reasons listed for debarment, and any evidence provided by the parties.

(E) Decision. The City Council shall set forth in writing the reasons for the decision.

(F) Costs. The City Council may allocate the City Council's costs for the hearing between the appellant and the city. The allocation shall be based upon facts found by the City Council and stated in the City Council's decision that, in the City Council's opinion, warrant such allocation of costs. If the City Council does not allocate costs, the costs shall be paid as by the appellant, if the decision is upheld, or by the city, if the decision is overturned. (Ord. 2005-08, Exhibit "A", § 18, 2005)

2.66.130 Public Contract Amendments.

- (1) Writing and Signature Requirements. No amendment will be binding on the city unless set forth in writing and signed by an official who is duly authorized to bind the city in the manner described by the amendment.
- (2) Amendments that Increase Price. Except in connection with a contract renewal or extension, no contract may be amended to increase the contract price unless the increase is directly related to an increase in the quantity or types of goods or services to be provided, a betterment in the quality of goods or materials to be provided, or to compensate the contractor for delays occurring after the execution of the contract for which the city is responsible. Amendments that increase the contract price are further limited as follows:
 - (A) Price Established by Contract. Amendments that increase the quantity of goods or services to be provided under the contract and for which unit prices were established in the original contract (for example, by weight, volume, itemized equipment price lists, or hourly fees) shall be permitted without limitation.

- (B) Price Not Established by Contract. Amendments that increase the contract price and that are not described in Section 2.66.080(1)(A) may not, in the aggregate, increase the total amount to be paid under the contract by more than 10% of the original contract price unless approved in advance by the City Council.
- (C) Contracts Issued under Price-Based Solicitation. Except in an emergency, or under a waiver approved by the City Council, a contract awarded under a solicitation method based on contract price may not be amended if the resulting contract price would exceed either of:
 - i. The limitations on amendment under Section 2.66.080(1)(A) and (B) as applicable; or
 - ii. 125% of the maximum contract price for the class of contracts under which the solicitation was conducted.
 - iii. The time of performance under a contract, or the term of an expiring contract, may not be extended by amendment except as provided in the original contract or on a temporary basis as provided in Section 2.66.060. (Ord. 2005-08, Exhibit "A", § 19, 2005)

Chapter 2.70
SETTING OF FEES FOR CERTAIN
PLANNING AND LAND USE REGULATORY MATTERS

Sections:

2.70.010	Title
2.70.020	Fees and Charges Listed
2.70.030	Deposit Required
2.70.033	Deposit Refunded
2.70.035	Obligation to Pay for Full Cost of Application
2.70.040	Delinquent Payments, Penalty
2.70.050	Severance

2.70.010 Title.

This chapter shall be called the Setting of Fees for Certain Planning and Land Use Regulatory Matters.

2.70.020 Fees and Charges Listed.

The following fees and charges shall be set by the City Council and adjusted in accordance with Chapter 2.77 from time to time:

- Administrative review for siting of dwelling in EFU
- Amendment Comp Plan Map
- Amendment Zoning Map
- Annexation
- Authorization of similar use
- Appeal of staff determination
- Commission Decision
- Comp Plan Text Change
- Conditional Use Permits
- Appeal of Council or Planning Determining Status of a Non-Conforming Use or Change of Use
- Final Subdivision Plan
- Final Major Partition Map
- Historic Structure Application
- Interpretation Fee
- Lot Line adjustment
- Lot Line consolidation
- Planned Unit Development
- Pre-application conference
- PUD Amendment
- Right of way permit
- Site Plan Review (+ cost of development)
- Street/Alley Vacation Report
- Tentative Major Partition Map

Tentative Subdivision Plan
Variance
Zoning ordinance text change
Interim Measure 37

(Ord. 2007-04, 2007)

2.70.030 Deposit Required.

The deposit shall be paid at the time of application. Upon final action on the application, including resolution of all appeals to the final review authority of the city, the city will either reimburse or bill the applicant in the amount of the difference between the deposit on file and the actual costs incurred by the city in the course of its investigation, review and final action upon the application. Upon the filing of an appeal of the initial decision, the applicant shall pay a second deposit in the same amount within seven days of the filing of the appeal or the initial decision, if for approval, shall be void. Except for purposes of appeal to the Council, no decision shall take effect until all application costs billed to the applicant have been paid. (Ord. 1985-02 § 1985)

2.70.033 Deposit Refunded.

Any excess amounts not expended shall within 60 days completion of the conditions of approval or denial of the application, be refunded to the applicant. (Ord 2004-04, 2004)

2.70.035 Obligation to Pay for Full Cost of Application.

City staff and consultant shall keep their time spent on each application and the City Administrator is authorized and directed to require each applicant for any of the services set forth above to agree that, as a condition of receipt of the application, any cost above those set forth in this ordinance shall be due and payable to the city within 15 days of notice thereof and late fees will be charged in accordance with city policy if payment has not been received on the due date. The city shall bill monthly for actual time incurred by the Planner, Engineer, and/or Attorney on each application and add 2 of the overhead cost on the first billing and the other half on the final billing or after six months if the billing is still active; and the city shall adjust these fees as an interim to a more formal study annually to reflect the Portland CPI percentage change as of January 1 of each year. (Ord 2004-04, 2004)

2.70.040 Delinquent Payments, Penalty.

- (1) In the event of failure to pay any fees or charges imposed by this ordinance within 30 days of the billing date, interest shall accrue on the unpaid balance at a rate of one and one-half percent (1.12%) per month until paid. (Ord 1990-02, 1990)
- (2) In the event of failure to pay any fees or charges imposed by this ordinance within 30 days of the final resolution of the application, the City Council may direct the City Recorder to enter a lien for the amount due on the City Lien Docket. Such lien shall have priority over all existing liens and be collectible in the manner provided by O.R.S. 223.205 to 223.290, or as otherwise provided by City Ordinance or State Law. (Ord 1990-02, 1990)

2.70.050 Severance.

If any portion of this chapter is held unlawful or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate district and independent portion to be severed, and the remainder of the ordinance shall continue to be in effect.

Chapter 2.77
SETTING OF FEES AND COST OF LIVING INCREASES

Sections:

2.77.010	Title
2.77.020	COLA Review with CPI (Consumer Price Index)
2.77.030	Procedure
2.77.040	Amendments
2.77.050	Fees, Charges and Expenditures Affected
2.77.060	Severance

2.77.010 Title.

This ordinance shall be known as ANNUAL COLA (Cost of Living) Ordinance. (Ord. 2008-01 § 1, 2008)

2.77.020 COLA Review with CPI (Consumer Price Index).

An Annual COLA Review using the Western Statistics, Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for West-B/C, published by the United States Department of Labor, Bureau of Labor Statistics will be included as an agenda item at a regular council meeting held in the spring of each year, with any changes resulting therefrom to be Effective July 1st. At the Annual Cola Review, the Council review revenues and expenditures to determine whether:

- (1) The COLA formula reflects actual cost increases experienced by the city;
- (2) Whether new fees, charges or expenditures adopted during the prior year should be adopted through the application of COLA formulas; and
- (3) COLA formulas based on particular indices are appropriate.

If at the Annual Review the Council determines that a particular fee, charge or expenditure is not appropriately modified by an adjustment, the Council may remove the particular fee, charge or expenditure from the list of fees, charges or expenditures to which the COLA is applied. Otherwise, the fees, charges or expenditures identified in this ordinance and amendments thereto shall automatically adjust each July 1, and the adjusted fees, charges, or expenditures identified in this ordinance and amendments thereto shall be used for budgeting purposes for the next fiscal year. (Ord. 2005-06 § 1, 2 2008-01 § 2, 2008) § (Ord. 2018-01, 2018.)

2.77.030 Procedure.

In the event a fee, charge or expenditure is enacted in the period prior to each Annual COLA Review, the COLA adjustment for that particular fee, user charge or expenditure will be based on the same measure as applied other fees, charges, or expenditures unless taken from the list by the City Council as not appropriate for a COLA adjustment. (Ord. 2008-01 § 3, 2008)

2.77.040 Amendments.

The following ordinances and resolutions are hereby amended by the provisions of this ordinance to allow for the use of a COLA index to adjust fees:

- (1) Resolution No. 2004-06, Adoption of Wastewater User Charge;
- (2) Resolution No. 2004-07, Establishing a Stormwater Utility User Charge;
- (3) Resolution No. 2004-15, Creating a Park Maintenance and Restoration Fee;
- (4) Resolution No. 2004-19, Adoption of a Sewer Connection Fee;
- (5) Ordinance No. 2004-04, Setting out Land Use Fees/Deposits;
- (6) Resolution No. 2004-16, Creating a Wastewater Systems Development Charge;
- (7) Resolution No. 1991-14, Establishing a Transportation and Drainage System Development Charge; and
- (8) Resolution No. 1994-15, Establishing a System Development Charge for Capital Improvements Relating to Parks.

The following ordinance is hereby repealed in its entirety: Ordinance 2005-02.
(Ord. 2008-01 § 4, 2008)

2.77.050 Fees, Charges and Expenditures Affected.

The following fees, charges and expenditures are affected by this chapter:

- (1) Fees/Charges:
 - (A) Wastewater use charges;
 - (B) Stormwater utility user charges;
 - (C) Parks maintenance and restoration fees;
 - (D) Sewer connection fees;
 - (E) Land use fees/deposits;
 - (F) Wastewater system development charges;
 - (G) Transportation system development charges;
 - (H) Drainage system development charges;
 - (I) Parks capital development system development charges; and
- (2) Expenditures: Employee salary adjustments.

2.77.060 Severance.

If any portion, subsection, sentence, clause or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid through an as-applied or facial challenge, such a decision shall not affect the validity of the remaining portions of this Ordinance or the Tangent Municipal Code. t. (Ord. 2008-01 § 6, 2008) § (Ord. 2018-01, 2018.)

Chapter 2.88
INITIATIVE AND REFERENDUM PROCEDURES

Sections:

2.88.010 Initiative and Referendum Procedures

2.88.010 Initiative and Referendum Procedures.

- (1) The City of Tangent shall refer city tax measures to the voters of the city for their approval or rejection; and
- (2) The City of Tangent shall refer city general obligation bond measures to the voters of the City of Tangent for their approval or rejection; and
- (3) It is further ordained by the City Council of the City of Tangent: That if and when a city tax base is adopted, matters dealing with such city tax base shall be exempt from the provisions of this ordinance and shall be governed by state law; and
- (4) The provisions of this ordinance do not extend to licensing, regulatory or administrative fees imposed by the City of Tangent. (Ord. 1989-08, 2008)

Chapter 2.99
PRIVATE PROPERTY COMPENSATION CLAIMS

Sections:

2.99.010	Purpose
2.99.020	Definitions
2.99.030	Compensation
2.99.040	Notice of Claim
2.99.050	Continuation Request
2.99.060	Claims Review Procedures
2.99.070	Joinder of Parties and Related Causes of Action
2.99.080	Payment of Compensation
2.99.090	Record Keeping
2.99.100	Status of Property after Approval
2.99.110	Exemptions
2.99.120	Venue
2.99.130	Severance
2.99.140	Repealer

2.99.010 Purpose.

The purpose of this ordinance is to:

- (1) Create a process for the evaluation of claims for regulatory takings filed pursuant to the provisions of Ballot Measure 37 (2004).
- (2) Enable persons with claims for compensation based on a reduction in real property value an adequate and fair opportunity to present and resolve them in a timely, efficient, and consistent manner. (Ord. 2006-10 § 1, 2006)

2.99.020 Definitions.

For the purpose of this section the following terms, phrases, words and their derivations shall have the meaning given in this section. If not defined there, the words shall be given their common and ordinary meaning:

- (1) “Affected property” is private real property or an interest in private real property claimed to be reduced in value because of a land use regulation.
- (2) “Claim” means a written demand for compensation required to be made by an owner of real property under Ballot Measure 37.
- (3) “Family member” includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the affected property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members or the owner of the affected property.

- (4) "Land use" means a physical improvement on real property related to use of the land or an activity which is conducted on real property such as residential use, commercial use, industrial use, community service use, farm use or forest use.
- (5) "Land use regulation" includes:
 - (A) Any statute regulating the use of land or any interest therein;
 - (B) Administrative rules and goals of the Land Conservation and Development Commission;
 - (C) Local government comprehensive plans, zoning ordinances, land division ordinances, and transportation ordinances;
 - (D) Statutes and administrative rules regulating farming and forest practices; and/or
 - (E) Any intergovernmental agreement or urban growth boundary agreement that affects the use of land.
- (6) "Owner" is the present owner of the affected property or the holder of any interest therein.
- (7) "Public Entity" shall include the state, a metropolitan service district, a city or a county. (Ord. 2006-10 § 2, 2006)

2.99.030 Compensation.

- (1) The city hereby establishes a process for an owner to receive compensation for the reduction in value of affected property as a result of the enactment, application or enforcement by the city of land use regulations, if those land use regulations were adopted after the owner acquired the affected property and those land use regulations are not exempt regulations as that term is used in Section 2.99.110, below. (Ord. 2006-10 § 3, 2006)
- (2) A claim filed pursuant to this section shall be considered ripe for submission when a claimant produces evidence of a land use decision that denies or conditions an approval for a use on the subject property, or citation or denial of building permit or other approval that meets the test of this section for validity of a claim. The simple existence of a current land use regulation, without some affirmative enforcement thereof by the city, is not sufficient to satisfy this application requirement. (Ord. 2006-10 § 3, 2006)

2.99.040 Notice of Claim.

- (1) Notice of claim for just compensation under this section must be a written communication from the owner of an affected property filed with the City Administrator. The notice of claim must include:
 - (A) Name, address and telephone number of person(s) filing claim.
 - (B) Names and addresses of all property owners and all persons who hold a security interest in the affected property. If the property owner claims a right to compensation based on ownership of the property by one or more of the persons listed in Section 2.99.020(3), above, then the claim shall include a statement that identifies the relationship(s) and the date(s) of ownership.
 - (C) Legal description and street address of affected property including contiguous units of property under the same ownership.
 - (D) Copy of the deed(s) transferring the subject property to the claimant.
 - (E) Preliminary title report, dated not more than 30 days before the date the claim is filed, from a title insurance company licensed in Oregon showing the current ownership interests in the property.

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- (F) Citation to the city land use regulation enacted, applied or enforced that the property owner claims is the cause of the reduction in value of the affected property; including the date the regulation was adopted, applied or enforced on the affected property.
 - (G) Identification of the proposed use(s) that have been restricted by the adopted regulation described in subsection (1)(E).
 - (H) Amount the property owner claims as a reduction in value of the affected property as a result of the enactment, application or enforcement of the identified land use regulation with respect to the proposed use of the property, supported by a written appraisal by a qualified appraiser. The appraisal must include a determination of the fair market value of the property prior to the enactment, application or enforcement of the identified land use regulation, an estimate of the fair market value of the property after the enactment, application or enforcement of the identified land use regulation, and an estimate of the fair market value of the property if the identified land use regulation is not applied to the affected property. If more than one regulation is the basis for the claimed reduction in value, the appraisal must include an estimate of the percentage of the reduction in value that is attributable to each identified regulation.
 - (I) Statements explaining why the property owner believes the identified regulation is not an exempt regulation as provided for in Section 2.99.110 below.
 - (J) Any exempt regulation, known to the claimant that may apply to the affected property, whether or not those exempt regulations affect the fair market value.
 - (K) A list of other public entities that may be subject to claims based on the same regulation, if known.
 - (L) A statement by the claimant identifying the preferred resolution of the claim (e.g., whether the claimant prefers compensation, waiver or modification of the regulation).
 - (M) Copies of any leases or covenants, conditions and restrictions (CC&Rs) that apply to the property.
- (2) A notice of claim must be accompanied by a fee to be paid in advance of acceptance for filing to cover the costs of completeness review and application processing. The fee shall be established by the Council in accordance with the Annual Cost of Living Increase, Chapter 2.77. If the city's costs in reviewing the claim is less than the fee amount, then the balance shall be refunded to the claimant. Additional costs incurred by the city in reviewing the claim will be billed to the claimant. Failure to pay any additional costs will result in a lien being placed upon the property for which the claim was filed. The application fee shall be refunded when an appellate body enters a final judgment in favor of the claimant.
- (3) Claims for compensation from land use regulations enacted prior to November 2, 2004 must be made within two years of November 2, 2004, or the date the city applies the land use regulation as an approval criterion to an application submitted by the owner of the affected property, whichever is later. For claims arising from land use regulations enacted after November 4, 2004, a notice of claim must be made within two years of the enactment of the land use regulation, or the date the owner of the affected property submits a land use application in which the identified land use regulation is an approval criterion, whichever is later. (Ord. 2006-10 § 4, 2006)

2.99.050 Continuation Request.

The claimant may request a continuation to obtain any and all information necessary to obtain a completed notice of claim. The continuance must be requested in writing and shall be granted for no longer than 180 days. (Ord. 2006-10 § 5, 2006)

2.99.060 Claims Review Procedures.

Claims shall be processed as follows:

- (1) Upon submission of a claim form, the City Administrator will date-stamp the claim and verify that the claim fee has been submitted. The City Administrator will then review the claim and evaluate whether the claim is complete. After reviewing the claim, the City Administrator may request additional information or materials where useful to address claims criteria, including appraisals; market studies; feasibility studies; environmental assessments or similar studies relating to the property.
- (2) After the City Administrator concludes that the claimant has provided adequate information to support the claim, the Administrator shall schedule a hearing before the City Council, where the Council shall make the final determination as to the validity of the claim and the remedy to be provided. Notice of the hearing shall be provided to owners of property located within 250 feet of the affected property and to the Department of Land Conservation and Development, if the claim involves a property that also has a claim pending before the Land Conservation and Development Commission. At the hearing, the Council will consider testimony from interested persons as to whether the claim is valid and whether the Council should waive or modify the identified land use regulation or compensate the owner.
- (3) A decision to award compensation or waive the applicable land use regulations shall be based on whether the public interest would be better served by compensating the owner or by removing or modifying the challenged land use regulation with respect to the subject property.
- (4) None of the claims review procedures described in this section shall preclude the city from entering into an alternative dispute resolution process to resolve the claim. If the city enters into a settlement agreement regarding the claim, the settlement agreement shall be subject to notice and hearing as provided in Section 2.99.060(2) above. Testimony at the hearing shall be limited to the merits of the settlement agreement. (Ord. 2006-10 § 6, 2006)

2.99.070 Joinder of Parties and Related Causes of Action.

- (1) If the City Administrator determines that other public entities may be liable in whole or in part for the reduction in value claimed, the City Council may authorize the joinder of those public entities in order to resolve the claim pending before the city.
- (2) Owners of property affected by a claim for waiver or modification of a land use regulation, other than claimant, may file an action in circuit court against the claimant if a city decision to waive or modify a land use regulation has the effect of reducing property values. If the owners of property affected by the waiver or modification prevail in the action, then those owners are entitled to recover attorney's fees and costs. (Ord. 2006-10 § 7, 2006)

2.99.080 Payment of Compensation.

Approval to pay compensation under this section does not constitute an appropriation to pay compensation. Action to appropriate payment for compensation must be taken pursuant to state budget law and applicable City of Tangent ordinances.

(Ord. 2006-10 § 8, 2006)

2.99.090 Record Keeping.

- (1) The city shall keep a central record of all claims made hereunder and the disposition thereof. Specific notation shall be made on the comprehensive plan and zone maps of the existence and extent of any waiver or modification granted under this chapter. The city shall provide basic information on the filing and disposition of all claims at any central repository established to track Measure 37 claims.
- (2) In the event a claim is determined to be valid, and the remedy granted is waiver or modification of a land use regulation, the Linn County Tax Assessor shall be notified of the change in use. (Ord. 2006-10 § 9, 2006)

2.99.100 Status of Property after Approval.

Status of property after approval of waiver or modification of land use regulation(s). The grant of a waiver or a modification to a land use regulation pursuant to this section shall not permit use of the property inconsistent with the terms of the waiver or modification. A waiver or modification of a land use regulation shall be treated as a nonconforming use after the property is transferred to a new property owner. (Ord. 2006-10 § 10, 2006)

2.99.110 Exemptions.

The provisions of this chapter do not apply to land use regulations that:

- (1) Restrict or prohibit activities commonly and historically recognized as public nuisances under common law. This subsection shall be construed narrowly in favor of finding compensation under this ordinance.
- (2) Restrict or prohibit activities for the protection of public health and safety, such as fire and building codes, health and sanitation regulation, solid or hazardous waste regulations, and pollution control regulations.
- (3) Are enacted to comply with federal law.
- (4) Restrict or prohibit the use of property for the purpose of selling pornography or performing nude dancing. However, nothing in this subsection is intended to affect or alter rights provided by the Oregon or United States Constitutions.
- (5) Were enacted prior to the date of acquisition of the affected property by the owner or a family member of the owner who owned the affected property prior to acquisition or inheritance by the owner, whichever occurred first. (Ord. 2006-10 § 11, 2006)

2.99.120 Venue.

The venue for all claims arising out of Ballot Measure 37 against the city shall be in the Circuit Court for the State of Oregon for Linn County. (Ord. 2006-10 § 12, 2006)

2.99.130 Severance.

If any portion of this ordinance is determined to be unlawful or unconstitutional by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. If, however, the ordinance is declared unconstitutional in its entirety, then the provisions of this ordinance shall have no further effect as of the date the court enters its final judgment. (Ord. 2006-10 § 13, 2006)

2.99.140 Repealer.

Resolution 2004-28," A Resolution Establishing Interim Measure 37 Claims Processing Procedures" is hereby repealed.