



**AGENDA**

**MOLALLA CITY COUNCIL MEETING**  
**August 12, 2020**  
**7:00 PM**  
**Molalla Adult Center**  
**315 Kennel Ave, Molalla, OR 97038**

*Mayor Keith Swigart*

*Council President Leota Childress*  
*Councilor Elizabeth Klein*  
*Councilor DeLise Palumbo*

*Councilor Terry Shankle*  
*Councilor Jody Newland*  
*Councilor Crystal Robles*

*MEETING NOTICE: Due to health concerns of COVID-19, this City Council Meeting will be held in accordance to Governor Brown’s Executive Order 20-25. Council Chambers is limited to 25 people.*

*The On-Demand replay of the Molalla City Council Meetings are available on Facebook at “Molalla City Council Meetings – LIVE” and “Molalla City Council Meetings” on Youtube.*

**1. CALL TO ORDER AND ROLL CALL**

**2. PRESENTATIONS, PROCLAMATIONS, CEREMONIES**

A. Piano in the Park Presentation (Mr. Bob Oblack).....Pg. 2

**3. PUBLIC COMMENT**

*(Citizens are allowed up to 3 minutes to present information relevant to the City but not listed as an item on the agenda. Prior to speaking, citizens shall complete a comment form and deliver it to the City Recorder. The City Council does not generally engage in dialog with those making comments but may refer the issue to the City Manager. Complaints shall first be addressed at the department level prior to addressing the City Council.)*

**4. APPROVAL OF THE AGENDA**

**5. CONSENT AGENDA**

A. Meeting Minutes – July 22, 2020.....Pg. 20

**6. PUBLIC HEARINGS**

**7. ORDINANCES AND RESOLUTIONS**

A. Resolution No. 2020-17: A Resolution Amending the Molalla Urban Renewal Plan (Huff).....Pg. 42

B. Resolution No. 2020-18: A Resolution Concurring with a Public Building Project for the Molalla Urban Renewal Plan (Huff).....Pg. 94

**8. GENERAL BUSINESS**

A. Discussion – Noise Ordinance (Huff).....Pg. 97

**9. REPORTS**

- A. City Manager and Staff
- B. Mayor
- C. City Councilors

**10. RECESS INTO EXECUTIVE SESSION**

Held pursuant to Oregon Public Record Law, ORS 192.660(2):

(i) To review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an open hearing.

**11. RECONVENE REGULAR SESSION**

**12. ADJOURN**



# City of Molalla

## City Council Meeting



### Agenda Category: Presentation

**Subject:** Piano in the Park

**Recommendation:** Beautify our Community Parks

**Date of Meeting to be Presented:** August 12, 2020

**Fiscal Impact:** Develop Partnership with Molalla Communications/TBD

**Background:**

The Molalla Culture and Arts Committee recommends:

The leadership of Molalla, develop a plan in cooperation with Molalla Communication Cooperative (MCC) to build more covered shelters for the “Piano in the Park” project.

**SUBMITTED BY:** Christie DeSantis, City Recorder  
**APPROVED BY:** Dan Huff, City Manager

A project to beautify our community parks.

Combining art & music via unwanted pianos.

# Piano In the Park



Come and play our park pianos located in Fox Park and Long Park under the shelters.

Sponsored by:



Donations by:  
David Alexander - artist  
Bob Oblack & Leota Childress - paint  
David Nichols: Evergreen Restoration - pianos



unwanted  
pianos!





Unwanted  
pianos  
+  
Paint from  
Ace  
Hardware





# Fox Park





Muralist:  
David  
Alexander





Muralist:  
David  
Shelton





An  
invitation...





...to  
inspire  
future  
artists





# Honoring First Responders at Long Park

## Piano In the Park



In honor of our First Responders



Come and play our park  
pianos located in Long  
Park under the shelter.

Donations by:  
David Alexander - artist  
Rick & Christine Simms - piano  
Grace Nelson - piano  
Molalla Ace Hardware - paint



Honoring  
**Dan McLain**  
 (1950-2019)

39 years of the  
 service to  
 Clackamas  
 County and a  
 Molalla Resident

Clackamas County  
 Sheriff's Office

Recognizes  
 Deputy  
**Daniel L. McLain**  
 For Dedication  
 And Loyal Service  
 August 30, 1976  
 May 26, 2016

*Craig Roberts*  
 Craig Roberts, Sheriff



Clackamas County Sheriff's Office

CRAIG ROBERTS, Sheriff

**DANIEL L. MCLAIN**  
 Deputy Sheriff

2223 Kean Road  
 Oregon City, OR 97045  
 503.655.8278 CC&H Main  
 503.655.8549 Main Fax  
 danmcl@ccs.clackamas.or.us www.clackamas.ohsheriff





Honoring all  
our First  
Responders  
at Long Park





Muralist  
Terra-Nova Skogan  
Ivor Davies Park





Muralist  
Alma Hillhouse

Adams  
Cemetery  
+  
Baby Grand





## Thank You!

- ✓ Ace Hardware for the Paint
- ✓ All the Muralists
- ✓ All Who Donated Pianos

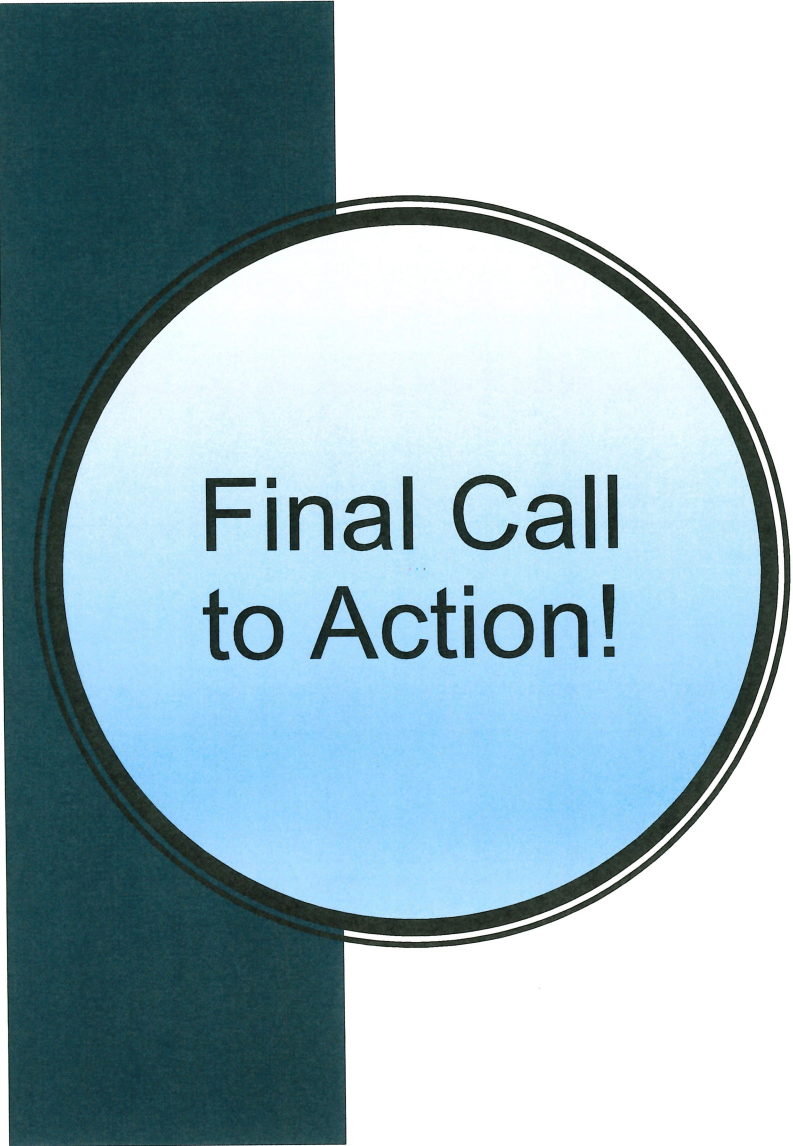
**Three pianos have been painted by local muralists and placed in Molalla City parks:**

- **David Alexander** painted the Molalla Images piano for Fox Park, **David Nichols** donated this piano.
- **David Alexander** painted the First Responder piano for Long Park, **Rick & Christine Simms**, and **Grace Nelson** donated this piano
- **David Shelton** painted the Automotive Flames piano for Fox Park, **Gail Lambert** donated this piano

**Four more pianos are in the process to be painted by local muralists :**

- **Terra-Nova Skogan** is painting a Nature theme for Ivor Davis Park, **Kandy Waner** donated this piano
- **Alejandro (Lex) Cruz** is painting a Molalla Native American theme for a Molalla City park to be determined, Isabel M Slaughter Williams (5 Apr 1924 - 1 Jun 2020) piano was donated by **Karyn Cole**
- **Alma Hillhouse** will be painting a baby grand piano for Adams Cemetery, **David Nichols** donated this piano
- **Alma Hillhouse** will be painting a piano for a Molalla City park to be determined, **David Nichols** donated this piano






Final Call  
to Action!

The Molalla Culture and Arts  
Committee Recommends:

***The leadership of Molalla,  
develop a plan in cooperation  
with Molalla Communication  
Cooperative (MCC) to build  
more covered shelters for our  
“Piano in the Park” Project!***





Contact  
Information

**Molalla Culture and Arts Committee Chairman:  
Ken Fetters**

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Cell: 503-396-9560

**“Piano in the Park” Project Leader:  
Bob Oblack**

e-mail: [oblackbob@gmail.com](mailto:oblackbob@gmail.com)

Cell: 503-708-0083



## Minutes of the Molalla City Council Regular Meeting

Molalla Adult Community Center  
315 Kennel Ave., Molalla, OR 97038  
July 22, 2020

### 1. CALL TO ORDER AND FLAG SALUTE

*The Molalla City Council Regular Meeting of July 22, 2020 was called to order by Mayor Keith Swigart at 7:03pm.*

### 2. ROLL CALL

#### COUNCIL ATTENDANCE:

Mayor Keith Swigart – Present  
Councilor Leota Childress – Absent  
Councilor Elizabeth Klein – Present  
Councilor DeLise Palumbo – Absent  
Councilor Terry Shankle – Present  
Councilor Jody Newland - Present  
Councilor Crystal Robles - Present

#### STAFF IN ATTENDANCE

Dan Huff, City Manager - Present  
Christie DeSantis, City Recorder - Present  
Gerald Fisher, Public Works Director - Absent  
Chaunee Seifried, Finance Director - Absent

### 3. PRESENTATIONS, PROCLAMATIONS, CEREMONIES

### 4. PUBLIC COMMENT

*None.*

### 5. APPROVAL OF THE AGENDA

*There were no requested changes, therefore approved as presented.*

### 6. CONSENT AGENDA

- A. Meeting Minutes – July 8, 2020
- B. Meeting Minutes – January 25, 2020 (Council Retreat)

***A motion was made by Councilor Newland to approve the Consent Agenda, seconded by Councilor Shankle. Vote passed 5-0.***

### 7. PUBLIC HEARINGS

- A. Ordinance No. 2020-09: Repealing and Replacing Section 17-2.3.220 Mobile Food Units Temporary Standards (Planning)

***Public Hearing for Ordinance No. 2020-09 was opened at 7:05pm. As there were no audience members present, the hearing was immediately closed.***

### 8. ORDINANCES AND RESOLUTIONS

- A. Ordinance No. 2020-09: Repealing and Replacing Section 17-2.3.220 Mobile Food Units Temporary Standards (Planning)

*A motion was made by Councilor Newland for a first reading of Ordinance 2020-09 by title only. Seconded by Councilor Robles. Vote passed 5-0.*

*A motion was made by Councilor Kleing for a second reading of Ordinance 2020-09 by title only. Seconded by Councilor Shankle. Vote passed 5-0.*

*A motion was made by Councilor Klein to adopt Ordinance 2020-09, seconded by Councilor Robles. Vote passed 5-0.*

## **9. GENERAL BUSINESS**

### **A. Discussion: Chapter 21.90 Trees (Council)**

Councilor Newland requested that Staff look at updating the Tree Code. Multiple items were discussed. The main issue is the fee, which was recently addressed. Council approved Planning Fees at the July 8, 2020 meeting, which reflected \$0 for a Tree Permit. Mr. Huff explained the need for a permit, as recently a very large tree was cutdown and fell across a major culdesac. Owners and emergency personnel were unable to access the road, which is not safe. Council also requested that the 8 feet requirement be updated to trees that are 15 feet or taller.

Discussion about the need for an arborist took place. Councilor Klein felt that this was important to leave in the code, as she feels that hazardous trees are a concern.

Section 21.90.020 Tree retention letter C: Council would like the statement to read “Any tree that is removed shall be replanted on this same lot within one year”.

City Manager Huff stated that this is a very cumbersome section of our code, and that it would be important for Council to involve the Planning Commission. Mayor Swigart requested that the City take this item to Planning Commission.

## **10. REPORTS**

### **A. City Manager and Staff**

City Recorder DeSantis shared the current candidates for the November Election. Mayor: Scott Keyser, Leota Childress, Jimmy Thompson. Council: Josh Tompkins, Jody Newland, Keith Swigart, Carmon Carlos, Steven Deller.

City Manager Huff shared a Department of Environmental Quality handout regarding noise to the Council. The current noise code is reflective of when the saw mills were running in town. Since the mills have been closed for 30 years, it is important that we look at updating our code. Councilor Klein feels that this is an important aspect of our Visioning Plan, as people appreciate the peaceful and tranquil quality that our town offers.

Mr. Huff informed Council that there may be some action for Urban Renewal at the next council meeting. He and the Finance Director has been working on a few amendments.

### **B. Mayor**

Mayor Swigart informed the citizens of Molalla that Clackamas County is still moving forward with tolling I-205 and I-5. He pleaded with citizens to contact Clackamas County or the Clackamas County Commissioners, if they wish to see this action stopped.

Mr. Swigart reminded citizens during this time of election campaigning, that it is important to not believe everything we read on social media. Mr. Swigart directed citizens to the city website for accurate information.

C. City Councilors

Councilor Newland had nothing to report.

Councilor Klein attends White House briefing calls bi-weekly. This week the topic regarded the deployment of more medication to states that need it to combat Covid-19. Plasma is being requested from people that have had the virus, to help those that are suffering from it now.

Councilor Shankle reminded citizens that Trash Day is being held on Saturday, July 25, 2020 from 8am-4pm at Bohlander Field.

Councilor Robles had nothing to report

**11. ADJOURN**

***A motion was made by Councilor Shankle to adjourn the meeting at 7:39pm, seconded by Councilor Newland. Vote passed 5-0.***

\_\_\_\_\_  
Keith Swigart, Mayor

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Christie DeSantis, City Recorder

# Department of Environmental Quality

## Chapter 340

### Division 35

#### NOISE CONTROL REGULATIONS

##### [340-035-0005](#)

###### Policy

In the interest of public health and welfare, and in accordance with ORS 467.010, it is declared to be the public policy of the State of Oregon:

- (1) To provide a coordinated state-wide program of noise control to protect the health, safety, and welfare of Oregon citizens from the hazards and deterioration of the quality of life imposed by excessive noise emissions;
- (2) To facilitate cooperation among units of state and local governments in establishing and supporting noise control programs consistent with the state program and to encourage the enforcement of viable local noise control regulations by the appropriate local jurisdiction;
- (3) To develop a program for the control of excessive noise sources which shall be undertaken in a progressive manner, and each of its objectives shall be accomplished by cooperation among all parties concerned.

**Statutory/Other Authority:** ORS 467

**Statutes/Other Implemented:** ORS 467.010

###### History:

DEQ 77, f. 9-5-74, ef. 9-25-74

DEQ 75, f. 7-25-74, ef. 8-25-74

##### [340-035-0010](#)

###### Exceptions

- (1) Upon written request from the owner or controller of a noise source, the Department may authorize exceptions as specifically listed in these rules.
- (2) In establishing exceptions, the Department shall consider the protection of health, safety, and welfare of Oregon citizens as well as the feasibility and cost of noise abatement; the past, present, and future patterns of land use; the relative timing of land use changes; and other legal constraints. For those exceptions which it authorizes the Department shall specify the times during which the noise rules can be exceeded and the quantity and quality of the noise generated, and when appropriate shall specify the increments of progress of the noise source toward meeting the noise rules.

**Statutory/Other Authority:** ORS 467

**Statutes/Other Implemented:** ORS 467.030

###### History:

DEQ 77, f. 9-5-74, ef. 9-25-74

DEQ 75, f. 7-25-74, ef. 8-25-74

##### [340-035-0015](#)

###### Definitions

As used in this division:

- (1) "Air Carrier Airport" means any airport that serves air carriers holding Certificates of Public Convenience and Necessity issued by the Civil Aeronautic Board.

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- (2) "Airport Master Plan" means any long-term development plan for the airport established by the airport proprietor.
- (3) "Airport Noise Abatement Program" means a Commission-approved program designed to achieve noise compatibility between an airport and its environs.
- (4) "Airport Proprietor" means the person who holds title to an airport.
- (5) "Ambient Noise" means the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources near and far.
- (6) "Annual Average Day-Night Airport Noise Level" means the average, on an energy basis, of the daily Day-Night Airport Noise Level over a 12-month period.
- (7) "Any One Hour" means any period of 60 consecutive minutes during the 24-hour day.
- (8) "Closed Course Motorcycle Racing Vehicle" means any motorcycle racing vehicle that is operated in competition or practice session on a closed course motor sports facility, i.e., where public access is restricted and admission is generally charged.
- (9) "Commission" means the Environmental Quality Commission.
- (10) "Construction" shall mean building or demolition work and shall include all activities thereto such as clearing of land, earthmoving, and landscaping, but shall not include the production of construction materials.
- (11) "Day-Night Airport Noise Level (Ldn)" means the Equivalent Noise Level produced by airport/aircraft operations during a 24-hour time period, with a 10 decibel penalty applied to the level measured during the nighttime hours of 10 p.m. to 7 a.m.
- (12) "Department" means the Department of Environmental Quality.
- (13) "Director" means the Director of the Department.
- (14) "Drag Racing Vehicle" means any racing vehicle used to compete in any acceleration competition initiated from a standing start and continued over a straight-line course.
- (15) "Emergency Equipment" means noise-emitting devices required to avoid or reduce the severity of accidents. Such equipment includes, but is not limited to, safety valves and other unregulated pressure relief devices.
- (16) "Equivalent Noise Level (Leq)" means the equivalent steady state sound level in A-weighted decibels for a stated period of time which contains the same acoustic energy as the actual time-varying sound level for the same period of time.
- (17) "Existing Industrial or Commercial Noise Source" means any industrial or commercial noise source for which installation or construction was commenced prior to January 1, 1975.
- (18) "Farm Tractor" means any motor vehicle designed primarily for use in agricultural operations for drawing or operating plows, mowing machines, or other implements of husbandry.
- (19) "Four Wheel Drive Racing Vehicle" means any four-wheeled racing vehicle with at least one wheel on the front and rear axle driven by the engine or any racing vehicle participating in an event with predominantly four wheel drive racing vehicles.
- (20) "Go-Kart Racing Vehicle" means a light-weight four-wheeled racing vehicle of the type commonly known as a go-kart.
- (21) "Impulse Sound" means either a single pressure peak or a single burst (multiple pressure peaks) for a duration of less than one second as measured on a peak unweighted sound pressure measuring instrument or "C" weighted, slow response instrument and specified by dB and dBC respectively.
- (22) "In-Use Motor Vehicle" means any motor vehicle which is not a new motor vehicle.
- (23) "Industrial or Commercial Noise Source" means that source of noise which generates industrial or commercial noise levels.
- (24) "Industrial or Commercial Noise Levels" means those noises generated by a combination of equipment, facilities, operations, or activities employed in the production, storage, handling, sale, purchase, exchange, or maintenance of a product, commodity, or service and those noise levels generated in the storage or disposal of waste products.
- (25) "Motorboat" as used in OAR 340-035-0025 means a watercraft propelled by an internal combustion engine but does not include a boat powered by an outboard motor or an inboard/outboard power package designed to exhaust beneath the surface of the water.

- (26) "Motorcycle" means any motor vehicle, except farm tractors, designed to travel on not more than three wheels which are in contact with the ground.
- (27) "Motor Sports Advisory Committee" means a committee appointed by the Director, from among the nominees, for the purpose of technical advice on racing activities and to recommend Exceptions to these rules as specified in OAR 340-035-0040(12). This Committee shall consist of:
- (a) One permanent public member nominated by a noise impacted group or association; and
  - (b) One representative of each of the racing vehicle types identified in OAR 340-035-0040(2) as nominated by the respective sanctioning bodies; and
  - (c) The program manager of the Department's noise pollution control section who shall also serve as the departmental staff liaison to this body; and
  - (d) An attorney; and
  - (e) An acoustical engineer.
- (28) "Motor Sports Facility" means any facility, track or course upon which racing events are conducted.
- (29) "Motor Sports Facility Noise Impact Boundaries" means the daily 55 dBA day-night (Ldn) noise contours around the motor sports facility representing events that may occur on the day of maximum projected use.
- (30) "Motor Sports Facility Owner" means the owner or operator of a motor sports facility or an agent or designee of the owner or operator. When a Racing Event is held on public land, the event organizer (i.e., promoter) shall be considered the motor sports facility owner for the purposes of these rules.
- (31) "Motor Vehicle" means any vehicle which is, or is designed to be self-propelled or is designed or used for transporting persons or property. This definition excludes airplanes, but includes watercraft.
- (32) "New Airport" means any airport for which installation, construction, or expansion of a runway commenced after January 1, 1980.
- (33) "New Industrial or Commercial Noise Source" means any industrial or commercial noise source for which installation or construction was commenced after January 1, 1975 on a site not previously occupied by the industrial or commercial noise source in question.
- (34) "New Motor Sports Facility" is any permanent motor sports facility for which construction or installation was commenced after January 1, 1982. Any recreational park or similar facility which initiates sanctioned racing after this date shall be considered a new motor sports facility.
- (35) "New Motor Vehicle" means a motor vehicle whose equitable or legal title has never been transferred to a person who in good faith purchases the new motor vehicle for purposes other than resale. The model year of such vehicle shall be the year so specified by the manufacturer, or if not so specified, the calendar year in which the new motor vehicle was manufactured.
- (36) "Noise Impact Boundary" means a contour around the airport, any point on which is equal to the airport noise criterion.
- (37) "Noise Level" means weighted sound pressure level measured by use of a metering characteristic with an "A" frequency weighting network and reported as dBA.
- (38) "Noise Sensitive Property" means real property normally used for sleeping, or normally used as schools, churches, hospitals or public libraries. Property used in industrial or agricultural activities is not Noise Sensitive Property unless it meets the above criteria in more than an incidental manner.
- (39) "Octave Band Sound Pressure Level" means the sound pressure level for the sound being measured within the specified octave band. The reference pressure is 20 micropascals (20 micronewtons per square meter).
- (40) "Off-Road Recreational Vehicle" means any motor vehicle, including watercraft, used off public roads for recreational purposes. When a road vehicle is operated off-road the vehicle shall be considered an off-road recreational vehicle if it is being operated for recreational purposes.
- (41) "One-Third Octave Band Sound Pressure Level" means the sound pressure level for the sound being measured within the specified one-third octave band at the preferred frequencies. The reference pressure is 20 micropascals (20 micronewtons per square meter).
- (42) "Open Course Motorcycle Racing Vehicle" means any motorcycle racing vehicle that is operated in competition on an open course motor sports facility, i.e., where public access is not generally restricted. This definition is intended to include the several types of motorcycles such as "enduro" and "cross country" that are used in events held in trail or other off-road environments.

- (43) "Oval Course Racing Vehicle" means any racing vehicle, not a motorcycle and not a sports car, which is operated upon a closed, oval-type motor sports facility.
- (44) "Person" means the United States Government and agencies thereof, any state, individual, public or private corporation, political subdivision, governmental agency, municipality, industry, co-partnership, association, firm, trust, estate, or any other legal entity whatever.
- (45) "Practice Sessions" means any period of time during which racing vehicles are operated at a motor sports facility, other than during racing events. Driver training sessions or similar activities which are not held in anticipation of a subsequent racing event, and which include only vehicles with a stock exhaust system, shall not be considered practice sessions.
- (46) "Preferred Frequencies" means those mean frequencies in Hertz preferred for acoustical measurements which for this purpose shall consist of the following set of values: 20, 25, 31.5, 40, 50, 63, 80, 100, 125, 160, 200, 250, 315, 400, 500, 630, 800, 1000, 1250, 1600, 2000, 2500, 3150, 4000, 5000, 6300, 8000, 10,000, 12,500.
- (47) "Previously Unused Industrial or Commercial Site" means property which has not been used by any industrial or commercial noise source during the 20 years immediately preceding commencement of construction of a new industrial or commercial source on that property. Agricultural activities and silvicultural activities generating infrequent noise emissions shall not be considered as industrial or commercial operations for the purposes of this definition.
- (48) "Propulsion Noise" means that noise created in the propulsion of a motor vehicle. This includes, but is not limited to, exhaust system noise, induction system noise, tire noise, cooling system noise, aerodynamic noise, and, where appropriate in the test procedure, braking system noise. This does not include noise created by road vehicle auxiliary equipment such as power take-offs and compressors.
- (49) "Public Roads" means any street, alley, road, highway, freeway, thoroughfare, or section thereof in this state used by the public or dedicated or appropriated to public use.
- (50) "Quiet Area" means any land or facility designated by the Commission as an appropriate area where the qualities of serenity, tranquility, and quiet are of extraordinary significance and serve an important public need, such as, without being limited to, a wilderness area, national park, state park, game reserve, wildlife breeding area, or amphitheater. The Department shall submit areas suggested by the public as quiet areas, to the Commission, with the Department's recommendation.
- (51) "Racing Events" means any time, speed or distance competition using motor vehicles, conducted under a permit issued by the governmental authority having jurisdiction or under the auspices of a recognized sanctioning body. This definition includes, but is not limited to, events on the surface of land and water. Any motor sports event not meeting this definition shall be subject to the ambient noise limits of OAR 340-035-0030(1)(d).
- (52) "Racing Vehicle" means any Motor Vehicle that is designed to be used exclusively in Racing Events or any New Motor Vehicle that has not been certified by its manufacturer as meeting the applicable noise limits of OAR 340-035-0025 or any vehicle participating in or practicing for a Racing Event.
- (53) "Recreational Park" means a facility open to the public for the operation of off-road recreational vehicles.
- (54) "Road Vehicle" means any motor vehicle registered for use on public roads, including any attached trailing vehicles.
- (55) "Road Vehicle Auxiliary Equipment" means those mechanical devices which are built in or attached to a road vehicle and are used primarily for the handling or storage of products in that motor vehicle. This includes, but is not limited to, refrigeration units, compressors, compactors, chippers, power lifts, mixers, pumps, blowers, and other mechanical devices.
- (56) "Sound Pressure Level" (SPL) means 20 times the logarithm to the base 10 of the ratio of the root-mean-square pressure of the sound to the reference pressure. SPL is given in decibels (dB). The reference pressure is 20 micropascals (20 micronewtons per square meter).
- (57) "Special Motor Racing Event" means any racing event in which a substantial or significant number of out-of-state racing vehicles are competing or any event which has a special significance to the community and which has been recommended as a special motor racing event by the motor sports advisory committee and approved by the Department.
- (58) "Sports Car Racing Vehicle" means any racing vehicle which meets the requirements and specifications of the competition rules of any sports car organization.
- (59) "Statistical Noise Level" means the noise level which is equaled or exceeded a stated percentage of the time. An L10 = 65 dBA implies that in any hour of the day 65 dBA can be equaled or exceeded only 10% of the time, or for 6 minutes.
- (60) "Stock Exhaust System" means an original equipment manufacturer exhaust system or a replacement for original equipment for a street legal vehicle whose noise emissions do not exceed those of the original equipment.



- (61) "Temporary Autocross or Solo Course" means any area upon which a paved course motor sports facility is temporarily established. Typically such courses are placed on parking lots, or other large paved areas, for periods of one or two days.
- (62) "Top Fuel-Burning Drag Racing Vehicle" means a drag racing vehicle that operates using principally alcohol (more than 50 percent) or utilizes nitromethane as a component of its operating fuel and commonly known as top fuel and funny cars.
- (63) "Trackside" means a sound measuring point of 50 feet from the racing vehicle and specified in Motor Race Vehicle and Facility Sound Measurement and Procedure Manual, NPC-35.
- (64) "Warning Device" means any device which signals an unsafe or potentially dangerous situation.
- (65) "Watercraft Racing Vehicle" means any racing vehicle which is operated upon or immediately above the surface of water.
- (66) "Well Maintained Muffler" means a device or combination of devices which effectively decreases the sound energy of internal combustion engine exhaust without a muffler by a minimum of 5 dBA at trackside. A well maintained muffler shall be free of defects or modifications that reduce its sound reduction capabilities. Each outlet of a multiple exhaust system shall comply with the requirements of this subsection, notwithstanding the total engine displacement versus muffler length requirements. Such a muffler shall be a:
- (a) Reverse gas flow device incorporating a multi-tube and baffle design; or a
  - (b) Perforated straight core device, fully surrounded from beginning to end with a sound absorbing medium, not installed on a rotary engine:
    - (A) At least 20 inches in inner core length when installed on any drag race engine exceeding 1600 cc (96.7 cubic inches) displacement; or
    - (B) At least 12 inches in inner core length when installed on any non-motorcycle drag race engine equal to or less than 1600 cc (96.7 cubic inches) displacement; or
    - (C) At least 6 inches in inner core length and installed at the outlet end of any four-cycle motorcycle drag race engine; or
    - (D) At least 8 inches in inner core length when installed on any two-cycle motorcycle drag race engine; or an
  - (c) Annular swirl flow (auger-type) device of:
    - (A) At least 16 inches in swirl chamber length when installed on any drag race engine exceeding 1600 cc (96.7 cubic inches) displacement; or
    - (B) At least 10 inches in swirl chamber length when installed on any drag race engine equal to or less than 1600 cc (96.7 cubic inches) displacement; or a
  - (d) Stacked 360° diffuser disc device; or a
  - (e) Turbocharger; or a
  - (f) Go-kart muffler as defined by the International Karting Federation as specified in Motor Race Vehicle and Facility Sound Measurement and Procedure Manual, NPC-35; or an
  - (g) Original equipment manufacturer motorcycle muffler when installed on a motorcycle model such muffler was designated for by the manufacturer; or
  - (h) Boat motor whose exhaust exits beneath the water surface during operation; or a
  - (i) Formula Vee four-into-one header/collector when installed on a Formula Vee sports car racing vehicle; or a
  - (j) Hughes-type Racing muffler; or
  - (k) Any other device demonstrated effective and approved by the motor sports advisory committee and the Department.

[Note: Referenced documents are not included in rule text. View them by clicking on the Tables link below to view a PDF of these documents.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

**Statutory/Other Authority:** ORS 467

**Statutes/Other Implemented:** ORS 467.030

**History:**

[DEQ 25-2018, minor correction filed 04/02/2018, effective 04/02/2018](#)

[DEQ 21-2018, minor correction filed 03/29/2018, effective 03/29/2018](#)

[DEQ 21-2017, minor correction filed 11/07/2017, effective 11/07/2017](#)

[DEQ 19-2017, minor correction filed 11/07/2017, effective 11/07/2017](#)

[DEQ 14-2017, amend filed 10/30/2017, effective 11/02/2017](#)

DEQ 7-1983, f. & ef. 4-22-83

DEQ 33-1980, f. 12-2-80, ef. 1-1-82

DEQ 17-1980, f. & ef. 5-28-80

DEQ 33-1979, f. & ef. 11-27-79

DEQ 135, f. & ef. 6-7-77

DEQ 119, f. & ef. 9-1-76

DEQ 77, f. 9-5-74, ef. 9-25-74

DEQ 75, f. 7-25-74, ef. 8-25-74

### **340-035-0025**

#### **Noise Control Regulations for the Sale of New Motor Vehicles**

##### (1) Standards and Regulations:

(a) No person shall sell or offer for sale any new motor vehicle designated in this rule which produces a propulsion noise exceeding the noise limits specified in Table 1, except as otherwise provided in these rules. [Table not included. See ED. NOTE.]

(b) Subsequent to the adoption of a Federal Environmental Protection Agency procedure to determine sound levels of passenger cars and light trucks, or a nationally accepted procedure for these vehicles not similar to those specified and approved under subsection (2)(a) of this rule, the Department shall conduct an evaluation under such new procedure.

(c) After an appropriate evaluation of noise emission data measured under the procedure specified under subsection (1)(b) of this rule, the Department shall make recommendations to the Commission on the adequacy of the procedure and the necessity of amendments to this rule for incorporation of the procedure and associated standards.

(d) No person shall sell or offer to sell any new motorcycle, new motorcycle exhaust system or new motorcycle exhaust system component manufactured after January 1, 1983 unless the motorcycle, exhaust system, or exhaust component is properly labeled or marked in accordance with federal noise regulations specified in Part 205 Subpart E of Title 40 of the Code of Federal Regulations.

##### (2) Measurement:

(a) Sound measurements shall conform to test procedures adopted by the Commission in Motor Vehicle Sound Measurement Procedures Manual (NPCS-21), or to standard methods approved in writing by the Department. These measurements will generally be carried out by the motor vehicle manufacturer on a sample of either prototype or production vehicles. A certification program shall be devised by the manufacturer and submitted to the Department for approval within 60 days after the adoption of this rule;

(b) Nothing in this rule shall preclude the Department from conducting separate or additional noise level tests and measurements on new motor vehicles being offered for sale. Therefore, when requested by the Department a new motor vehicle dealer or manufacturer shall cooperate in reasonable noise testing of a specific class of motor vehicle being offered for sale.

##### (3) Manufacturer's Certification:

(a) Prior to the sale of or offer for sale of any new motor vehicle designated in Table 1, the manufacturer or a designated representative shall certify in writing to the Department that vehicles listed in Table 1 made by that manufacturer and offered for sale in the State of Oregon meet applicable noise limits. Such certification will include a statement by the manufacturer that: [Table not included. See ED. NOTE.]

(A) The manufacturer has tested sample or prototype vehicles;

(B) That such samples or prototypes met applicable noise limits when tested in accordance with the procedures specified;

(C) That vehicles offered for sale in Oregon are substantially identical in construction to such samples or prototypes.

(b) Nothing in this rule shall preclude the Department from obtaining specific noise measurement data gathered by the manufacturer on prototype or production vehicles for a class of vehicles for which the Department has reasonable grounds to believe is not in conformity with the applicable noise limits.

(4) Exceptions: Upon prior written request from the manufacturer or designated representative, the Department may authorize an exception to this noise rule for a class of motor vehicles, if it can be demonstrated to the Department that for that specific class a vehicle manufacturer has not had adequate lead-time or does not have the technical capability to either bring the motor vehicle noise into compliance or to conduct new motor vehicle noise tests.

## (5) Exemptions:

(a) All racing vehicles, except racing motorcycles and racing motorboats, shall be exempt from the requirements of this rule provided that such vehicles are operated only at facilities used for sanctioned racing events;

(b) Racing motorcycles and racing motorboats shall be exempt from the requirements of this rule provided that racing motorcycles are operated only at facilities used for sanctioned racing events, racing motorboats are operated only at areas designated by the State Marine Board for testing or at an approved racing event, and the following conditions are complied with:

(A) Prior to the sale of a racing motorcycle or racing motorboat, the prospective purchaser shall file a notarized affidavit with the Department, on a Departmentally approved form, stating that it is the intention of such prospective purchaser to operate the vehicle only at facilities used for sanctioned racing events; and

(B) No racing vehicle shall be displayed for sale in the State of Oregon without notice prominently affixed thereto:

(i) That such vehicle will be exempt from the requirements of this rule only upon demonstration to the Department that the vehicle will be operated only at facilities used for sanctioned racing events, and

(ii) That a notarized affidavit will be required of the prospective purchaser stating that it is the intention of such prospective purchaser to operate the vehicle only at facilities used for sanctioned racing events; and

(C) No racing vehicle shall be locally advertised in the State of Oregon as being for sale without notice included:

(i) Which is substantially similar to that required in subparagraph (B)(i) and (ii) of this subsection; and

(ii) Which is unambiguous as to which vehicle such notice applies.

[NOTE: View referenced tables and manuals by clicking on the Tables link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

**Statutory/Other Authority:** ORS 467

**Statutes/Other Implemented:** ORS 467.030

**History:**

[DEQ 22-2017, minor correction filed 11/07/2017, effective 11/07/2017](#)

[DEQ 20-2017, minor correction filed 11/07/2017, effective 11/07/2017](#)

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DEQ 7-1983, f. & ef. 4-22-83

DEQ 13-1982, f. & ef. 7-21-82

DEQ 17-1980, f. & ef. 5-28-80

DEQ 10-1980, f. & ef. 4-3-80

DEQ 3-1979, f. & ef. 2-2-79

DEQ 20-1978, f. & ef. 12-27-78

DEQ 18-1978, f. & ef. 12-1-78

DEQ 146, f. & ef. 11-3-77

DEQ 143, f. & ef. 9-30-77

DEQ 135, f. & ef. 6-7-77

DEQ 119, f. & ef. 9-1-76

DEQ 75, f. 7-25-74, ef. 8-25-74

**340-035-0030****Noise Control Regulations for In-Use Motor Vehicles**

## (1) Standards and Regulations:

## (a) Road Vehicles:

(A) No person shall operate any road vehicle which exceeds the noise level limits specified in Table 2 or in such a manner to exceed the noise level limits specified in Table 3, except as otherwise provided in these rules.

(B) No person shall operate a road vehicle with any of the following defects:

(i) No muffler;

(ii) Leaks in the exhaust system;

(iii) Pinched outlet pipe.

(C) Non-conforming "classic" and other "special interest" vehicles may be granted an exception to this rule, pursuant to OAR 340-035-0010, for the purpose of maintaining authentic equipment.

## (b) Off-Road Recreational Vehicles:

(A) No person shall operate any off-road recreational vehicle which exceeds the stationary noise level limits specified in Table 4 or in such a manner as to exceed the moving vehicle noise level limits specified in Table 4; [Table not included. See ED. NOTE.]

(B) No person shall operate an off-road recreational vehicle with any of the following defects:

(i) No muffler;

(ii) Leaks in the exhaust system;

(iii) Pinched outlet pipe.

(c) Trucks Engaged in Interstate Commerce. Motor vehicles with a GVWR or GCWR in excess of 10,000 pounds which are engaged in interstate commerce by trucking and are regulated by Part 202 of Title 40 of the Code of Federal Regulations, promulgated pursuant to Section 17 of the Noise Control Act of 1972, 86 Stat. 1248, Public Law 92-574, shall be:

(A) Free from defects which adversely affect sound reduction;

(B) Equipped with a muffler or other noise dissipative device;

(C) Not equipped with any "cut-out" devices, "by-pass" devices, or any other similar devices; and

(D) Not equipped with any tire which as originally manufactured or newly retreaded has a tread pattern composed primarily of cavities in the tread, excluding sipes and local chunking, not vented by grooves to the tire shoulder or vented circumferentially to each other around the tire.

## (d) Ambient Noise Limits:

(A) No person shall cause, allow, permit, or fail to control the operation of motor vehicles, including motorcycles, on property which he owns or controls, nor shall any person operate any such motor vehicle if the operation thereof increases the ambient noise level such that the appropriate noise level specified in Table 5 is exceeded as measured from either of the following points, if located within 1,000 feet (305 meters) of the motor vehicle:

(i) Noise sensitive property; or

(ii) A quiet area.

(B) Exempt from the requirements of this section shall be:

(i) Motor vehicles operating in racing events;

(ii) Motor vehicles initially entering or leaving property which is more than 1,000 feet (305 meters) from the nearest noise sensitive property or quiet area;

(iii) Motor vehicles operating on public roads; and

(iv) Motor vehicles operating off-road for non-recreational purposes.

## (e) Auxiliary Equipment Noise Limits:

(A) No person shall operate any road vehicle auxiliary equipment which exceeds the noise limits specified in Table 6, except as otherwise provided in these rules;

(B) No person shall cause, allow, permit, or fail to control the operation of any road vehicle auxiliary equipment that exceeds 50 dBA for more than 30 minutes between 10 p.m. and 7 a.m. at any appropriate noise sensitive property measurement point as specified in OAR 340-035-0035(3)(b).

## (f) Motorcycles manufactured after December 31, 1982 to Federal Noise Regulations (40 CFR Part 205):

(A) No person shall remove or render inoperative, or cause to be removed or rendered inoperative, other than for the purposes of maintenance, repair, or replacement of any device or element of design incorporated in the motorcycle for the purpose of noise control;

(B) No person shall remove or deface any noise label or mark required by federal law which is affixed to any motorcycle or motorcycle part for purposes of identifying the motorcycle or motorcycle part as a federally regulated product;

(C) No person shall operate any road or off-road motorcycle manufactured to federal noise law that does not bear a label or mark on the exhaust system that matches the model specific code of the motorcycle on which the system is installed;

(D) No person shall operate, nor shall any person cause, allow, permit or fail to control the operation of any competition motorcycle identified for "competition use only" by the noise label or mark required by federal law on any property other than a motor sports facility in a practice session or a racing event;

(E) No person shall operate, nor shall any person cause, allow, permit or fail to control the operation of any motorcycle fitted with an exhaust system or exhaust system component identified for "competition motorcycles only" by the noise label or mark required by federal law on any property other than a motor sports facility in a practice session or a racing event.

(2) Measurement. Sound measurement shall conform to test procedures adopted by the Commission in Sound Measurement Procedures Manual (NPCS-1) and Motor Vehicle Sound Measurement Procedures Manual (NPCS-21) or to standard methods approved in writing by the Department.

(3) Exemptions:

(a) Motor vehicles registered as antique or historical motor vehicles licensed in accordance with ORS 481.205(4) are exempt from these regulations;

(b) Motor vehicle warning devices are exempt from these regulations;

(c) Vehicles equipped with at least two snow tread tires are exempt from the noise limits of Table 3; [Table not included. See ED. NOTE.]

(d) Motor vehicles described in subsection (1)(c) of this rule, which are demonstrated by the operator to be in compliance with the noise levels in Table 3, for operation greater than 35 mph, are exempt from these regulations;

(e) Auxiliary equipment operated on construction sites or in the maintenance of capital equipment or to avoid or reduce the severity of accidents or operated on a farm for agricultural purposes or operated on forest land as defined in subsection (1) of ORS 526.324 for activities related to the growing or harvesting of forest tree species are exempt from these regulations.

(4) Equivalency:

(a) The in-use motor vehicle standards specified in Table 2 and 3 have been determined by the Department to be substantially equivalent to the 25 foot stationary test standards set forth in 1977 Oregon, Laws, Chapter 273; [Table not included. See ED. NOTE.]

(b) Tests shall be conducted according to the procedures in Motor Vehicle Sound Measurement Procedures Manual (NPCS-21) or to standard methods approved in writing by the Department.

[NOTE: View a PDF of referenced tables and documents by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

**Statutory/Other Authority:** ORS 467

**Statutes/Other Implemented:** ORS 467.030

**History:**

[DEQ 22-2018, minor correction filed 03/29/2018, effective 03/29/2018](#)

[DEQ 23-2017, minor correction filed 11/08/2017, effective 11/08/2017](#)

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DEQ 7-1983, f. & ef. 4-22-83

DEQ 2-1978, f. & ef. 3-1-78

DEQ 147(Temp), f. & ef. 12-1-77

DEQ 135, f. & ef. 6-7-77

DEQ 119, f. & ef. 9-1-76

DEQ 75, f. 7-25-74, ef. 8-25-74

### **340-035-0035**

#### **Noise Control Regulations for Industry and Commerce**

(1) Standards and Regulations:

(a) Existing Noise Sources. No person owning or controlling an existing industrial or commercial noise source shall cause or permit the operation of that noise source if the statistical noise levels generated by that source and measured at an appropriate measurement point, specified in subsection (3)(b) of this rule, exceed the levels specified in Table 7, except as otherwise provided in these rules. [Table not included. See ED. NOTE.]

(b) New Noise Sources:

(A) New Sources Located on Previously Used Sites. No person owning or controlling a new industrial or commercial noise source located on a previously used industrial or commercial site shall cause or permit the operation of that noise

source if the statistical noise levels generated by that new source and measured at an appropriate measurement point, specified in subsection (3)(b) of this rule, exceed the levels specified in Table 8, except as otherwise provided in these rules. For noise levels generated by a wind energy facility including wind turbines of any size and any associated equipment or machinery, subparagraph (1)(b)(B)(iii) applies. [Table not included. See ED. NOTE.]

(B) New Sources Located on Previously Unused Site:

(i) No person owning or controlling a new industrial or commercial noise source located on a previously unused industrial or commercial site shall cause or permit the operation of that noise source if the noise levels generated or indirectly caused by that noise source increase the ambient statistical noise levels, L10 or L50, by more than 10 dBA in any one hour, or exceed the levels specified in Table 8, as measured at an appropriate measurement point, as specified in subsection (3)(b) of this rule, except as specified in subparagraph (1)(b)(B)(iii).

(ii) The ambient statistical noise level of a new industrial or commercial noise source on a previously unused industrial or commercial site shall include all noises generated or indirectly caused by or attributable to that source including all of its related activities. Sources exempted from the requirements of section (1) of this rule, which are identified in subsections (5)(b)-(f), (j), and (k) of this rule, shall not be excluded from this ambient measurement.

(iii) For noise levels generated or caused by a wind energy facility:

(I) The increase in ambient statistical noise levels is based on an assumed background L50 ambient noise level of 26 dBA or the actual ambient background level. The person owning the wind energy facility may conduct measurements to determine the actual ambient L10 and L50 background level.

(II) The "actual ambient background level" is the measured noise level at the appropriate measurement point as specified in subsection (3)(b) of this rule using generally accepted noise engineering measurement practices. Background noise measurements shall be obtained at the appropriate measurement point, synchronized with wind speed measurements of hub height conditions at the nearest wind turbine location. "Actual ambient background level" does not include noise generated or caused by the wind energy facility.

(III) The noise levels from a wind energy facility may increase the ambient statistical noise levels L10 and L50 by more than 10 dBA (but not above the limits specified in Table 8), if the person who owns the noise sensitive property executes a legally effective easement or real covenant that benefits the property on which the wind energy facility is located. The easement or covenant must authorize the wind energy facility to increase the ambient statistical noise levels, L10 or L50 on the sensitive property by more than 10 dBA at the appropriate measurement point.

(IV) For purposes of determining whether a proposed wind energy facility would satisfy the ambient noise standard where a landowner has not waived the standard, noise levels at the appropriate measurement point are predicted assuming that all of the proposed wind facility's turbines are operating between cut-in speed and the wind speed corresponding to the maximum sound power level established by IEC 61400-11 (version 2002-12). These predictions must be compared to the highest of either the assumed ambient noise level of 26 dBA or to the actual ambient background L10 and L50 noise level, if measured. The facility complies with the noise ambient background standard if this comparison shows that the increase in noise is not more than 10 dBA over this entire range of wind speeds.

(V) For purposes of determining whether an operating wind energy facility complies with the ambient noise standard where a landowner has not waived the standard, noise levels at the appropriate measurement point are measured when the facility's nearest wind turbine is operating over the entire range of wind speeds between cut-in speed and the wind speed corresponding to the maximum sound power level and no turbine that could contribute to the noise level is disabled. The facility complies with the noise ambient background standard if the increase in noise over either the assumed ambient noise level of 26 dBA or to the actual ambient background L10 and L50 noise level, if measured, is not more than 10 dBA over this entire range of wind speeds.

(VI) For purposes of determining whether a proposed wind energy facility would satisfy the Table 8 standards, noise levels at the appropriate measurement point are predicted by using the turbine's maximum sound power level following procedures established by IEC 61400-11 (version 2002-12), and assuming that all of the proposed wind facility's turbines are operating at the maximum sound power level. [Table not included. See ED. NOTE.]

(VII) For purposes of determining whether an operating wind energy facility satisfies the Table 8 standards, noise generated by the energy facility is measured at the appropriate measurement point when the facility's nearest wind turbine is operating at the wind speed corresponding to the maximum sound power level and no turbine that could contribute to the noise level is disabled. [Table not included. See ED. NOTE.]

(c) Quiet Areas. No person owning or controlling an industrial or commercial noise source located either within the boundaries of a quiet area or outside its boundaries shall cause or permit the operation of that noise source if the statistical noise levels generated by that source exceed the levels specified in Table 9 as measured within the quiet area and not less than 400 feet (122 meters) from the noise source. [Table not included. See ED. NOTE.]

(d) Impulse Sound. Notwithstanding the noise rules in Tables 7 through 9, no person owning or controlling an industrial or commercial noise source shall cause or permit the operation of that noise source if an impulsive sound is emitted in

air by that source which exceeds the sound pressure levels specified below, as measured at an appropriate measurement point, as specified in subsection (3)(b) of this rule: [Table not included. See ED. NOTE.]

(A) Blasting. 98 dBC, slow response, between the hours of 7 a.m. and 10 p.m. and 93 dBC, slow response, between the hours of 10 p.m. and 7 a.m.

(B) All Other Impulse Sounds. 100 dB, peak response, between the hours of 7 a.m. and 10 p.m. and 80 dB, peak response, between the hours of 10 p.m. and 7 a.m.

(e) Octave Bands and Audible Discrete Tones. When the Director has reasonable cause to believe that the requirements of subsection (1)(a), (b), or (c) of this rule do not adequately protect the health, safety, or welfare of the public as provided for in ORS Chapter 467, the Department may require the noise source to meet the following rules:

(A) Octave Bands. No person owning or controlling an industrial or commercial noise source shall cause or permit the operation of that noise source if such operation generates a median octave band sound pressure level which, as measured at an appropriate measurement point, specified in subsection (3)(b) of this rule, exceeds applicable levels specified in Table 10. [Table not included. See ED. NOTE.]

(B) One-third Octave Band. No person owning or controlling an industrial or commercial noise source shall cause or permit the operation of that noise source if such operation generates a median one-third octave band sound pressure level which, as measured at an appropriate measurement point, specified in subsection (3)(b) of this rule, and in a one-third octave band at a preferred frequency, exceeds the arithmetic average of the median sound pressure levels of the two adjacent one-third octave bands by:

(i) 5 dB for such one-third octave band with a center frequency from 500 Hertz to 10,000 Hertz, inclusive. Provided: Such one-third octave band sound pressure level exceeds the sound pressure level of each adjacent one-third octave band; or

(ii) 8 dB for such one-third octave band with a center frequency from 160 Hertz to 400 Hertz, inclusive. Provided: Such one-third octave band sound pressure level exceeds the sound pressure level of each adjacent one-third octave band; or

(iii) 15 dB for such one-third octave band with a center frequency from 25 Hertz to 125 Hertz, inclusive. Provided: Such one-third octave band sound pressure level exceeds the sound pressure level of each adjacent one-third octave band;

(iv) This rule shall not apply to audible discrete tones having a one-third octave band sound pressure level 10 dB or more below the allowable sound pressure levels specified in Table 10 for the octave band which contains such one-third octave band.

(2) Compliance. Upon written notification from the Director, the owner or controller of an industrial or commercial noise source operating in violation of the adopted rules shall submit a compliance schedule acceptable to the Department. The schedule will set forth the dates, terms, and conditions by which the person responsible for the noise source shall comply with the adopted rules.

(3) Measurement:

(a) Sound measurements procedures shall conform to those procedures which are adopted by the Commission and set forth in Sound Measurement Procedures Manual (NPCS-1), or to such other procedures as are approved in writing by the Department;

(b) Unless otherwise specified, the appropriate measurement point shall be that point on the noise sensitive property, described below, which is further from the noise source:

(A) 25 feet (7.6 meters) toward the noise source from that point on the noise sensitive building nearest the noise source;

(B) That point on the noise sensitive property line nearest the noise source.

(4) Monitoring and Reporting:

(a) Upon written notification from the Department, persons owning or controlling an industrial or commercial noise source shall monitor and record the statistical noise levels and operating times of equipment, facilities, operations, and activities, and shall submit such data to the Department in the form and on the schedule requested by the Department. Procedures for such measurements shall conform to those procedures which are adopted by the Commission and set forth in Sound Measurement Procedures Manual (NPCS-1);

(b) Nothing in this rule shall preclude the Department from conducting separate or additional noise tests and measurements. Therefore, when requested by the Department, the owner or operator of an industrial or commercial noise source shall provide the following:

(A) Access to the site;

(B) Reasonable facilities, where available, including but not limited to, electric power and ladders adequate to perform the testing;

(C) Cooperation in the reasonable operation, manipulation, or shutdown of various equipment or operations as needed to ascertain the source of sound and measure its emission.

(5) Exemptions: Except as otherwise provided in subparagraph (1)(b)(B)(ii) of this rule, the rules in section (1) of this rule shall not apply to:

(a) Emergency equipment not operated on a regular or scheduled basis;

(b) Warning devices not operating continuously for more than 5 minutes;

(c) Sounds created by the tires or motor used to propel any road vehicle complying with the noise standards for road vehicles;

(d) Sounds resulting from the operation of any equipment or facility of a surface carrier engaged in interstate commerce by railroad only to the extent that such equipment or facility is regulated by pre-emptive federal regulations as set forth in Part 201 of Title 40 of the Code of Federal Regulations, promulgated pursuant to Section 17 of the Noise Control Act of 1972, 86 Stat. 1248, Public Law 92-576; but this exemption does not apply to any standard, control, license, regulation, or restriction necessitated by special local conditions which is approved by the Administrator of the EPA after consultation with the Secretary of Transportation pursuant to procedures set forth in Section 17(c)(2) of the Act;

(e) Sounds created by bells, chimes, or carillons;

(f) Sounds not electronically amplified which are created by or generated at sporting, amusement, and entertainment events, except those sounds which are regulated under other noise standards. An event is a noteworthy happening and does not include informal, frequent, or ongoing activities such as, but not limited to, those which normally occur at bowling alleys or amusement parks operating in one location for a significant period of time;

(g) Sounds that originate on construction sites.

(h) Sounds created in construction or maintenance of capital equipment;

(i) Sounds created by lawn care maintenance and snow removal equipment;

(j) Sounds generated by the operation of aircraft and subject to pre-emptive federal regulation. This exception does not apply to aircraft engine testing, activity conducted at the airport that is not directly related to flight operations, and any other activity not pre-emptively regulated by the federal government or controlled under OAR 340-035-0045;

(k) Sounds created by the operation of road vehicle auxiliary equipment complying with the noise rules for such equipment as specified in OAR 340-035-0030(1)(e);

(l) Sounds created by agricultural activities;

(m) Sounds created by activities related to the growing or harvesting of forest tree species on forest land as defined in subsection (1) of ORS 526.324.

(6) Exceptions: Upon written request from the owner or controller of an industrial or commercial noise source, the Department may authorize exceptions to section (1) of this rule, pursuant to rule 340-035-0010, for:

(a) Unusual and/or infrequent events;

(b) Industrial or commercial facilities previously established in areas of new development of noise sensitive property;

(c) Those industrial or commercial noise sources whose statistical noise levels at the appropriate measurement point are exceeded by any noise source external to the industrial or commercial noise source in question;

(d) Noise sensitive property owned or controlled by the person who controls or owns the noise source;

(e) Noise sensitive property located on land zoned exclusively for industrial or commercial use.

[NOTE: View a PDF of referenced documents and tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

**Statutory/Other Authority:** ORS 467

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DEQ 8-1980, f. & ef. 3-11-80



DEQ 135, f. &amp; ef. 6-7-77

DEQ 77, f. 9-5-74, ef. 9-25-74

**340-035-0040****Noise Control Regulations for Motor Sports Vehicles and Facilities**

## (1) Statement of Purpose:

(a) The Commission finds that the periodic noise pollution caused by Oregon motor sports activities threatens the environment of citizens residing in the vicinity of motor sports facilities. To mitigate motor sports noise impacts, a coordinated statewide program is desirable to ensure that effective noise abatement programs are developed and implemented where needed. This abatement program includes measures to limit the creation of new noise impacts and the reduction of existing noise impacts to the extent necessary and practicable;

(b) Since the Commission also recognizes the need of Oregon's citizens to participate in recreational activities of their choice, these rules balance those citizen needs which may conflict when motor sports facilities are in operation. Therefore, a policy of continuing participation in standards development through the active cooperation of interested parties is adopted. The choice of these parties is to limit the noise emission levels of racing and recreational vehicles, to designate equipment requirements, and to establish appropriate hours of operation. It is anticipated that safety factors, limited technology, special circumstances, and special events may require exceptions to these rules in some instances; therefore, a mechanism to accommodate this necessity is included in this rule;

(c) This rule is designed to encourage the motor sports facility owner, the vehicle operator, and government to cooperate to limit and diminish noise and its impacts. These ends can be accomplished by encouraging compatible land uses and controlling and reducing the racing vehicle noise impacts on communities in the vicinity of motor sports facilities to acceptable levels;

(d) This rule is enforceable by the Department and civil penalties ranging from a minimum of \$25 to a maximum of \$500 may be assessed for each violation. The motor sports facility owner, the racing vehicle owner and the racing vehicle driver are held responsible for compliance with provisions of this rule. A schedule of civil penalties for noise control may be found under OAR 340-012-0052.

## (2) Standards:

(a) Drag Racing Vehicle. No motor sports facility owner and no person owning or controlling a drag racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well maintained muffler;

(b) Oval Course Racing Vehicle. No motor sports facility owner and no person owning or controlling an oval course racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well-maintained muffler and noise emissions from its operation do not exceed 105 dBA at trackside;

(c) Sports Car Racing Vehicle. No motor sports facility owner and no person owning or controlling a sports car racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well-maintained muffler and noise emissions from its operation do not exceed 105 dBA at trackside;

(d) Closed Course Motorcycle Racing Vehicle. No motor sports facility owner and no person owning or controlling a closed course motorcycle racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well-maintained muffler and noise emissions from its operation do not exceed 105 dBA at trackside or 105 dBA at 20 inches (.5 meter) from the exhaust outlet during the stationary measurement procedure;

(e) Open Course Motorcycle Racing Vehicle. No motor sports facility owner and no person owning or controlling an open course motorcycle racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well-maintained muffler and noise emissions do not exceed 105 dBA at 20 inches (.5 meter) from the exhaust outlet during the stationary measurement procedure;

(f) Four Wheel Drive Racing Vehicles. No motor sports facility owner and no person owning or controlling a four wheel drive racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well-maintained muffler and noise emissions from its operation do not exceed 105 dBA at trackside;

(g) Watercraft Racing Vehicle. No motor sports facility owner and no person owning or controlling a watercraft racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well-maintained muffler and noise emissions from its operation do not exceed 105 dBA at trackside;

(h) Autocross or Solo Racing Vehicle. No motor sports facility owner and no person owning or controlling an autocross or solo racing vehicle shall cause or permit its operation on any temporary autocross or solo course unless the vehicle is equipped with a properly installed and well-maintained muffler and noise emissions from its operation do not exceed 90

dBA at trackside. Autocross and solo events conducted on a permanent motor sports facility, such as a sports car or go-kart course, shall comply with the requirements for sports car racing vehicles specified in subsection (2)(c) of this rule;

(i) Go-Kart Racing Vehicle. No motor sports facility owner and no person owning or controlling a go-kart racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well-maintained muffler and noise emissions from its operation do not exceed 105 dBA at trackside.

(3) New Motor Sports Facilities. Prior to the construction or operation of any permanent new motor sports facility, the facility owner shall submit for Department approval the projected motor sports facility noise impact boundaries. The data and analysis used to determine the boundary shall also be submitted to the Department for evaluation. Upon approval of the boundaries, this information shall be submitted to the appropriate local planning unit and the Department of Land Conservation and Development for their review and appropriate action.

(4) Practice Sessions. Notwithstanding section (2) of this rule, all racing vehicles in order to operate in practice sessions, shall comply with a noise mitigation plan which shall have been submitted to and approved by the motor sports advisory committee and the Director. Such plans may be developed and submitted prior to each racing season. An approved plan may be varied with prior written approval of the Department.

(5) Recreational Park. When a motor sports facility is used as a recreational park for the operation of off-road recreational vehicles, the ambient noise limits of OAR 340-035-0030(1)(d) shall apply.

(6) Operations:

(a) General. No motor sports facility owner and no person owning or controlling a racing vehicle shall permit its use or operation at any time other than the following:

(A) Sunday through Thursday during the hours 8 a.m. to 10 p.m. local time; and

(B) Friday through Saturday, state and national holidays and the day preceding, not to exceed three consecutive days, during the hours 8 a.m. to 11 p.m. local time.

(b) Overruns. Each motor sports facility may overrun the specified curfew times, including the time specified in subsection (11)(c) of this rule, not to exceed 30 minutes, no more than six days per year due to conditions beyond the control of the owner. Each overrun shall be documented to the Department within ten days of the occurrence;

(c) Special Events. Any approved special motor racing event may also be authorized to exceed this curfew pursuant to subsection (12)(a) of this rule.

(d) Continued Special Events. Any approved special event that cannot be completed within established curfew times due to circumstances beyond the control of the owner, such as but not limited to oil spills and accidents, may be continued the following day under the same conditions provided in the special event exception. The Department shall be notified within ten days of any continued special event.

(7) Measurement and Procedures. All instruments, procedures and personnel involved in performing sound level measurements shall conform to the requirements specified in Motor Race Vehicle and Facility Sound Measurement and Procedure Manual, NPC-35, or to standard methods approved in writing by the Department.

(8) Monitoring and Reporting:

(a) It shall be the responsibility of the motor sports facility owner to measure and record the required noise level data as specified under subsections (2)(b)-(i) of this rule and the Motor Race Vehicle and Facility Sound Measurement and Procedure Manual, NPC-35. The owner shall either keep such recorded noise data available for a period of at least one calendar year or submit such data to the Department for storage. Upon request the owner shall make such recorded noise data available to the Department;

(b) When requested by the Department, any motor sports facility owner shall provide the following:

(A) Free access to the facility;

(B) Free observation of noise level monitoring;

(C) Cooperation and assistance in obtaining the reasonable operation of any Racing Vehicle using the facility as needed to ascertain its noise emission level.

(9) Vehicle standards. No motor sports facility owner and no person owning or controlling a racing vehicle shall cause or permit a racing event or practice session unless the vehicle is equipped and operated in accordance with these rules.

(10) Vehicle Testing. Nothing in this section shall preclude the motor sports facility owner from testing or barring the participation of any racing vehicle for non-compliance with these rules.

(11) Exemptions:

(a) Any motor sports facility whose racing surface is located more than 2 miles from the nearest noise sensitive property shall be exempt from this rule;

(b) Any top fuel-burning drag racing vehicle shall be exempt from the requirements of subsection (2)(a) of this rule. No later than January 31, 1985 the Department shall report to the Commission on progress toward muffler technology development for this vehicle class and propose any necessary recommendations to amend this exemption;

(c) Operation of non-complying jet powered dragsters between the hours of 11 a.m. and 10 p.m.;

(d) Operation of non-muffled racing vehicles at practice sessions between 12 noon and 3 p.m. as part of an approved plan as required pursuant to section (4) of this rule.

(12) Exceptions. The Department shall consider the majority and minority recommendations of the motor sports advisory committee prior to the approval or denial of any exception to these rules. Exceptions may be authorized by the Department for the following pursuant to OAR 340-035-0010:

(a) Special motor racing events;

(b) Race vehicle or class of vehicles whose design or mode of operation makes operation with a muffler inherently unsafe or technically unfeasible;

(c) Motor sports facilities previously established in areas of new development of noise sensitive property;

(d) Noise sensitive property owned or controlled by a motor sports facility owner;

(e) Noise sensitive property located on land zoned exclusively for industrial or commercial use;

(f) Any motor sports facility owner or race sanctioning body that proposes a racing vehicle noise control program that accomplishes the intended results of the standards of section (2) of this rule, the measurement and procedures of section (7) of this rule, the monitoring and the reporting of section (8) of this rule;

(g) Any motor sports facility demonstrating that noise sensitive properties do not fall within the motor sports facility noise impact boundaries may be exempt from the curfew limits of section (6) of this rule and the monitoring and reporting requirements of section (8) of this rule;

(h) Any practice session for non-muffled racing vehicles that does not meet the exemption requirements specified in subsection (11)(d) of this rule.

(13) Motor Sports Advisory Committee Actions. The committee shall serve at the call of the chairman who shall be elected by the members in accordance with the rules adopted by the committee for its official action.

(14) Effective Date. These rules shall be effective January 1, 1982.

[Note: View a PDF of referenced manual by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

**Statutory/Other Authority:** ORS 467

**Statutes/Other Implemented:** ORS 467.030

**History:**

[DEQ 25-2017, minor correction filed 11/08/2017, effective 11/08/2017](#)

[DEQ 14-2017, amend filed 10/30/2017, effective 11/02/2017](#)

DEQ 7-1983, f. & ef. 4-22-83

DEQ 33-1980, f. 12-2-80, ef. 1-1-82

### **340-035-0045**

#### **Noise Control Regulations for Airports**

(1) Statement of Purpose:

(a) The Commission finds that noise pollution caused by Oregon airports threatens the public health and welfare of citizens residing in the vicinity of airports. To mitigate airport noise impacts a coordinated statewide program is desirable to ensure that effective Airport Noise Abatement Programs are developed and implemented where needed. An abatement program includes measures to prevent the creation of new noise impacts or the expansion of existing noise impacts to the extent necessary and practicable. Each abatement program will primarily focus on airport operational measures to prevent increased, and to lessen existing, noise levels. The program will also analyze the effects of aircraft noise emission regulations and land use controls;

(b) The principal goal of an airport proprietor who may be required to develop an Airport Noise Abatement program under this rule should be to reduce noise impacts caused by aircraft operations, and to address in an appropriate manner the conflicts which occur within the higher noise contours;

(c) The Airport Noise Criterion is established to define a perimeter for study and for noise sensitive use planning purposes. It is recognized that some or many means of addressing aircraft/airport noise at the Airport Noise Criterion Level may be beyond the control of the airport proprietor. It is therefore necessary that abatement programs be developed, whenever possible, with the cooperation of federal, state and local governments to ensure that all potential noise abatement measures are fully evaluated;

(d) This rule is designed to encourage the airport proprietor, aircraft operator, and government at all levels to cooperate to prevent and diminish noise and its impacts. These ends may be accomplished by encouraging compatible land uses and controlling and reducing the airport/aircraft noise impacts on communities in the vicinity of airports to acceptable levels.

(2) Airport Noise Criterion. The criterion for airport noise is an Annual Average Day-Night Airport Noise Level of 55 dBA. The Airport Noise Criterion is not designed to be a standard for imposing liability or any other legal obligation except as specifically designated within this section.

(3) Airport Noise Impact Boundary:

(a) Air Carrier Airports. Within 12 months of designation, the proprietor of any Air Carrier Airport shall submit for Department approval, the existing airport Noise Impact Boundary. The data and analysis used to determine the boundary shall also be submitted to the Department for evaluation;

(b) Existing Non-Air Carrier Airports. After an unsuccessful effort to resolve a noise problem pursuant to section (5) of this rule, the Director may require the proprietor of any existing non-air carrier airport to submit for Department approval, all information reasonably necessary for the calculation of the existing airport Noise Impact Boundary. This information is specified in the Department's Airport Noise Control Procedure Manual (NPCS-37), as approved by the Commission. The proprietor shall submit the required information within twelve months of receipt of the Director's written notification;

(c) New Airports. Prior to the construction or operation and any required local government land-use approval of any New Airport, the proprietor shall submit for Department approval the projected airport Noise Impact Boundary for the first full calendar year of operation. The data and analysis used to determine the boundary shall also be submitted to the Department for evaluation. The Department shall notify the appropriate local planning unit of the results of their evaluation;

(d) Airport Master Planning. Any airport proprietor who obtains funding to develop an airport Master Plan shall submit for Department approval an existing noise impact boundary and projected noise impact boundaries at five, ten, and twenty years into the future. The data and analysis used to determine the boundaries shall also be submitted to the Department for evaluation;

(e) Impact Boundary Approval. Within 60 days of the receipt of a completed airport noise impact boundary, the Department shall either consider the boundary approved or provide written notification to the airport proprietor of deficiencies in the analysis.

(4) Airport Noise Abatement Program and Methodology:

(a) Abatement Program. The proprietor of an existing or new airport whose airport Noise Impact Boundary includes Noise Sensitive Property, or may include Noise Sensitive Property, shall submit a proposed Airport Noise Abatement Program for Commission approval within 12 months of notification, in writing, by the Director. The Director shall give such notification when the Commission has reasonable cause to believe that an abatement program is necessary to protect the health, safety or welfare of the public following a public informational hearing on the question of such necessity. Reasonable cause shall be based upon a determination that:

(A) Present or planned airport operations cause or may cause noise impacts that interfere with noise sensitive use activities such as communication and sleep to the extent that the public health, safety or welfare is threatened;

(B) These noise impacts will occur on property presently used for noise sensitive purposes, or where noise sensitive use is permitted by zone or comprehensive plan; and

(C) It appears likely that a feasible noise abatement program may be developed.

(b) Program Elements. An Airport Noise Abatement Program shall consist of all of the following elements, but if it is determined by the Department that any element will not aid the development of the program, it may be excluded:

(A) Maps of the airport and its environs, and supplemental information, providing:

(i) Projected airport noise contours from the Noise Impact Boundary to the airport property line in 5 dBA increments under current year of operations and at periods of five, ten, and twenty years into the future with proposed operational noise control measures designated in paragraph (4)(b)(B);

(ii) All existing Noise Sensitive Property within the airport Noise Impact Boundary;

- (iii) Present zoning and comprehensive land use plan permitted uses and related policies;
  - (iv) Physical layout of the airport including the size and location of the runways, taxiways, maintenance and parking areas;
  - (v) Location of present and proposed future flight tracks;
  - (vi) Number of aircraft flight operations used in the calculation of the airport noise levels. This information shall be characterized by flight track, aircraft type, flight operation, number of daytime and nighttime operations, and takeoff weight of commercial jet transports.
- (B) An airport operational plan designed to reduce airport noise impacts at Noise Sensitive Property to the Airport Noise Criterion to the greatest extent practicable. The plan shall include an evaluation of the appropriateness and effectiveness of the following noise abatement operations by estimating potential reductions in the airport Noise Impact Boundary and numbers of Noise Sensitive Properties impacted within the boundary, incorporating such options to the fullest extent practicable into any proposed Airport Noise Abatement Program:
- (i) Takeoff and landing noise abatement procedures such as thrust reduction or maximum climb on takeoff;
  - (ii) Preferential and priority runway use systems;
  - (iii) Modification in approach and departure flight tracks;
  - (iv) Rotational runway use systems;
  - (v) Higher glide slope angles and glide slope intercept altitudes on approach;
  - (vi) Displaced runway thresholds;
  - (vii) Limitations on the operation of a particular type or class of aircraft, based upon aircraft noise emission characteristics;
  - (viii) Limitations on operations at certain hours of the day;
  - (ix) Limitations on the number of operations per day or year;
  - (x) Establishment of landing fees based on aircraft noise emission characteristics or time of day;
  - (xi) Rescheduling of operations by aircraft type or time of day;
  - (xii) Shifting operations to neighboring airports;
  - (xiii) Location of engine run-up areas;
  - (xiv) Times when engine run-up for maintenance can be done;
  - (xv) Acquisition of noise suppressing equipment and construction of physical barriers for the purpose of reducing aircraft noise impact;
  - (xvi) Development of new runways or extended runways that would shift noise away from populated areas or reduce the noise impact within the Airport Noise Impact Boundary.
- (C) A proposed land use and development control plan, and evidence of good faith efforts by the proprietor to obtain its approval, to protect the area within the airport Noise Impact Boundary from encroachment by non-compatible noise sensitive uses and to resolve conflicts with existing unprotected noise sensitive uses within the boundary. The Plan is not intended to be a community-wide comprehensive plan; it should be airport-specific, and should be of a scope appropriate to the size of the airport facility and the nature of the land uses in the immediate area. Affected local governments shall have an opportunity to participate in the development of the plan, and any written comments offered by an affected local government shall be made available to the Commission. The Department shall review the comprehensive land use plan of the affected local governments to ensure that reasonable policies have been adopted recognizing the local government's responsibility to support the proprietor's efforts to protect the public from excessive airport noise. The plan may include, but not be limited to, the following actions within the specified noise impact zones:
- (i) Changes in land use through non-noise sensitive zoning and revision of comprehensive plans, within the Noise Impact Boundary (55 dBA);
  - (ii) Influencing land use through the programing of public improvement projects within the Noise Impact Boundary (55 dBA);
  - (iii) Purchase assurance programs within the 65 dBA boundary;
  - (iv) Voluntary relocation programs within the 65 dBA boundary;

- (v) Soundproofing programs within the 65 dBA boundary, or within the Noise Impact Boundary (55 dBA) if the governmental entity with land use planning responsibility desires, and will play a major role in implementation.
- (vi) Purchase of land for airport use within the 65 dBA boundary;
- (vii) Purchase of land for airport related uses within the 65 dBA boundary;
- (viii) Purchase of land for non-noise sensitive public use within the Noise Impact Boundary (55 dBA);
- (ix) Purchase of land for resale for airport noise compatible purposes within the 65 dBA boundary;
- (x) Noise impact disclosure to purchaser within the Noise Impact Boundary (55 dBA);
- (xi) Modifications to Uniform State Building Code for areas of airport noise impact within the Noise Impact Boundary (55 dBA).
- (c) Federal Aviation Administration Concurrence. The proprietor shall use good faith efforts to obtain concurrence or approval for any portions of the proposed Airport Noise Abatement Program for which the airport proprietor believes that Federal Aviation Administration concurrence or approval is required. Documentation of each such effort and a written statement from FAA containing its response shall be made available to the Commission;
- (d) Commission Approval. Not later than twelve months after notification by the Director pursuant to subsection (4)(a) of this rule, the proprietor shall submit a proposed Airport Noise Abatement Program to the Commission for approval. Upon approval, the abatement program shall have the force and effect of an order of the Commission. The Commission may direct the Department to distribute copies of the approved abatement program to interested federal, state and local governments, and to other interested persons, and may direct the Department to undertake such monitoring or compliance assurance work as the Commission deems necessary to ensure compliance with the terms of its order. The Commission shall base its approval or disapproval of a proposed Noise Abatement Program upon:
- (A) The completeness of the information provided;
- (B) The comprehensiveness and reasonableness of the proprietor's evaluation of the operational plan elements listed under paragraph (4)(b)(B) of this rule;
- (C) The presence of an implementation scheme for the operational plan elements, to the extent feasible;
- (D) The comprehensiveness and reasonableness of the proprietor's evaluation of land use and development plan elements listed under paragraph (4)(b)(C) of this rule;
- (E) Evidence of good faith efforts to adopt the land use and development plan, or obtain its adoption by the responsible governmental body, to the extent feasible;
- (F) The nature and magnitude of existing and potential noise impacts;
- (G) Testimony of interested and affected persons; and
- (H) Any other relevant factors.
- (e) Program Renewal. No later than six months prior to the end of a five-year period following the Commission's approval, each current airport Noise Abatement Program shall be reviewed and revised by the proprietor, as necessary, and submitted to the Commission for consideration for renewal.
- (f) Program Revisions. If the Director determines that circumstances warrant a program revision prior to the scheduled five year review, the Airport Proprietor shall submit to the Commission a revised program within 12 months of written notification by the Director. The Director shall make such determination based upon an expansion of airport capacity, increase in use, change in the types or mix of various aircraft utilizing the airport, or changes in land use and development in the impact area that were unforeseen in earlier abatement plans. Any program revision is subject to all requirements of this rule.
- (5) Consultation. The Director shall consult with the airport proprietor, members of the public, the Oregon Departments of Transportation, Land Conservation and Development and any affected local government in an effort to resolve informally a noise problem prior to issuing a notification under subsections (3)(b), (4)(a) and (4)(f) of this rule.
- (6) Noise Sensitive Use Deviations. The airport noise criterion is designed to provide adequate protection of noise sensitive uses based upon out-of-doors airport noise levels. Certain noise sensitive use classes may be acceptable within the airport Noise Impact Boundary if all measures necessary to protect interior activities are taken.
- (7) Airport Noise Monitoring. The Department may request certification of the airport Noise Impact Boundary by actual noise monitoring, where it is deemed necessary to approve the boundary pursuant to subsection (3)(e) of this rule.
- (8) Exceptions. Upon written request from the Airport Proprietor, the Department may authorize exceptions to this rule, pursuant to OAR 340-035-0010, for:

- (a) Unusual or infrequent events;
- (b) Noise sensitive property owned or controlled by the airport;
- (c) Noise sensitive property located on land zoned exclusively for industrial or commercial use.

[Note: You can view a PDF of referenced publications by clicking on the "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

**Statutory/Other Authority:** ORS 467

**Statutes/Other Implemented:** ORS 467.030

**History:**

[DEQ 24-2018, minor correction filed 04/02/2018, effective 04/02/2018](#)

[DEQ 5-2018, minor correction filed 02/14/2018, effective 02/14/2018](#)

[DEQ 14-2017, amend filed 10/30/2017, effective 11/02/2017](#)

DEQ 7-1983, f. & ef. 4-22-83

DEQ 33-1979, f. & ef. 11-27-79

### 340-035-0100

#### Variances

(1) Conditions for Granting. The Commission may grant specific variances from the particular requirements of any rule, regulation, or order to such specific persons or class of persons or such specific noise source upon such conditions as it may deem necessary to protect the public health and welfare, if it finds that strict compliance with such rule, regulation, or order is inappropriate because of conditions beyond the control of the persons granted such variance or because of special circumstances which would render strict compliance unreasonable, or impractical due to special physical conditions or cause, or because strict compliance would result in substantial curtailment or closing down of a business, plant, or operation, or because no other alternative facility or method of handling is yet available. Such variances may be limited in time.

(2) Procedure for Requesting. Any person requesting a variance shall make his request in writing to the Department for consideration by the Commission and shall state in a concise manner the facts to show cause why such variance should be granted.

(3) Revocation or Modification. A variance granted may be revoked or modified by the Commission after a public hearing held upon not less than 20 days' notice. Such notice shall be served upon the holder of the variance by certified mail and all persons who have filed with the Commission a written request for such notification.

**Statutory/Other Authority:** ORS 467

**Statutes/Other Implemented:** ORS 467.030

**History:**

[DEQ 26-2018, minor correction filed 04/02/2018, effective 04/02/2018](#)

DEQ 75, f. 7-25-74, ef. 8-25-74

### 340-035-0110

#### Suspension of Commission and Department Responsibilities

In 1991, the Legislative Assembly withdrew all funding for implementing and administering ORS Chapter 467 and the Department's noise program. Accordingly, the Commission and the Department have suspended administration of the noise program, including but not limited to processing requests for exceptions and variances, reviewing plans, issuing certifications, forming advisory committees, and responding to complaints. Similarly, the public's obligations to submit plans or certifications to the Department are suspended.

**Statutory/Other Authority:** ORS 467

**Statutes/Other Implemented:** ORS 467

**History:**

DEQ 5-2004, f. & cert. ef. 6-11-04

# City of Molalla



## Agenda Category: Ordinances and Resolutions

**Subject:** Resolution No. 2020 – 17: Amending the Molalla Urban Renewal Plan

**Recommendation:** Adoption

**Date of Meeting to be Presented:** August 12, 2020

**Fiscal Impact:** TBA

**Background:**

State Law requires that the City Council/Governing body also adopt by Resolution, any changes the Urban Renewal Agency makes to the Molalla Urban Renewal Plan. Included with this memo is a Resolution that is identical to the Resolution provided to the Urban Renewal Agency.

SUBMITTED BY: Dan Huff, City Manager

APPROVED BY: Dan Huff, City Manager





**RESOLUTION NUMBER 2020-17**

**A RESOLUTION OF THE MOLALLA CITY COUNCIL OREGON,  
AMENDING THE MOLALLA URBAN RENEWAL PLAN.**

**WHEREAS**, the Molalla Urban Renewal Agency (“Agency”) is an urban renewal agency formed under ORS Chapter 457; and

**WHEREAS**, the Molalla City Council (“City Council”) adopted the Molalla Urban Renewal Plan (“Plan”) on July 24, 2003; and

**WHEREAS**, the Agency desires to amend the Plan to revise Section 700. Description of Projects to be Undertaken to add projects including a public building project, specifically the Police Station, that requires concurrence by the Molalla City Council; and

**WHEREAS**, the Agency has consulted with impacted taxing districts regarding the projects to be undertaken including requesting concurrence from the Molalla City Council for the Police Station project; and

**WHEREAS**, the Agency desires to amend the Plan to revise Section 800. Property Acquisition and Disposition Procedures and this amendment requires City Council ratification; and

**WHEREAS**, these amendments are show in Exhibit A, Plan Amendment and in Exhibit B Report on the Plan Amendment; and

**WHEREAS**, the updated project list and estimated impacts to the taxing districts are attached hereto as Exhibit B;

**Now, Therefore, the Molalla City Council Resolves as follows:**

Section 1. Findings. The above-stated findings contained in this Resolution are hereby adopted.

Section 2. Purpose. The purpose of this Resolution is to amend the Molalla Urban Renewal Plan to update the project list including adding a public building and to add property to be acquired in the Plan

Section 3. Adoption. In accordance with the Amendment section of the Molalla Urban Renewal Plan, this is a minor amendment to be adopted by

resolution of the Molalla Urban Renewal Agency. In accordance with the Acquisition section, any acquisition must be ratified by the City Council. Addition of the public building project must receive concurrence of the taxing districts as stipulated in ORS 457. 089. The City Council hereby ratifies the acquisition of property for the Police Station project and provides concurrence to the Police Station project by adoption of this resolution.

Section 4. Miscellaneous. All pronouns contained in this Resolution and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. Any reference to a particular law, statute, rule, regulation, code, or ordinance includes the law, statute, rule, regulation, code, or ordinance as now in force and hereafter amended. If any section, subsection, sentence, clause, and/or portion of this Resolution is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Resolution. This Resolution may be corrected by order of the Board to cure editorial and/or clerical errors.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
Keith Swigart, Mayor

ATTEST:

\_\_\_\_\_  
Christie DeSantis, City Recorder

## Exhibit A

### Molalla Urban Renewal Plan Amendment

New wording is shown in *italics*, deletions are shown in ~~cross-out~~.

The Molalla Urban Renewal Plan (“Plan”) is amended as follows:

#### **700. DESCRIPTION OF PROJECTS TO BE UNDERTAKEN**

To achieve the objectives of this Urban Renewal Plan, the following activities will be undertaken by the Urban Renewal Agency in accordance with applicable federal, state, county, and county laws, policies, and procedures, and will be coordinated with the Downtown Master Plan. Renewal Agency may fund these activities in full, in part, or it may seek other sources of funding for them. The Renewal Agency may prepare a Design Plan which will better define project locations. **The listing of projects is not an order of priority.** Priorities will be decided as funds become available, and opportunities arise.

##### **1. PUBLIC IMPROVEMENTS**

**Definition** - Public improvements include the construction, repair, or replacement of curbs, sidewalks, streets, parking, parks and open spaces, pedestrian and bicycle amenities, water, sanitary sewer and storm sewer facilities, utilities, and other public facilities necessary to carry out the goals and objectives of this Plan.

##### **A. Public Parks and Open Spaces**

The Renewal Agency may participate in funding the design, acquisition, construction or rehabilitation of public spaces, parks or public recreation facilities within the Urban Renewal Area. Projects that may be undertaken include:

- Develop a pedestrian/bicycle trail along abandoned railroad line.

##### **B. Street, Curb, and Sidewalk Improvements**

The Renewal Agency may participate in funding sidewalk and roadway improvements including design, redesign, construction, resurfacing, repair and acquisition of right-of way for *frontage improvements including but not limited to* curbs, streets, and sidewalks. Street, curb, and sidewalk improvements may include:

- Make streetscape improvements identified in the Downtown Master Plan.

- Install, and repair deficiencies in sidewalks in downtown Molalla.
- Install crosswalks and curb extensions in downtown Molalla.
- Participate in widening of Oregon Highways 211 and 213.
- Commercial Parkway extension to South Road and OR Highway 213.
- Molalla Forest Road improvements, including but not limited to
  - ❖ Improve Molalla Forest Road from Mathias to OR Highway 213.
  - ❖ Improve Mathias Road/Main Street Connection.
  - ❖ Widen Mathias Road.
- *Toliver Road (Sawyer Trucking)*
- *Industrial Way*
- *OR 213 Sidewalk*
- *Various other public utility improvements as designated by the Agency.*

### **C. Public Utilities**

The Renewal Agency is authorized to participate in funding improvements to water, storm, and sanitary sewer facilities in the area. Utility improvements that may include:

- Place utilities underground throughout project area as funds permit.
- Provide water, sewer, and storm services as necessary to treat blighting conditions in renewal area, and to meet future development needs in renewal area.
- *Improve W Ross Street (Molalla Avenue to Kennel Avenue) and Kennel Avenue (W Ross to OR 211)*
- *Various other public utility improvements as designated by the Agency.*

### **D. Streetscape and Neighborhood Beautification Projects**

The Renewal Agency is authorized to participate in activities improving the visual appearance of the project area. These improvements may include *frontage improvements*, street furniture, special lighting fixtures, landscaping, street trees, irrigation, decorative pavers, signs, and other fixtures and improvements. Areas for streetscape improvements include:

- Streetscape improvements along Highway 211.
- Streetscape improvements in downtown Molalla.
- *Center Avenue (Main Street to Ross Street)*
- *Center Avenue (E Ross to Robbins Street)*
- *Center Avenue (Robbins Street to Heintz Street)*
- *E. Ross Street (Molalla Avenue to Center Street)*
- *Ross/Center Alleys Improve W Ross Street (Molalla Avenue to Kennel Avenue) and Kennel Avenue (W Ross to OR 211)*

### **E. Public Safety Improvements**

The Renewal Agency may participate in funding improvements needed for public safety purposes. Public safety improvements may include:

- Participate in funding traffic signals and signage at
  - ❖ ~~OR Highway 211 and Thelander.~~
  - ❖ The intersection of Main and Molalla.
  - ❖ ~~OR211 and Ridings.~~
  - ❖ *Molalla Avenue-OR211 Signal*
  - ❖ *OR 211 – Leroy Avenue Signal*

### **F. Public Buildings and Facilities**

The Renewal Agency may participate in development of public facilities in the Renewal Area. The extent of the Renewal Agency’s participation in funding public facilities will be based upon a Renewal Agency finding on the proportional benefit of that project to the Urban Renewal Area, and the importance of the project in carrying out Plan objectives.

Potential public facilities to be funded may include:

- Assist in improvements to fire station and public safety training facility
- Develop new public parking facilities.
- Assist in improvements to, or construction of public facilities, including city hall, and a conference/community center.
- *Acquisition of property for a Police Station and frontage improvements for the Police Station.*

- ❖ *The Police Station will serve and benefit the urban renewal area by providing improved facilities for the police and establishing a public safety presence in the urban renewal area.*

## **800. PROPERTY ACQUISITION AND DISPOSITION PROCEDURES**

### **C. Properties to be acquired.**

*Property will be acquired for a future Police Station and frontage improvements associated with the Police Station.<sup>1</sup>*

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<sup>1</sup> *This action was taken in the 2020 amendment and concurrence was received by the required taxing districts.*

## Exhibit B

### Report on Molalla Urban Renewal Plan Minor Amendment and Concurrence for Public Building Project

This Report provides information on the estimated project costs, share of those costs to undertaken with urban renewal funds and the estimated impacts on the overlapping taxing districts. The original Report to the Molalla Urban Renewal Plan (“Plan”) anticipated the full maximum indebtedness (“MI”) of \$26.2 million to be used by FYE 2029. However, analysis by Tiberius Solutions, LLC in April of 2020 indicates the amount of MI to be used through FYE 2029 would only be up to \$12.6M of the \$26.2M maximum indebtedness. This would allow for \$8M of projects between 2020 and 2029.

The Plan language suggests that the FYE 2029 duration is not a hard and fast limit, but was only the estimated completion date. There is no specific duration provision in the Plan. If the duration of the URA is extended five years through FYE 2034, Tiberius projected it would have capacity to fund an additional \$6.7M of projects, using up a total of \$19.4M of the maximum indebtedness, for a total of \$14.7M in projects through FYE 2020 to FYE 2034. It is anticipated that two of the projects will receive developer repayments, OR 211-Leroy Avenue Signal and Toliver Road. The total project costs include the repayment of those funds and re-using them on other future projects. This total anticipated repayment amount is \$1,225,000, for a total amount of \$15,925,000 to be spent on projects.

This amendment proposes to extend the timeframe for taking division of tax revenues to FYE 2034. The financial analysis predicts that approximately \$19.4M of the MI will be used during this timeframe and estimates that the debt will be retired in FYE 2034. The extension of the duration of the Plan estimates that approximately \$6.9 M of the \$26.2 MI will not be used even in the extended timeframe. Expenditure of the program income does not count against the maximum indebtedness. The overall impacts to taxing districts as projected in the original urban renewal plan have not changed as a result of this proposed amendment as the MI of the Molalla Urban Renewal Plan is not being changed. In fact, the overall impacts to the taxing districts are estimated to be smaller than the original estimates as the full MI will not be reached.

Table 1 identifies the proposed projects and project allocations. Table 1a is Phase I and Table 1b is Phase 2. The financial projections prepared by Tiberius Solutions LLC indicate a capacity for \$14.7M of projects in \$2020 dollars. Table 1 indicates the project costs and the anticipated urban renewal share of those costs.

Tables 2 and 3 show the estimated taxing district impacts during the extended timeframe, including FYE 2020. The difference between the dollars for projects and

impacts on taxing districts is due to the inflationary costs of projects over time (the projects table is in FYE 2020 dollars) and the costs of interest payments. By statutory definition, maximum indebtedness includes the principal amount of maximum indebtedness, not the interest paid on debt.

The Molalla River School District and the Clackamas Education Service District are not *directly* affected by the tax increment financing, but the amounts of their taxes divided for the Plan are shown in the following tables. Under current school funding law, property tax revenues are combined with State School Fund revenues to achieve per-student funding targets. Under this system, property taxes foregone, due to the use of tax increment financing, are substantially replaced with State School Fund revenues, as determined by a funding formula at the state level. If new school aged students move into these units and attend the local schools, the funding through the State School Fund would increase.



Table 1a - Projects to be Undertaken - Phase I

	<b>PROJECT COST</b>	<b>MURD SHARE</b>	<b>DEVELOPER REPAYMENT/PROGRAM INCOME</b>
<b>Project</b>			
<b>Phase I</b>			
<b>Police Station - Property Acquisition</b>			
Police Station Property Acquisition	\$250,000	\$100,000	
<b>Downtown Streetscape/Public Infrastructure Participation</b>			
Toliver Road (Sawyer Trucking)	\$200,000	\$200,000	\$200,000
Industrial Way	\$13,000	\$13,000	
W Ross St	\$650,000	\$500,000	
Kennel Avenue (W Ross to OR 211)	\$360,000	\$360,000	
Various	\$327,000	\$327,000	
<b>State Highway Local Contribution</b>			
Molalla Ave-OR 211 Signal	\$1,000,000	\$1,000,000	\$1,000,000
<b>Subtotal Phase I</b>		<b>\$2,500,000</b>	<b>\$1,200,000</b>

Source: City of Molalla

Table 1b - Projects to be Undertaken - Phase II

<b>Project</b>	<b>PROJECT COST</b>	<b>MURD SHARE</b>	<b>DEVELOPER REPAYMENT/PROGRAM INCOME</b>
<b>Phase II</b>			
<b>Downtown Streetscape/Public Infrastructure Participation</b>			
Center Avenue (Main St to Ross St)	\$720,000	\$720,000	
Center Avenue (E Ross to Robbins St)	\$1,312,000	\$1,312,000	
Center Avenue (Robbins St to Heintz St)	\$514,000	\$514,000	
E Ross St (Molalla Ave to Center St)	\$869,000	\$869,000	
Ross/Center Alleys	\$361,000	\$361,000	
<b>State Highway Local Contribution</b>			
OR 211-Leroy Avenue Signal	\$1,025,000	\$1,025,000	\$1,025,000
<b>Local Streets-</b>			
Molalla Forest Road	\$13,240,000	\$8,299,000	
<b>Subtotal Phase II</b>		<b>\$13,100,000</b>	<b>\$1,025,000</b>
<b>Total</b>	<b>\$20,591,000</b>	<b>\$15,600,000</b>	<b>\$2,225,000</b>

Source: City of Molalla

Table 2 – Projected Impacts to Taxing Districts – General Government Source: Tiberius Solutions Note: FYE is fiscal year end

FYE	City of Molalla Permanent	Clackamas County City Permanent	Clackamas County Rural Permanent	County Extension & 4H Permanent	County Library Permanent	County Soil Conservation Permanent	FD 73 Molalla Permanent	PK Molalla Aquatic Permanent	Port of Portland Permanent	Vector Control Permanent	Subtotal Gen. Govt.
2020	\$ (210,263)	\$ (95,276)	\$ (864)	\$ (1,996)	\$ (15,864)	\$ (1,996)	\$ (31,269)	\$ (11,577)	\$ (2,798)	\$ (259)	\$ (372,162)
2021	\$ (222,719)	\$ (100,920)	\$ (931)	\$ (2,114)	\$ (16,806)	\$ (2,114)	\$ (33,125)	\$ (12,264)	\$ (2,964)	\$ (275)	\$ (394,232)
2022	\$ (238,832)	\$ (108,221)	\$ (1,000)	\$ (2,267)	\$ (18,022)	\$ (2,267)	\$ (35,522)	\$ (13,151)	\$ (3,179)	\$ (295)	\$ (422,758)
2023	\$ (253,982)	\$ (115,086)	\$ (1,072)	\$ (2,411)	\$ (19,166)	\$ (2,411)	\$ (37,778)	\$ (13,986)	\$ (3,381)	\$ (313)	\$ (449,587)
2024	\$ (336,168)	\$ (152,327)	\$ (1,146)	\$ (3,187)	\$ (25,332)	\$ (3,187)	\$ (49,930)	\$ (18,486)	\$ (4,468)	\$ (414)	\$ (594,646)
2025	\$ (431,928)	\$ (195,718)	\$ (1,223)	\$ (4,091)	\$ (32,514)	\$ (4,091)	\$ (64,088)	\$ (23,727)	\$ (5,735)	\$ (532)	\$ (763,646)
2026	\$ (452,534)	\$ (205,055)	\$ (1,301)	\$ (4,286)	\$ (34,068)	\$ (4,286)	\$ (67,150)	\$ (24,861)	\$ (6,010)	\$ (557)	\$ (800,109)
2027	\$ (472,585)	\$ (214,141)	\$ (1,382)	\$ (4,477)	\$ (35,581)	\$ (4,477)	\$ (70,132)	\$ (25,965)	\$ (6,276)	\$ (582)	\$ (835,598)
2028	\$ (493,238)	\$ (223,499)	\$ (1,466)	\$ (4,673)	\$ (37,139)	\$ (4,673)	\$ (73,203)	\$ (27,102)	\$ (6,551)	\$ (607)	\$ (872,151)
2029	\$ (514,511)	\$ (233,139)	\$ (1,552)	\$ (4,875)	\$ (38,744)	\$ (4,875)	\$ (76,366)	\$ (28,273)	\$ (6,834)	\$ (634)	\$ (909,801)
2030	\$ (536,422)	\$ (243,067)	\$ (1,640)	\$ (5,083)	\$ (40,397)	\$ (5,083)	\$ (79,624)	\$ (29,479)	\$ (7,126)	\$ (661)	\$ (948,581)
2031	\$ (558,990)	\$ (253,293)	\$ (1,732)	\$ (5,297)	\$ (42,099)	\$ (5,297)	\$ (82,980)	\$ (30,722)	\$ (7,426)	\$ (689)	\$ (988,523)
2032	\$ (582,235)	\$ (263,826)	\$ (1,826)	\$ (5,517)	\$ (43,853)	\$ (5,517)	\$ (86,436)	\$ (32,001)	\$ (7,735)	\$ (717)	\$ (1,029,665)
2033	\$ (606,178)	\$ (274,675)	\$ (1,922)	\$ (5,745)	\$ (45,659)	\$ (5,745)	\$ (89,996)	\$ (33,319)	\$ (8,054)	\$ (747)	\$ (1,072,040)
2034	\$ (630,838)	\$ (285,850)	\$ (2,022)	\$ (5,979)	\$ (47,519)	\$ (5,979)	\$ (93,663)	\$ (34,677)	\$ (8,382)	\$ (777)	\$ (1,115,686)
<b>Total</b>	<b>\$ (6,541,422)</b>	<b>\$ (2,964,093)</b>	<b>\$ (21,079)</b>	<b>\$ (61,998)</b>	<b>\$ (492,761)</b>	<b>\$ (61,998)</b>	<b>\$ (971,263)</b>	<b>\$ (359,589)</b>	<b>\$ (86,921)</b>	<b>\$ (8,060)</b>	<b>\$ (11,569,186)</b>

Source: Tiberius Solutions

Table 3 – Projected Impacts to Taxing Districts – Education

FYE	Clackamas Community College Permanent	Clackamas ESD Permanent	Molalla River SD Permanent	Subtotal Education	Total All
2020	\$ (22,283)	\$ (14,718)	\$ (187,624)	\$ (224,625)	\$ (596,787)
2021	\$ (23,606)	\$ (15,592)	\$ (198,763)	\$ (237,961)	\$ (632,192)
2022	\$ (25,314)	\$ (16,720)	\$ (213,147)	\$ (255,182)	\$ (677,940)
2023	\$ (26,921)	\$ (17,782)	\$ (226,681)	\$ (271,384)	\$ (720,971)
2024	\$ (35,582)	\$ (23,502)	\$ (299,602)	\$ (358,686)	\$ (953,332)
2025	\$ (45,671)	\$ (30,166)	\$ (384,550)	\$ (460,387)	\$ (1,224,033)
2026	\$ (47,853)	\$ (31,608)	\$ (402,928)	\$ (482,389)	\$ (1,282,498)
2027	\$ (49,978)	\$ (33,011)	\$ (420,819)	\$ (503,808)	\$ (1,339,406)
2028	\$ (52,166)	\$ (34,457)	\$ (439,246)	\$ (525,869)	\$ (1,398,020)
2029	\$ (54,420)	\$ (35,946)	\$ (458,226)	\$ (548,592)	\$ (1,458,393)
2030	\$ (56,742)	\$ (37,479)	\$ (477,775)	\$ (571,996)	\$ (1,520,577)
2031	\$ (59,134)	\$ (39,059)	\$ (497,911)	\$ (596,103)	\$ (1,584,627)
2032	\$ (61,597)	\$ (40,686)	\$ (518,651)	\$ (620,933)	\$ (1,650,598)
2033	\$ (64,134)	\$ (42,361)	\$ (540,013)	\$ (646,508)	\$ (1,718,548)
2034	\$ (66,747)	\$ (44,087)	\$ (562,016)	\$ (672,850)	\$ (1,788,537)
<b>Total</b>	<b>\$ (692,147)</b>	<b>\$ (457,174)</b>	<b>\$ (5,827,951)</b>	<b>\$ (6,977,272)</b>	<b>\$ (18,546,459)</b>

Source: Tiberius Solutions Note: FYE is fiscal year end

**Exhibit A**

# **The Molalla Urban Renewal Plan**

**Prepared for:  
The Molalla City Council**

**July, 2008**

## **MOLALLA URBAN RENEWAL PLAN**

### **ACKNOWLEDGEMENTS**

The Molalla City Council appointed a citizen advisory body to direct the public involvement and management efforts for preparation of this renewal plan. Members of the advisory committee and City of Molalla staff gave generously of their time in providing direction and assistance on all key issues involved in preparing the plan.

### **Members of the Advisory Committee**

<b>Name</b>		<b>Affiliation</b>
Bill	Avison	Avison Rock
Gary	Deardorff	Doubletrees Land & Timber
Todd	Gary	Molalla Fire Dist. No. 73
Jamie	Johnk	Clackamas County
Wayne	Kostur	Molalla River School District
Steve	Loutzenhiser	Molalla Communications
Mitch	Magenheimer	Edward Jones
Steve	Morris	Chamber of Commerce
Gary	Musgrove	Prudential Northwest Properties
Linda	Ohta	Inkbrary
Jim	Needham	City Council
Shane	Potter	City of Molalla
Beth	Smith	PGE
Pattie	Smith	Mill Barn
Ed	Stafford	Windermere Realty
Jim	Taylor	Champion Raceway
Kristine	Wheeler	Citizen

### **Staff Assistance**

John Atkins, City Manager  
Shane Potter, Planning Director  
Zach Pelz, Assistant Planner

### **Urban Renewal Consultants**

Charles Kupper, Spencer & Kupper

**MOLALLA URBAN RENEWAL PLAN**

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## **100. INTRODUCTION**

The Molalla Urban Renewal Plan consists of Part One: Text, and Part Two: Exhibits. This plan has been prepared pursuant to Oregon Revised Statute (ORS) Chapter 457, the Oregon Constitution, and all applicable laws and ordinances of the State of Oregon and City of Molalla respectively. All such applicable laws and ordinances are made a part of this Plan, whether expressly referred to in the text or not.

This urban renewal plan for the Molalla Urban Renewal Area was approved by the City Council of City of Molalla on \_\_\_ by Ordinance No. \_\_\_.

## **200. CITIZEN PARTICIPATION**

The Molalla urban renewal plan was developed in an extensive series of public meetings. Renewal planning was initiated in September, 2007 with a renewal feasibility study. The feasibility study included three public work session meetings with a committee consisting of Council members and citizens. The feasibility report was presented at a meeting of the Molalla City Council in February, 2008. After discussion of the feasibility report, the City Council approved proceeding with preparation of an urban renewal plan.

Work on a renewal plan started in April, 2008. Four public meetings were held during the preparation of the renewal plan. Each meeting was built around discussion and public input on key elements of the urban renewal plan. Meeting topics included basic information on urban renewal and tax increment financing, development of project goals and objectives, development of a list of project activities, and a thorough review of the revenues, costs, and tax impacts of carrying out the project.

The City of Molalla Planning Commission met to review the Plan on July 29, 2008 at 7 p.m. in City Hall. The City Council scheduled a public hearing on adoption of this Plan on Aug. 13, 2008 at 7 p.m. in the Molalla Adult Center, 315 Kennel St. Additional notice for the City Council's hearing on adoption of the Plan was provided, as required by ORS 457.120.

## **300. BOUNDARY DESCRIPTION**

The boundary of the renewal area is shown in Exhibit 1, attached to this plan. A legal description of the project boundary is included as Attachment "A" of this plan. If inconsistencies exist between Exhibit 1 and Attachment A, Attachment A governs.

## **400. RELATIONSHIP TO LOCAL OBJECTIVES: GOALS**

The purpose of this Renewal plan is to eliminate blighting influences found in the Renewal Area, to implement goals and objectives of the City of Molalla Comprehensive Plan, the Molalla Downtown Development Plan, and the Oregon Highway 211 Streetscape Plan.



In addition, the renewal plan committee developed a set of renewal plan goals and objectives in its public meetings on the plan. Those goals are:

- Carry out public improvements, pursue acquisitions and provide incentives to attract economic investment and redevelopment in Molalla.
- Encourage creation and expansion of enterprises that will provide goods and services the community needs.
- Provide more family wage jobs in Molalla.
- Increase property values in Molalla.
- Enhance overall community appearance and livability.
- Help diversify the city’s economic base.
- Help implement the city’s comprehensive plan, downtown master plan, and enhance recreational opportunities in the community.

**500. PROPOSED LAND USES**

**A. Land Use Plan**

The use and development of land in the Renewal Area shall be in accordance with the regulations prescribed in the City’s Comprehensive Plan, Zoning Ordinance, Sign Ordinance, Subdivision Ordinance, City Charter, or any other applicable local, county, state or federal laws regulating the use of property in the Urban Renewal Area.

**Zoning Classifications in the Renewal Area**

Zoning in the renewal area is shown in the boundary map attached as Exhibit 1 of this plan. Zoning classifications in the area are:

<b>ZONING DISTRICT</b>	<b>DESCRIPTION</b>
C1 Central Commercial	The CI Central Commercial district allows for a broad range of uses in keeping with Molalla's historic commercial area and central business districts. Development in the CI district is intended to be characterized by high building coverage and close placement of buildings. Development is also to be pedestrian-oriented with a strong emphasis on a pleasant streetscape.
C2 General Commercial	The C2 district is intended to provide for those types of retail, wholesale, transportation, and service uses which because of traffic, size and other requirements depend upon particular

locations to serve the needs of the community and its trading area. Thus, the zone allows a full range of retail and service businesses with a local or regional market, and is to be characterized by attractive development, an open and pleasant street appearance, and compatibility with adjacent residential areas. Development is expected to be generally auto-oriented, and intended to be aesthetically pleasing for motorists, pedestrians, and the businesses themselves.

M1 Light Industrial

Light Industrial areas are designated for non-polluting industries, which are generally compatible with residential and commercial activities. In the M1, Light Industrial district, attention is given to the protection of surrounding areas from off-site impacts.

M2 Heavy Industrial

This M2 District is designated for uses that have a strong industrial orientation. Specific regulations protect the health, safety and welfare of the public, address the character of the area and provide certainty to property owners, developers and neighbors about the limits of what is allowed.

R1 Residential

The R1 District is primarily intended for single-family detached dwellings and manufactured homes on lots consisting of not less than six thousand, three hundred (6,300) square feet.

R2 Residential

The R2 District is primarily intended for single-family detached dwellings on lots of not less than six thousand, three hundred (6,300) square feet or duplex/two-family dwellings on lots of not less than seven thousand, five hundred (7,500) square feet.

R3 Residential

The R3 District is primarily intended for duplex and multi-family dwelling structures on lots consisting of seven thousand, five hundred (7,500) square feet but also allows for single-family detached structures on lots consisting of six thousand, three hundred (6,300) square feet.

Public/Semi-public

The purpose and function of this district is for the siting of public or semi-public facilities. The regulations in this chapter are to ensure that these facilities are properly located and that they are compatible with surrounding neighborhoods.

## **B. Plan and Design Review**

The Urban Renewal Agency shall be notified of any Comprehensive Plan/Zoning amendment application, building permit, conditional use or other development permits requested within the Area.

### **600. OUTLINE OF DEVELOPMENT**

The Urban Renewal project consists of activities and actions which treat the causes of blight and deterioration in the Molalla Urban Renewal Area. Project activities further are intended to implement the goals in Section 400 of this plan. Project activities to treat blighting conditions and to implement community and comprehensive plan goals include:

- Making improvements to streets, sidewalks, and crossings in the renewal area
- Making improvements to deficient water, sewer and storm drainage in the area
- Contributing to funding improvements to public facilities and in the renewal area
- Improving the physical appearance of the renewal area
- Improving parking availability in the renewal area.
- Providing incentives for the repair and rehabilitation of substandard structures in the project area.
- Providing incentives to new public and private building investments in the renewal area.
- Section 700 of this plan provides further description of each urban renewal project to be undertaken within the Urban Renewal Area.

### **700. DESCRIPTION OF PROJECTS TO BE UNDERTAKEN**

To achieve the objectives of this Urban Renewal Plan, the following activities will be undertaken by the Urban Renewal Agency in accordance with applicable federal, state, county, and county laws, policies, and procedures, and will be coordinated with the Downtown Master Plan. Renewal Agency may fund these activities in full, in part, or it may seek other sources of funding for them. The Renewal Agency may prepare a Design Plan which will better define project locations. **The listing of projects is not an order of priority.** Priorities will be decided as funds become available, and opportunities arise.

#### **1. PUBLIC IMPROVEMENTS**

**Definition** - Public improvements include the construction, repair, or replacement of curbs, sidewalks, streets, parking, parks and open spaces, pedestrian and bicycle amenities, water, sanitary sewer and storm sewer facilities, utilities, and other public facilities necessary to carry out the goals and objectives of this Plan.

##### **A. Public Parks and Open Spaces**

The Renewal Agency may participate in funding the design, acquisition, construction or rehabilitation of public spaces, parks or public recreation facilities within the Urban Renewal Area. Projects that may be undertaken include:

- Develop a pedestrian/bicycle trail along abandoned railroad line.

### **B. Street, Curb, and Sidewalk Improvements**

The Renewal Agency may participate in funding sidewalk and roadway improvements including design, redesign, construction, resurfacing, repair and acquisition of right-of way for curbs, streets, and sidewalks. Street, curb, and sidewalk improvements may include:

- Make streetscape improvements identified in the Downtown Master Plan.
- Install, and repair deficiencies in sidewalks in downtown Molalla.
- Install crosswalks and curb extensions in downtown Molalla.
- Participate in widening of Oregon Highways 211 and 213.
- Commercial Parkway extension to South Road and OR Highway 213.
- Molalla Forest Road improvements, including
  - ❖ Improve Molalla Forest Road from Mathias to OR Highway 213.
  - ❖ Improve Mathias Road/Main Street Connection.
  - ❖ Widen Mathias Road.

### **C. Public Utilities**

The Renewal Agency is authorized to participate in funding improvements to water, storm, and sanitary sewer facilities in the area. Utility improvements that may include:

- Place utilities underground throughout project area as funds permit.
- Provide water, sewer, and storm services as necessary to treat blighting conditions in renewal area, and to meet future development needs in renewal area.

### **D. Streetscape and Neighborhood Beautification Projects**

The Renewal Agency is authorized to participate in activities improving the visual appearance of the project area. These improvements may include street furniture, special lighting fixtures, landscaping, street trees, irrigation, decorative pavers, signs, and other fixtures and improvements. Areas for streetscape improvements include:

- Streetscape improvements along Highway 211.
- Streetscape improvements in downtown Molalla.

### **E. Public Safety Improvements**

The Renewal Agency may participate in funding improvements needed for public safety purposes. Public safety improvements may include:

- Participate in funding traffic signals and signage at
  - ❖ OR Highway 211 and Thelander.
  - ❖ The intersection of Main and Molalla.
  - ❖ OR211 and Ridings.

## **F. Public Buildings and Facilities**

The Renewal Agency may participate in development of public facilities in the Renewal Area. The extent of the Renewal Agency's participation in funding public facilities will be based upon a Renewal Agency finding on the proportional benefit of that project to the Urban Renewal Area, and the importance of the project in carrying out Plan objectives.

Potential public facilities to be funded may include:

- Assist in improvements to fire station and public safety training facility
- Develop new public parking facilities.
- Assist in improvements to, or construction of public facilities, including city hall, and a conference/community center.

## **2. PRESERVATION AND REHABILITATION**

This activity will help improve the condition and appearance of buildings in the project area, and encourage infill and reuse in the Urban Renewal Area. The Renewal Agency may participate, through loans, grants, or both, in maintaining and improving exterior and interior conditions of public and private buildings or properties within the Urban Renewal Area.

## **3. DEVELOPMENT AND REDEVELOPMENT**

The Renewal Agency also is authorized to provide loans or other forms of financial assistance to parties wishing to develop or redevelop land or buildings within the Urban Renewal Area. The Agency may make this assistance available as it deems necessary to achieve the objectives of this Plan. Examples of such assistance include, but are not limited to:

- Grants, and below market interest rate loans.
- Write down of land acquisition costs.
- Provision of public parking to assist development.
- Assistance in providing utilities and other infrastructure.
- Technical assistance, including architectural assistance, and zoning change work.
- Transfer of assembled sites at fair reuse value.

## **4. PROPERTY ACQUISITION AND DISPOSITION**

In order to carry out the objectives of this Plan, the Renewal Agency is authorized to acquire land or buildings for public and private development purposes. The procedures for acquiring and disposing of property are described in Sections 800 of this Plan.

## **5. PLAN ADMINISTRATION**

Tax increment funds may be utilized to pay indebtedness associated with preparation of this Plan, to carry out design plans, miscellaneous land use and public facility studies, engineering, market, and other technical studies as may be needed during the course of the

Plan. Project funds also may be used to pay for personnel and other administrative costs incurred in management of the Plan.

## **800. PROPERTY ACQUISITION AND DISPOSITION PROCEDURES**

The Renewal Agency is authorized to acquire property within the Area, if necessary, by any legal means to achieve the objectives of this Plan. Property acquisition is hereby made a part of this Plan and may be used to achieve the objectives of this Plan. The use of eminent domain is allowed for all public purposes of this plan. However, private property within the Renewal District shall not be taken by eminent domain for the purpose of conveying ownership interest in all or part of the property to a private party for economic development by or the commercial benefit of the private party. All authorized uses of eminent domain will require approval by the City Council. All acquisitions of property will require an amendment to the plan as set forth in Section 1100.

### **A. Acquisition requiring City Council approval.**

Acquisitions described in Section 800 A1, and A2 of this plan will require an amendment as set forth in Section 1100C4. City Council ratification is required for Renewal Agency acquisitions for the following purposes:

1. Acquisition of land for development by the public or private sector.
2. Acquisition for any purpose that requires the use of the Agency's powers of eminent domain.

### **B. Acquisition not requiring City Council approval.**

Land acquisition not requiring City Council ratification requires a minor amendment to this Plan as set forth in Section 1100C5. The minor amendment to the Renewal Plan may be adopted by the Renewal Agency by Resolution. The Agency may acquire land without Council ratification where the following conditions exist:

Where it is determined that the property can be acquired without condemnation and is needed to provide public improvements and facilities as follows:

1. Right-of-way acquisition for streets, alleys or pedestrian ways.
2. Right of way and easement acquisition for water, sewer, and other utilities.
3. Where the owner of real property within the boundaries of the Area wishes to convey title of such property by any means, including by gift.

### **C. Properties to be acquired**

At the time this Plan is prepared, no properties are identified for acquisition. If plan amendments to acquire property are approved, a map exhibit shall be prepared showing the properties to be acquired and the property will be added to the list of properties to be

acquired. The list of properties acquired will be shown in this section of the Plan. The map exhibit shall be appropriately numbered and shall be included in Part Two as an official part of this Urban Renewal Plan.

#### **D. Property Disposition Policies and Procedures**

The Renewal Agency is authorized to sell, lease, exchange, subdivide, transfer, assign, pledge, encumber by mortgage or deed of trust, or otherwise dispose of any interest in real property which has been acquired, in accordance with the provisions of this Plan.

All real property acquired by the Renewal Agency for redevelopment in the Urban Renewal Area shall be disposed of for development for the uses permitted in the Plan at its fair re-use value. All persons and entities obtaining property from the Renewal Agency shall use the property for the purposes designated in this Plan, and shall commence and complete development of the property within a period of time which the Renewal Agency fixes as reasonable, and shall comply with other conditions which the Renewal Agency deems necessary to carry out the purposes of this Plan.

To provide adequate safeguards to insure that the provisions of this Plan will be carried out to prevent the recurrence of blight, all real property disposed of by the Renewal Agency, as well as all other real property the development of which is assisted financially by the Renewal Agency, shall be made subject to this Plan. Leases, deeds, contracts, agreements, and declarations of restrictions by the Renewal Agency may contain restrictions, covenants, and conditions running with the land, rights of reverter, conditions subsequent, equitable servitudes, or any other provisions necessary to carry out this Plan.

No property acquisition is under consideration at the time this plan is adopted, therefore no specific disposition schedule is included. It is anticipated that any property acquired by the renewal agency will be disposed of within five years of its acquisition.

#### **900. REDEVELOPER'S OBLIGATIONS**

A Redeveloper is any individual or group acquiring property from the Urban Renewal Agency or receiving financial assistance for the physical improvement of privately or publicly held structures and land. Redevelopers within the Urban Renewal Area will be subject to controls and obligations imposed by the provisions of this Plan. Redevelopers also will be obligated by the following requirements:

1. The Redeveloper shall develop or redevelop property in accordance with the land-use provisions and other requirements specified in this Plan.
2. The Renewal Agency may require the redeveloper to execute a development agreement acceptable to the Renewal Agency as a condition of any form of assistance by the Renewal Agency. The Redeveloper shall accept all conditions and agreements as may be required by the Renewal Agency.
3. The Renewal Agency may require the Redeveloper to submit plans and specifications for the property as a condition of Renewal Agency assistance. The

Redeveloper shall submit all plans and specifications for construction of improvements on the land to the Renewal Agency or its designated agent, for review and approval prior to distribution of these plans to any additional zoning, planning, or design review bodies required by the City.

4. The Redeveloper shall commence and complete the development of such property for the use provided in this Plan within a reasonable period of time as determined by the Agency.
5. The Redeveloper shall not effect any instrument whereby the sale, lease, or occupancy of the real property, or any part thereof, is restricted upon the basis of age, race, color, religion, sex, marital status, or national origin.

### **1000. RELOCATION**

The Renewal Agency will provide relocation assistance to all persons or businesses displaced by project activities. Those displaced will be given assistance in finding replacement facilities. All persons or businesses which may be displaced will be contacted to determine such relocation needs. They will be provided information on available space and will be given assistance in moving. All relocation activities will be undertaken and payments made, in accordance with the requirements of Chapter 35 of the Oregon Revised Statutes, and any other applicable laws or regulations. The Renewal Agency may contract with Oregon Department of Transportation (ODOT), or other appropriate agencies or parties for assistance in administering its relocation program.

### **1100. PLAN AMENDMENTS**

It is anticipated that this renewal plan will be reviewed periodically during the execution of the Project. The plan may be changed, modified, or amended as future conditions warrant. Types of plan amendments are:

#### **A. Substantial Amendments per ORS Chapter 457**

1. Increasing the maximum amount of indebtedness that can be issued or incurred under the Plan.
2. Adding land to the urban renewal area that is in excess of one percent of the existing area of the Plan.

Substantial Amendments shall require the same notice, hearing and approval procedure required of the original Plan, including public involvement, consultation with taxing districts, presentation to the Planning Commission and adoption by the City Council by non-emergency ordinance after a hearing requiring “special notice” per ORS 457. 120.

#### **B. Other Amendments Requiring Approval by Ordinance of City Council**

The following types of amendments will require adoption by a non-emergency Ordinance of the City Council, and require consultation with taxing districts, and presentation to the



Planning Commission, but will not require the special notice prescribed in ORS 457.120.

1. The addition of improvements or activities which represent a substantial change in the purpose and objectives of this Plan, and which cost more than \$750,000. The \$750,000 amount will be adjusted annually from the year 2008 according to the “Engineering News Record” construction cost index for the Northwest area.

### **C. Minor Amendments.**

Minor amendments may be approved by the Renewal Agency in resolution form. Such amendments are defined as:

1. Amendments to clarify language, add graphic exhibits, make minor modifications in the scope or location of improvements authorized by this Plan, or other such modifications which do not change the basic planning or engineering principles of the Plan.
2. Addition of a project substantially different from those identified in Sections 700 of the Plan or substantial modification of a project identified in Section 700 if the addition or modification of the project costs less than \$750,000. The \$750,000 amount will be adjusted annually from the year 2008 according to the “Engineering News Record” construction cost index for the Northwest area.
2. Increases in the Urban Renewal Area boundary that are less than one percent of the existing area of the Plan.
3. Acquisition of property for purposes specified in Section 800A1 and 800A2 of this Plan. **Note – Minor amendments to the plan to acquire properties specified in Sections 800A1 and A2 must be ratified by the City Council.** The City Council approval may be in the form of a resolution.
4. Acquisition of properties for purposes specified in Section 800B of this plan. These acquisitions do not require approval by the City Council.

### **1200. MAXIMUM INDEBTEDNESS**

The maximum indebtedness authorized under this plan is Twenty-Six million, one hundred and seventy-five thousand dollars (\$26,175,000). This amount is the principal of indebtedness, and does not include interest on indebtedness.

### **1300. FINANCING METHODS**

#### **A. General**

The Urban Renewal Agency may borrow money and accept advances, loans, grants and other forms of financial assistance from the federal government, the state, city, county or other public body, or from any sources, public or private for the purposes of undertaking and carrying out this Plan. In addition, the Agency may borrow money from, or lend money to a public agency in conjunction with a joint undertaking of a project authorized by this Plan. If such funds are loaned, the Agency may promulgate rules and procedures for the methods and conditions of payment of such loans. The funds obtained by the Agency

shall be used to pay or repay any costs, expenses, advances and indebtedness incurred in planning or undertaking project activities or in otherwise exercising any of the powers granted by ORS Chapter 457.

## **B. Tax Increment Financing**

This urban renewal plan will be financed in whole, or in part, by tax increment revenues. The ad valorem taxes levied by all taxing districts in which all or a portion of the Molalla is located shall be divided as provided in section 1c, Article IX of the Oregon Constitution and ORS 457.420 to 457.460.

## **C. Prior Indebtedness**

Any indebtedness permitted by law and incurred by the Urban Renewal Agency or the City in connection with preplanning for this Urban renewal plan shall be repaid from tax increment proceeds generated pursuant to this section.

## **1400. DEFINITIONS**

The following definitions will govern the construction of this Plan unless the context otherwise requires:

**“Area”** means the area included within the boundaries of the Molalla Urban Renewal Area.

**“Bonded Indebtedness”** means any formally executed written agreement representing a promise by a unit of government to pay to another a specified sum of money, at a specified date or dates at least one year in the future.

**“County”** means Clackamas County, Oregon.

**“City Council”** means the City Council of City of Molalla, Oregon.

**“Comprehensive Plan”** means the City's Comprehensive Land Use Plan and its implementing Ordinances, policies and development standards.

**“Displaced”** person or business means any person or business who is required to relocate as a result of action by the Urban Renewal Agency to vacate a property for public use or purpose.

**“Disposition and Development Agreement”** means an agreement between the Urban Renewal Agency and a private developer which sets forth the terms and conditions under which will govern the disposition of land to a private developer.

**“Exhibit”** means an attachment, either narrative or map, to the Urban renewal plan for the Molalla Urban Renewal Area, Part Two - Exhibits.

**“ORS”** means Oregon Revised Statute (State Law) and specifically Chapter 457 thereof.

**“Plan”** means the Urban renewal plan for the Molalla Urban Renewal Area, Parts One and Two.

**“Planning Commission”** means the Planning Commission of the City of Molalla, Oregon.

**“Project, Activity or Project Activity”** means any undertaking or activity within the Renewal Area, such as a public improvement, street project or other activity which is authorized and for which implementing provisions are set forth in the Urban renewal plan.

**“Report”** refers to the report accompanying the urban renewal plan, as provided in ORS 457.085 (3)

**“Redeveloper”** means any individual or group acquiring property from the Urban Renewal Agency or receiving financial assistance for the physical improvement of privately or publicly held structures and land.

**“Rehabilitation Loans and Grants”** – Funds provided by the Renewal Agency to owners of existing properties within the urban renewal area for the purpose of rehabilitation, renovation, repair, or historic preservation of the property. Loan and grant policies and procedures will be developed by the Renewal Agency, to carry out the Rehabilitation and Conservation activities of this Plan

**“Redevelopment Assistance”** – Financial assistance provided by the Renewal Agency to private or public developers of property within the urban renewal area. This assistance is intended to make development within the renewal area financially feasible and competitive with other locations, and carry out the redevelopment through new construction activities of this Plan. Redevelopment Assistance may take the form of participation in financing public improvements such as parking, infrastructure, landscaping, and public places, providing technical information and assistance to potential redevelopers, re-sale of land at written down prices, and such other assistance as the Agency determines is within its authority, and necessary.

**“State”** means the State of Oregon.

**“Text”** means the Urban renewal plan for the Molalla Urban Renewal Area, Part One - Text.

**“Urban Renewal Agency”** means the Urban Renewal Agency of City of Molalla, Oregon.

**“Urban Renewal Area”, “Molalla Urban Renewal Area”, or “Renewal Area”** means the geographic area for which this Urban renewal plan has been approved. The boundary of the Renewal Area is described in Exhibits made a part of this plan.

**Molalla Urban Renewal Plan**

**City of Molalla, Oregon**

**Part Two: Exhibits**

EXHIBITS

Exhibit 1 .....Map of Plan Boundary and Zoning

ATTACHMENTS

Attachment A ..... Boundary Description

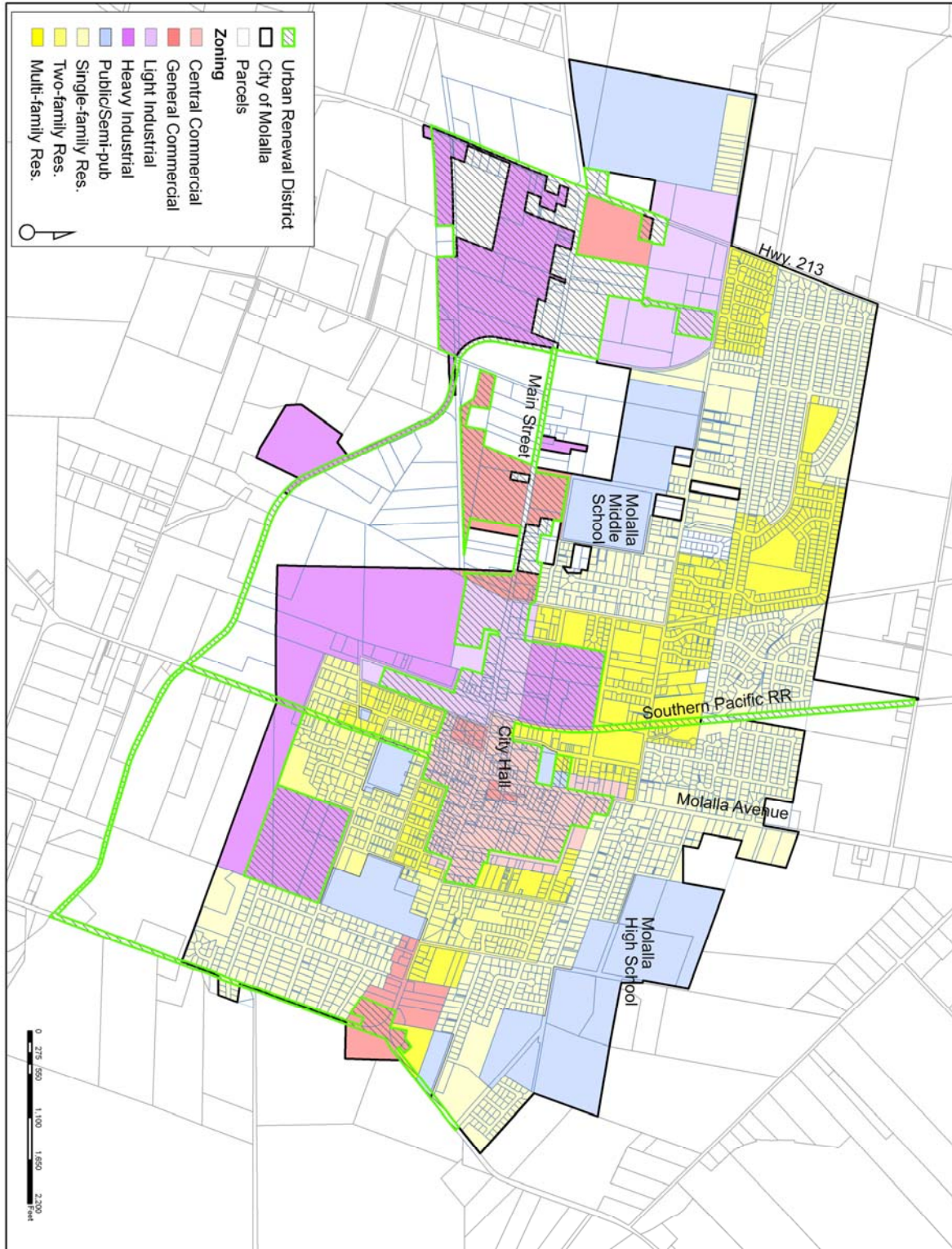


EXHIBIT 1 – BOUNDARY AND ZONING MAP OF MOLALLA URBAN RENEWAL AREA

**ATTACHMENT 1 – BOUNDARY DESCRIPTION**

July 14, 2008

**Legal Description**  
**2008 City of Molalla Urban Renewal District**  
 Clackamas County Assessor's Maps:

5 2E 16	5 2E 9CA	5 2E 8AA
5 2E 16AB	5 2E 9CB	5 2E 8A
5 2E 17A	5 2E 9CC	5 2E 8AC
5 2E 17AA	5 2E 9BC	5 2E 8B
5 2E 16AC	5 2E 5	5 2E 8C
5 2E 9D	5 2E 7A	5 2E 8DB
5 2E 9DC	5 2E 7AA	5 2E 8DD
5 2E 9DA	5 2E 7D	

An urban renewal district situated in the Northwest one-quarter of Township 5 South, Range 2 East, of the Willamette Meridian, in the County of Clackamas and State of Oregon, more particularly described as follows:

Beginning at the Southeast corner of Parcel 2, Partition Plat 1997-147, said Clackamas County Plat Records; thence North 10.13° East, a distance of 405.1 feet; thence North 70° West, a distance of 330 feet; thence North 10.14° East, a distance of 47 feet; thence North 80.01° West, a distance of 173.4 feet to a point along the West line of the Grange Ave. right-of-way, South 16.54° West, a distance of 604.8 feet from the Southwest Corner of Parcel 2, Partition Plat 2000-101, said Clackamas County Plat Records; thence North 10.08° East, a distance of 891.7 feet; thence North 69.76° West, a distance of 500 feet; thence North 10.16° East, a distance of 215.1 feet to a point at the Southeast corner of Parcel 2 of Partition Plat 2003-102, said Clackamas County Plat Records; thence North 70.03° West, a distance of 200 feet; thence North 10.14° East, a distance of 174.6 feet; thence North 70.04° West, a distance of 202.3 feet; thence North 77.18° West, a distance of 58.1 feet to a point along the West edge of the right-of-way of Molalla Ave.; thence South 10.10° West, a distance of 604.6 feet; thence North 79.95° West, a distance of 401.1 feet; thence South 9.82° West, a distance of 200.5 feet; thence South 80.06° East, a distance of 400 feet; thence South 10.13° West, a distance of 200 feet; thence North 80.08° West, a distance of 459 feet; thence South 21.90° West, a distance of 74.6 feet; thence South 9.70° West, a distance of 307 feet; thence South 83.27° West, a distance of 62.6 feet to a point along the West boundary of the Kennel Ave. right-of-way; map 5 2E 8AD missing; thence North 80.30° West, a distance of 180 feet to a point along the East line of the right-of-way of the Southern Pacific R.R. at the intersection of the East line of the Southern Pacific R.R. right-of-way and the South line of the Toliver Rd. right-of-way, North 83.07° East, a distance of 1173.5 feet from the Northeast Corner of Rachel Larkins D.L.C. No. 43, said Clackamas County Plat Records; thence 1699.4 feet North then Northwest following a line coinciding with the East line of the Southern Pacific R.R. right-of-way, South 79.49° East, a distance of 85.7 feet from the Northeast corner of Parcel 1, Partition Plat 1999-62, said Clackamas County Plat Records; thence North 4.90° West, a distance of 3448.2 feet; thence North 79.80° West, a distance of 74.5 feet; thence South 4.74° East, a distance of 4134.5 feet; thence North 80.29° West, a distance of 966.9 feet; thence South 10.11° West, a distance of 600 feet; thence South 80.29° East, a distance of 30 feet; thence South 10.15° West, a distance of 452.5 feet; thence North 81.17° West, a distance of 460.1 feet; thence North 34.43° West, a distance of 76.7 feet to point at the Southeast corner of Clark Estates 3934, said Clackamas County Plat Records; thence North 80.40° West, a distance of 505.1 feet; thence South 9.93° West, a distance of 69.5 feet; thence North 80.21° West, a distance of 350 feet; thence North 9.74° East, a distance of 123 feet along the East edge of the S. Leroy Avenue right-of-way; thence North 80.04° West, a distance of 215 feet; thence North 9.74° East, a distance of 97.5 feet; thence North 80.04° West, a distance of 560.1 feet; thence South 10.19° West, a distance of 424.5 feet; thence North 89.93° West, a distance of 58.9 feet; thence North 79.94° West, a distance of 1527.7 feet along the north right-of-way line of State Hwy 211; thence South 23.79° West, a distance of 56.5 feet; thence South 79.70° East, a distance of 1518.5 feet along the South right-of-way line of State Hwy



211; thence South 22.10° West, a distance of 669 feet; thence North 80.01° West, a distance of 200 feet; thence South 10.16° West, a distance of 266 feet; thence North 76.33° West, a distance of 263.9 feet; thence North 8.72° East, a distance of 249.1 feet; thence north 80.01° West, a distance of 437 feet; thence South 22.10° West, a distance of 209 feet; thence South 77.47° East, a distance of 380.5 feet; thence South 34.05° East, a distance of 211 feet; thence North 88.62° East, a distance of 1891.7 feet; thence North 80.01° West, a distance of 484.1 feet; thence North 10.05° East, a distance of 655.6 feet; thence South 80.06° East, a distance of 616.5 feet along the South right-of-way line of Hwy 211;

thence South 0.73° East, a distance of 590.8 feet; thence South 89.78° East, a distance of 40.2 feet; thence South 79.96° East, a distance of 857.1 feet along the South line of Parcel 1, Partition Plat 2000-62, said Clackamas County Plat Records; thence North 10.12° East, a distance of 336.1 feet; thence North 79.88° West, a distance of 253.3 feet; thence North 10.71° East, a distance of 172.5 feet; thence South 81.44° East, a distance of 18.7 feet; thence North 10.56° East, a distance of 23.9 feet; thence South 83.57° East, a distance of 28.4 feet; thence South 10.99° West, a distance of 125.3 feet; thence South 79.90° East, a distance of 535.6 feet; thence South 17.97° West, a distance of 258.8; thence South 70.35° East, a distance of 335 feet to a point along the east line of the S. Shaver Avenue right-of-way; thence South 20.19° West, a distance of 934.7 feet along the east line of the S. Shaver Avenue right-of-way; thence South 70.29° East, a distance of 240 feet; thence North 20.20° East, a distance of 930.2 feet; thence South 69.71° East, a distance of 367.6 feet; thence South 20.46° West, a distance of 64.5 feet; thence South 79.54° East, a distance of 240 feet; thence South 20.37° West, a distance of 3269.8 feet, to a point at the intersection of the West line of the Molalla Ave. right-of-way and the North line of the Molalla Forest Rd. right-of-way; thence Northeast coinciding with the north line of the Molalla Forest Rd. right-of-way, a distance of approximately 6850 feet to a point at the intersection of the East line of the Molalla Forest Rd. right-of-way and the South line of the State Hwy 211 right-of-way; thence North 78.65° West, a distance of 60.7 feet;

thence North 24.75° East, a distance of 56.9 feet; thence North 10.17° East, a distance of 281.8 feet; thence North 15.11° East, a distance of 250.9 feet; thence North 80.01° West, a distance of 835.5 feet to a point at the Northwest corner of Parcel 3, Partition Plat 1993-141, said Clackamas County Plat Records; thence North 10.09° East, a distance of 436.5 feet; thence South 80.30° East, a distance of 30 feet; thence North along the East line of the Industrial Way right-of-way, a distance of approximately 509 feet to a point South 49.98° East, a distance of 67.6 feet from the Southeast corner of Parcel 4, Partition Plat 2000-05, said Clackamas County Plat Records; thence South 80.17° East, a distance of 309.6 feet; thence North 10.11° East, a distance of 470.9 feet to a point along the South line of the Toliver Rd. right-of-way; thence North 80.39° West, a distance of 368 feet; thence South along the West line of the Industrial Way right-of-way to a point South 10.13° West, a distance of approximately 977 feet, to a point a distance of 522 feet from the Southeast corner of Parcel 4, Partition Plat 2000-05, said Clackamas County Plat Records; thence North 80.60° West, a distance of 409.2 feet; thence South 10.21° West, a distance of 933 feet to a point along the North line of the State Hwy 211 right-of-way; thence North 79.82° West, a distance of 733.1 feet; thence North 42.56° West, a distance of 62.7 feet to a point along the East line of the State Hwy 213 right-of-way; thence North 20.35° East, a distance of 717.8 feet; thence South 80.34° East, a distance of 320.7 feet; thence North 9.66° East, a distance of 182.5 feet; thence South 80.34° East, a distance of 17.8 Feet; thence North 10.05° East a distance of 150 feet; thence North 80.66° West, a distance of 337.9 feet; thence South 20.61° West, a distance of 843.6 feet; thence North 84.32° West, a distance of 304.7 feet; thence South 9.75° West, a distance of 341.3 feet;

thence North 81.26° East, a distance of 272.7 feet; thence South 21.98° West along the West line of the State Hwy 213 right-of way, a distance of 2163.7 feet; thence North 85.31° East, a distance of 524.9 feet; thence North 87.34° East, a distance of 150.8 feet; thence North 88.61° East, a distance of 613.4 feet; thence North 0.89° East, a distance of 231 feet; thence North 88.89° East, a distance of 404.5 feet; thence South 1.36° East a distance of 220 feet; thence 89.19° East, a distance of 1179.3 feet to a point along the East line of the Ona Way right-of-way; thence North 22.14° East, a distance of 236.8 feet to a point at the intersection of the South line of the Molalla Forest Rd. right-of-way and the West line of the Ona Way right-of-way, South 22.14° East, a distance of 236.805 feet from the Northwest corner of D.L.C No.43, said Clackamas County Plat Records; thence coinciding with the South line of the Molalla Forest Rd. right-of-way

Southeast, a distance of approximately 5707 feet to a point at the intersection of the South line of the Molalla Forest Rd. right-of-way and the East line of the Molalla Ave. right-of-way, North 20.01° East, a distance of 1727.77 feet from the Southeast corner of the John Larkins CL., said Clackamas County Plat Records; thence continuing along the South line of the Molalla Forest Rd. right-of-way Southeast, a distance of approximately 3676.7 feet to a point at the intersection of the South line of the Molalla Forest Rd. right-of-way and the East line of the Mathias Rd. right-of-way, North 14.72° East, a distance of 1316.6 feet from the Southwest Corner of D.L.C No. 39, said Clackamas County Plat Records; thence North 20.12° East, a distance of 4597.8 feet coinciding with the East line of the Mathias Rd. right-of-way to a point North 68.51° East, a distance of 75.453 feet from the Northeast Corner of the W.M. Engle D.L.C. No. 44, said Clackamas County Plat Records;

thence continuing Northeast along the South line of the State Hwy 213 right-of-way, a distance of approximately 1468.1 feet to a point South 76.96° West, a distance of 448.7 feet of the Northwest Corner of D.L.C No. 53, said Clackamas County Plat Records; thence North 47.45° West, a distance of 60.3 feet to a point along the East line of the State Hwy 213 right-of-way; thence South 51.66° West, a distance of 1273.3 feet to a point South 38.32° East, a distance of 39.1 feet from the Southeast Corner of Parcel 2, Partition Plat 1995-31, said Clackamas County Plat Records; thence North 38.32° West, a distance of 39.1 feet to a point at the Southeast Corner of Parcel 2, Partition Plat 1995-31, said Clackamas County Plat Records; thence North 51.71° East, a distance of 98.6 feet to a point at the Northeast Corner of Parcel 2, Partition Plat 1995-31, said Clackamas County Plat Records; thence North 40.50° West, a distance of 120 feet to a point at the Northwest Corner of Parcel 2, Partition Plat 1995-31, said Clackamas County Plat Records; thence South 51.72° West, a distance of 131.3 feet to a point at the Southwest Corner of Parcel 2, Partition Plat 1995-31, said Clackamas County Plat Records; thence North 78.35° West, a distance of 101.2 feet; thence South 8.32° West, a distance of 220 feet; thence North 70.35° West, a distance of 221.3 feet to a point along the North line of the State Hwy 211 right-of-way North 69.86° West, a distance of 143.2 feet from the Southeast Corner of Parcel 1, Partition Plat 2000-01, said Clackamas County Plat Records; thence South 23.67° West, a distance of 484.2 feet to a point at the Southeast Corner of Parcel 2, Partition Plat 1995-146; thence South 56.36° East, a distance of 257 feet; thence North 20.12° East, a distance of 177 feet; thence South 69.90° East, a distance of 105 feet to a point along the West line of the Co. Rd. No. 925 right-of-way; thence South 21.25° West, a distance of 4129.6 feet to a point at the intersection of the West line of the Mathias Rd. right-of-way and the North line of the Molalla Forest Rd. right-of-way North 12.63° East, a distance of 1416.8 feet from the Southwest Corner of D.L.C. No. 39, said Clackamas County Plat Records; thence Northwest along a line coinciding with the North line of the Molalla Forest Rd. right-of-way, a distance of approximately 3626.6 feet to a point at the intersection of the North line of the Molalla Forest Rd. right-of-way and the East line of the Molalla Ave. right-of-way North 48.45° West, a distance of 627.8 feet from the Northwest corner of Parcel 1, Partition Plat 1194-116, said Clackamas County Plat Records; thence North 20.21° East along the East line of the Molalla Ave. right-of-way, a distance of 1612.8 feet;

thence South 69.94° East, a distance of 2231.1 feet; thence North 20.78° East, a distance of 995.5 feet; thence North 70.77° West, a distance of 1256.5 feet; thence South 20.52° West, a distance of 975.4 feet; thence North 69.81° West, a distance of 987.3 feet to a point along the East line of the Molalla Ave. right-of-way; thence North 20.42° East 1711.2 feet to a point at the intersection of the East line of the Molalla Ave. right-of-way and the North line of the 3<sup>rd</sup> St. right-of-way South 17.71° West, a distance of 680.1 feet from the Northwest Corner of Wm. Engle D.L.C. No. 44, said Clackamas County Plat Records; thence South 70.04° East, a distance of 254.5 feet; thence North 20.46° East, a distance of 350 feet; thence South 70.04° East, a distance of 851.5 feet; thence North 19.87° East, a distance of 359.6 feet to a point along the North line of the State Hwy 211 right-of-way, North 70.02° West, a distance of 200 feet from the Southwest Corner of Parcel 2, Partition Plat 1997-147, said Clackamas County Plat Records; thence South 70.02° East, a distance of 296.6 feet to the point of Beginning.

Said urban renewal district containing 363.95 acres, more or less. Subject to easements of record.



Exhibit B

**Report**

**On**

**The Molalla Urban Renewal Plan**

**Prepared for:  
The Molalla City Council**

**July, 2008**

## **REPORT ON THE MOLALLA URBAN RENEWAL PLAN**

### **MOLALLA URBAN RENEWAL PLAN**

#### **ACKNOWLEDGEMENTS**

The Molalla City Council appointed a citizen advisory body to direct the public involvement and management efforts for preparation of this renewal plan. Members of the advisory committee and City of Molalla staff gave generously of their time in providing direction and assistance on all key issues involved in preparing the plan.

#### **Members of the Advisory Committee**

<b>Name</b>		<b>Affiliation</b>
Bill	Avison	Avison Rock
Gary	Deardorff	Doubletrees Land & Timber
Todd	Gary	Molalla Fire Dist. No. 73
Jamie	Johnk	Clackamas County
Wayne	Kostur	Molalla River School District
Steve	Loutzenhiser	Molalla Communications
Mitch	Magenheimer	Edward Jones
Steve	Morris	Chamber of Commerce
Gary	Musgrove	Prudential Northwest Properties
Linda	Ohta	Inkbrary
Jim	Needham	City Council
Shane	Potter	City of Molalla
Beth	Smith	PGE
Pattie	Smith	Mill Barn
Ed	Stafford	Windermere Realty
Jim	Taylor	Champion Raceway
Kristine	Wheeler	Citizen

#### **Staff Assistance**

John Atkins, City Manager  
Shane Potter, Planning Director  
Zach Pelz, Assistant Planner

#### **Urban Renewal Consultants**

Charles Kupper, Spencer & Kupper

**REPORT ON THE MOLALLA URBAN RENEWAL PLAN**

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## **REPORT ON THE MOLALLA URBAN RENEWAL PLAN**

### **Public Involvement in the Report on the Plan.**

Work on a renewal plan and report started in April, 2008. Four public meetings were held during the preparation of the renewal plan. Each meeting was built around discussion and public input on key elements of the urban renewal plan. Meeting topics included basic information on urban renewal and tax increment financing, development of project goals and objectives, development of a list of project activities, and a thorough review of the revenues, costs, and tax impacts of carrying out the project.

The City of Molalla Planning Commission met to review the Plan on July 29, 2008. The City Council held a public hearing and approved an ordinance adopting this Plan on Aug. 13, 2008. Additional notice for the City Council' hearing on adoption of the Plan was provided, as required by ORS 457.120.

## **100. DESCRIPTION OF THE PHYSICAL, SOCIAL AND ECONOMIC CONDITIONS IN THE RENEWAL AREA**

### **Definition of Blighting Conditions**

ORS 457.010 defines "blight" as follows: (underlining is added for emphasis)

"Blighted areas mean areas which, by reason of deterioration, faulty planning, inadequate or improper facilities, deleterious land use or the existence of unsafe structures, or any combination of these factors, are detrimental to the safety, health or welfare of the community. A blighted area is characterized by the existence of one or more of the following conditions:

"The existence of buildings and structures, used or intended to be used for living, commercial, industrial or other purposes, or any combination of those uses, which are unfit or unsafe to occupy for those purposes because of any one or a combination of the following conditions:

"Defective design and quality of physical construction;

"Faulty interior arrangement and exterior spacing;

"Overcrowding and a high density of population;

"Inadequate provision for ventilation, light, sanitation, open spaces and recreation facilities; or

"Obsolescence, deterioration, dilapidation, mixed character or shifting of uses."

"An economic dislocation, deterioration or disuse of property resulting from faulty planning;



“The division or subdivision and sale of property or lots of irregular form and shape and inadequate size or dimensions for property usefulness and development;

“The laying out of property or lots in disregard of contours, drainage and other physical characteristics of the terrain and surrounding conditions;

“The existence of inadequate streets and other rights-of-way, open spaces and utilities;

“The existence of property or lots or other areas which are subject to inundation by water;

“A prevalence of depreciated values, impaired investments and social and economic maladjustments to such an extent that the capacity to pay taxes is reduced and tax receipts are inadequate for the cost of public services rendered;

“A growing or total lack of proper utilization of areas, resulting in a stagnant and unproductive condition of land potentially useful and valuable for contributing to the public health, safety, and welfare; or

“A loss of population and reduction of proper utilization of the area, resulting in its further deterioration and added costs to the taxpayer for the creation of new public facilities and services elsewhere.”

Note that it is not necessary for each of the cited conditions to be present in the renewal area, or that these conditions be prevalent in each and every sector of the urban renewal area.

## **100A. PHYSICAL CONDITIONS**

### ***1. Land Area and Conformance with 25 % limit on acreage***

Oregon urban renewal law limits the total acreage in urban renewal areas to 25% of the total acreage within a city. City staff advises that Molalla contains approximately 1,474 acres within its City limits. This would allow the City of Molalla to have approximately 368.5 acres in renewal areas. Staff estimates the total acreage in the boundary at 364 acres. The acreage in the proposed renewal area represents 24.7% of the total acreage in Molalla.

### ***2. Existing Land Use and Development***

The Molalla Urban Renewal area encompasses the downtown commercial district of Molalla, and some adjacent areas. Assessor’s data shows that of a total of 313 tax accounts in the renewal area, 153 are commercial, 111 are single family residential, and 38 are industrial, with 10 accounts miscellaneous or tax exempt.

### **3. Blighting Conditions in Renewal Area**

**A. Depreciated values and reduced utilization of the area:** Clackamas County assessor records indicate there are 316 real property accounts in the renewal study area. Of those accounts, 65 show no building value at all. This unutilized land represents approximately 20% of property within the study area. That is a significant percentage of taxable property that currently is producing little property tax for taxing bodies. 60% of the property in the area has real market building values less than \$100,000. The overall taxable value in the area is quite low, considering that the area includes the downtown commercial core of Molalla.

Another measure of the utilization and productivity of land is the ratio of building value to land value. For example, the ratio for a property with a building value of \$100,000, and a land value of \$50,000 would be 2 to 1. High building to land value ratios therefore indicate good utilization of land, while low ratios usually indicate the land is not producing adequate taxable values for the community. The overall ratio of building to land in the proposed study area boundary is just 1.2 to 1. 170 of the property accounts show ratios of 1 to 1 or less. Only 60 accounts show ratios of 2 to 1 or better. In all, the low improvement ratios indicate the proposed renewal area is currently under-utilized.

A preponderance of low value property can lead to service problems for the City and other service providers in Molalla. The low level of property values and lack of proper utilization of the area for tax producing purposes meets the ORS definition of blight.

**B. Obsolete and Deteriorated Buildings:** A windshield survey of exterior building conditions shows the overall condition of property as fair to good. There are some properties that could benefit from exterior maintenance and repair. Renewal programs typically allocate fund for this purpose.

#### **C. Infrastructure Deficiencies:**

Molalla's public works director and city manager surveyed the project area with the consultant in November, 2007, and provided the following list of infrastructure deficiencies in the project area:

##### ***Deficiencies in Streets, Curbs, and Sidewalks***

- Ross Street is failed, curb and sidewalk missing.
- Kennel Street between Main and Toliver is failed.
- Heintz Street is failed. This collector street also is discontinuous for two blocks, has curb and sidewalk missing.
- Grange Avenue between Main and Heintz is failed, has curb and sidewalk missing.

- All streets in downtown core area are at, or nearing failure.

***Deficiencies in Water, Sanitary and Storm Sewer Service***

- Ross Street: storm sewer inadequate or missing.
- Kennel Street: storm and sanitary inadequate or leaking, replace or reline.
- Heintz Street: portions lack storm or sanitary sewer.
- Grange Avenue: Storm and sanitary sewer inadequate, need replacement or relining.
- East Main Street: Sewer needs replacement or relining.
- Most streets in downtown core need storm and sewer upgrades or repairs
- Hwy 211: Portions lack curb and sidewalk, portions have open drainage ditches for storm, portions lack sanitary sewer.

***Other***

- The layout of streets in Molalla results in numerous offset intersections, which can be both confusing and hazardous to motorists.

***7. Conformance with 25% limit on Assessed Values Land and Building values***

It is assumed the adoption date of the renewal plan will establish January 1, 2007 as the frozen base date for the plan. The assessed value of real, personal and utility property in the renewal area is estimated at \$40,576,676 for the 2007-08 tax year. The total assessed valuation of the City of Molalla for that year is \$384,173,177. The assessed value within the renewal area represents 10.56 % of the total assessed value of property within Molalla. Total assessed value within the renewal area therefore will be well within the maximum 25% of total valuation allowed by urban renewal law.

**100B. SOCIAL AND ECONOMIC CONDITIONS**

No current census data is available for the residential population of the renewal plan area. Economic conditions, as measured by overall property values, and new investment are reflected in the data in section 100 A.6. above.

**200. ANTICIPATED FISCAL, SERVICE AND POPULATION IMPACTS OF PLAN**

Urban renewal plan activities are intended to assist in attracting new investment and increases in property values and taxes for taxing bodies in Molalla. Renewal activities to improve infrastructure, streets, curbs, sidewalks, parking, public safety, public buildings, and making streetscape improvements, and providing funds for building rehabilitation will make the renewal area more attractive and accessible to the general public.

The public and private investments made in the renewal area are likely to encourage new investment in areas adjacent to the renewal area. There are other positive effects of a renewal program that are quality of life issues. Retaining Molalla's small town atmosphere, maintaining the downtown core as the heart of the city, and improving housing, employment and shopping opportunities; all reflect Molalla's community values.

All the above elements of the Plan are expected to result in positive fiscal and service impacts for residents of Molalla. The Plan is not expected to result in a need for any additional police, fire, or other emergency services beyond those already contemplated by the City and other service providers.

The expenditure of tax increment funds is expected to produce increased property values for Molalla. The renewal project is estimated to be completed by 2029. During that period, assessed property values in the renewal area are expected to increase by approximately \$184.4 million. At tax rates expected to prevail at the termination of this plan, the new property values anticipated in the renewal area will contribute approximately \$2.72 million in property tax revenues to all taxing bodies in the first year after tax increment collection is ended.

### **300. REASONS FOR SELECTING THE URBAN RENEWAL AREA**

The Urban Renewal Plan Area was selected based on the existence of blighting conditions within the area, goals developed in the Planning process, and taken from other relevant City studies and documents, including Molalla' Comprehensive Plan. The project area evidences the following characteristics of blight:

- Deficient utilities in the renewal area.
- Deficient streets, curbs and sidewalks in the renewal area.
- Buildings in need of repair and rehabilitation.
- Safety issues arising from offset intersections in the area.
- A lack of proper utilization of land planned for tax producing purposes.
- Low property values in the project area, resulting in reduced tax receipts.

This Report on the Plan concludes that conditions exist within the Renewal area that meet the definitions of blight in ORS457.010. Treating these conditions is the reason for selecting this renewal area



#### **400. RELATIONSHIP BETWEEN EACH PROJECT ACTIVITY AND EXISTING CONDITIONS IN THE PROJECT AREA**

All project activities described in Section 700 of the Plan are intended to correct the deficiencies described in Section 100 of this Report and summarized in Section 300 of this Report.

1. Improvements to streets serving undeveloped industrial and commercial land will help those lands to develop, and provide property taxes and employment.
2. Assistance for rehabilitation and new development will attract new investment to the area, and improve the building conditions and blighted appearance of the area.
3. Curb, street, and sidewalk improvements will provide better public safety in the area.
4. Signalization and signage improvements will also benefit public safety in the area
5. Streetscape activities in downtown and Highway 211 and will improve the visual appearance of the area, and provide a better climate for new investment in the project area.
6. Improvements to public buildings, will help increase public usage of the area, and improve the climate for new investment in the area.
7. Parking improvements will help maintain and increase commercial investment in the renewal area.

#### **500. FINANCIAL ANALYSIS OF PLAN**

##### **500A. ESTIMATED PROJECT COST AND REVENUE SOURCES**

Table 1 shows the estimated Renewal Agency share of total costs of the Molalla Urban Renewal Plan. These costs reflect anticipated inflation, and are the basis for the maximum indebtedness of the Plan. It is anticipated that there will be long and short-term borrowings to carry out project activities, and that other sources of public and private funds will be pursued and applied to covering project casts. The costs shown in Table 1 do not include interest on indebtedness undertaken to carry out project activities.

The costs shown in Table 1 are referenced to sections of the urban renewal plan document. Costs of property acquisition authorized in Section 700 (4) are assumed to be covered in the project cost shown in Table 1. No property acquisition is contemplated at the time this plan is prepared.

<b>Table 1</b>		
<b>Molalla Urban Renewal Plan</b>		
<b>Estimated Urban Renewal Cost of Projects</b>		
<b>Authorizations and Projects in Renewal Plan</b>	<b>Percentage</b>	<b>Dollars</b>
Street/Sidewalk Improvements and Public Utilities <i>(This sum is the allocation for projects in Sections 700 1B, C, D, and E of the Urban Renewal Plan)</i>	60.0%	\$15,705,000
Parks/Open Spaces and Public buildings <i>(This sum is the allocation for projects in Sections 700 1A and F of the Urban Renewal Plan)</i>	15.0%	\$3,926,250
Building Preservation/Redevelopment <i>(This sum is the allocation for projects in Sections 700 2 and 700 3 of the Urban Renewal Plan)</i>	15.0%	\$3,926,250
Plan Administration <i>(This sum is the allocation for projects in Section 700 5 of the Urban Renewal Plan)</i>	10.0%	\$2,617,500
<b>Totals</b>	<b>100.00%</b>	<b>\$26,175,000</b>

The principal method of funding the renewal share of costs will be through use of tax increment financing as authorized by ORS 457. Revenues are obtained from anticipated proceeds of long-and-short term urban renewal indebtedness.

Anticipated annual revenues are shown in Table 2 of this Report. The Agency may make use of short-term indebtedness to carry out project activities not covered by issue of long-term debt. Long-term indebtedness may be issued as revenues, project requirements, and overall bond market conditions dictate. In addition, the Renewal Agency will apply for, and make use of funding from other federal, state, local, or private sources as such funds become available.

**500B. ANTICIPATED START & FINISH DATES OF PROJECT ACTIVITIES**

The project activities shown in Table 1 will begin in 2009, and be completed by 2028-29. The sequencing and prioritization of individual project activities shown in Table 1 will be done by the Urban Renewal Agency, and any citizen advisory bodies that the Agency calls upon to assist in this process. The priority of projects and annual funding will be as established in the annual budget process. Completion dates for individual activities may be affected by changes to local economic and market conditions, changes in the availability of tax increment funds, and changes in priorities for carrying out project activities.

It is estimated that all activities proposed in this plan will be completed, and project indebtedness paid off by 2028-29. At that time, the tax increment provisions of this plan can be ended.

**500C. ESTIMATED EXPENDITURES AND YEAR OF DEBT RETIREMENT**

It is estimated that the project will collect tax increment revenue between the 2009-10 and 2028-29 tax years. The amount of tax increment revenue needed to carry out project activities and interest on debt is estimated at \$28,747,450

It is anticipated that available project revenues, and funds accumulated in a special fund for debt redemption will be sufficient to retire outstanding bonded indebtedness in the 2028-29 tax year, and terminate the tax increment financing provisions of the project. After all project debt is retired, and the project closed out, it is estimated that there will be surplus tax increment funds of approximately \$146,000. These funds will be distributed to taxing bodies affected by this plan, as provided in ORS 457. Table 2 of this Report shows the anticipated tax increment receipts and project requirements for each year of the project. Table 2 follows on the next page.

<b>Table 2</b>										
<b>Molalla Urban Renewal Plan</b>										
<b>Resources and Requirements</b>										
<b>a. Resources</b>	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
<b>Beginning Balance</b>	\$0	\$14,453	\$31,245	\$25,566	\$17,906	\$11,663	\$9,442	\$33,813	\$10,932	\$34,805
Resources										
A. Tax increment Revenue	\$48,964	\$186,241	\$327,293	\$517,728	\$622,393	\$744,992	\$897,834	\$1,028,645	\$1,195,847	\$1,425,124
B. Bond Proceeds										
long term	\$0	\$1,126,873	\$0	\$0	\$3,768,362	\$0	\$0	\$0	\$0	\$4,543,845
C. Interest	\$490	\$13,131	\$3,273	\$5,177	\$43,908	\$7,450	\$8,978	\$10,286	\$11,958	\$59,690
<b>Total Resources</b>	\$49,453	\$1,326,245	\$330,566	\$522,906	\$4,434,663	\$752,442	\$906,813	\$1,038,932	\$1,207,805	\$6,028,659
<b>b. Project Requirements</b>										
To Long term Debt Service	\$0	\$155,000	\$155,000	\$155,000	\$673,000	\$673,000	\$673,000	\$673,000	\$673,000	\$1,298,000
Projects funded long and short debt	\$35,000	\$1,140,000	\$150,000	\$350,000	\$3,750,000	\$70,000	\$200,000	\$355,000	\$500,000	\$4,700,000
Total, projects and Debt Service	\$35,000	\$1,295,000	\$305,000	\$505,000	\$4,423,000	\$743,000	\$873,000	\$1,028,000	\$1,173,000	\$5,998,000
<b>Ending Balance</b>	\$14,453	\$31,245	\$25,566	\$17,906	\$11,663	\$9,442	\$33,813	\$10,932	\$34,805	\$30,659
<b>Table 2 (continued)</b>										
<b>Resources and Requirements</b>										
<b>a. Resources</b>	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29
<b>Beginning Balance</b>	\$30,659	\$34,313	\$37,621	\$12,025	\$32,849	\$15,498	\$85,525	\$78,045	\$73,108	\$45,786
Resources										
A. Tax increment Revenue	\$1,660,706	\$1,812,496	\$1,935,668	\$2,062,227	\$2,148,992	\$2,238,144	\$2,329,747	\$2,423,869	\$2,520,580	\$2,619,950
B. Bond Proceeds										
long term	\$0	\$0	\$0	\$0	\$5,019,818	\$0	\$0	\$0	\$0	\$0
C. Interest	\$16,607	\$18,125	\$19,357	\$20,622	\$71,688	\$22,381	\$23,297	\$24,239	\$25,206	\$26,200
<b>Total Resources</b>	\$1,677,313	\$1,830,621	\$1,955,025	\$2,082,849	\$7,240,498	\$2,260,525	\$2,353,045	\$2,448,108	\$2,545,786	\$2,646,150
<b>b. Project Requirements</b>										
To Long term Debt Service	\$1,143,000	\$1,143,000	\$1,143,000	\$625,000	\$1,875,000	\$1,875,000	\$1,875,000	\$1,875,000	\$0	\$0
Projects funded long and short debt	\$500,000	\$650,000	\$800,000	\$1,425,000	\$5,350,000	\$300,000	\$400,000	\$500,000	\$2,500,000	\$2,500,000
Total, projects and Debt Service	\$1,643,000	\$1,793,000	\$1,943,000	\$2,050,000	\$7,225,000	\$2,175,000	\$2,275,000	\$2,375,000	\$2,500,000	\$2,500,000
<b>Ending Balance</b>	\$34,313	\$37,621	\$12,025	\$32,849	\$15,498	\$85,525	\$78,045	\$73,108	\$45,786	\$146,150

(a) In 2028-29, all project debt is paid off, all projects are assumed completed, and an estimated \$146,150 can be distributed to affected taxing bodies

#### **500D. IMPACT OF TAX INCREMENT FINANCING**

The passage of Ballot Measure 50 (BM50) changed Oregon's property tax system, and the impacts of urban renewal on taxpayers, and other taxing bodies. Prior to BM50, collection of tax increment revenues for a renewal agency resulted in an increase in the taxpayer's property tax rate. Taxing bodies suffered no revenue losses, unless there was overall compression of property tax revenues. Under Ballot Measure 50, the taxpayers' permanent rates will not change. However, collection of tax increment revenue will impact the potential property tax revenues received by overlapping tax bodies. These taxing bodies will not be able to apply their permanent BM50 tax rates against the new values added within the urban renewal area. As a result, the taxing bodies will forego revenue they otherwise might have had if there was no renewal plan in effect.

Table 3 shows the anticipated cumulative incremental values in the Renewal Area over the life of the Plan, and the anticipated property tax revenues foregone as a result of taxing bodies not being able to apply their permanent BM50 tax rates to those values. Table 3 actually presents a worst case picture of revenue foregone, for it assumes that all the estimated new values in the Molalla Renewal Area would occur, even without the investment of urban renewal funds. However, it is more realistic to assume that the public expenditures on renewal activities will have some positive effect on the growth of values within and immediately adjacent to the urban renewal area. Table 3 does not make this adjustment

More important, Table 3 expresses all revenue foregone in 2008 dollars. It therefore does not take into account the fact that a dollar in the future is not as valuable as today's dollar. A present value calculation of the revenues foregone, using just a 3.5 % rate would substantially reduce the revenue foregone total. Evidence of that reduction is shown in the bottom row of Table 3.

Also, during the plan period, overall values in Molalla will increase, and those value increases outside the renewal area will reduce the tax foregone impact on the budgets of taxing bodies.

Under the current method of funding K-12 level education, the urban renewal program will not result in revenue losses for those educational units of government. The level of funding per student is not dependent on the amount of property tax raised locally.

When the project is completed, an estimated \$184.4 million in assessed values will be placed back on the tax roll. In the following year, the permanent rates of the overlapping taxing bodies will generate property tax revenues estimated at



approximately \$2.72 million. Given a 4% inflation of assessed values in the area, the revenues foregone by the overlapping taxing bodies will be repaid in a period of 10 years after the project is completed.

#### **500E. FINANCIAL FEASIBILITY OF PLAN**

The total capital costs (i.e., exclusive of interest on indebtedness) to implement the project activities shown in Table 1 are estimated at \$26,175,000. The principal source of revenue to implement project activities will be annual tax increment revenues of the Renewal Agency. Anticipated tax increment revenues are shown in Table 2. The tax increment revenues shown in Table 2 are based on the following assumptions:

- Indexed growth in total assessed value at 2.75% annually, AND
- Exception values (i.e., new construction) as shown in Table 4 of this report
- Exception values of \$1 million annually in the period 2023 to 2028.

The maximum indebtedness and project costs undertaken in the plan is derived from assumptions on project values. To the extent those assumptions do not materialize as projected, projects will be delayed, cut back, or dropped. It therefore is financially feasible to carry out this urban renewal plan.

**Table 3**

**Molalla Urban Renewal Plan**

**Revenue Foregone by Taxing Bodies**

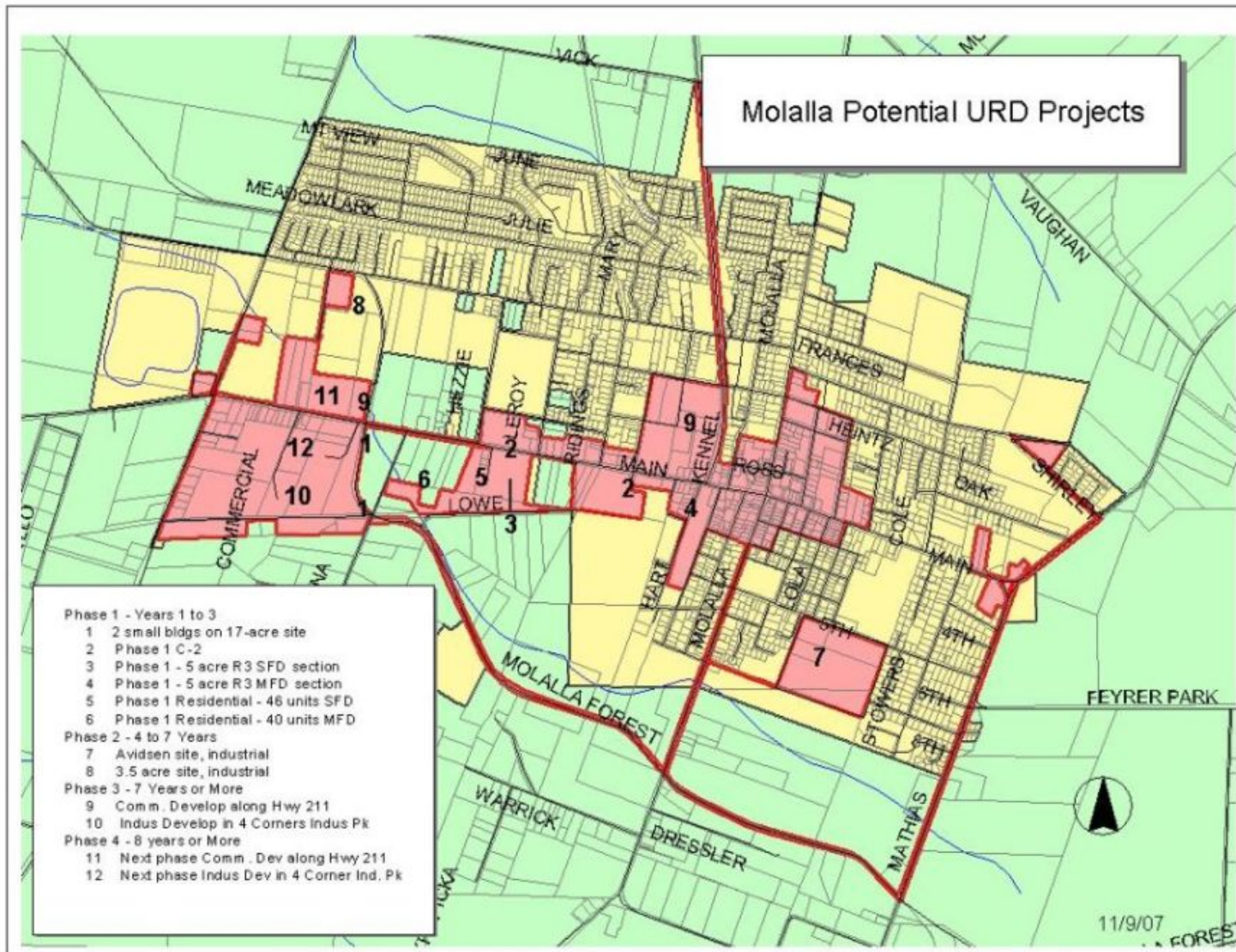
		<u>Clack County tax rate</u>	<u>Molalla Tax Rate</u>	<u>Fire Dist 73</u>	<u>Port of PDX</u>	<u>Vector Control</u>	<u>Soil Conserv.</u>	<u>Molalla Schools</u>	<u>ESD</u>	<u>Clack. CC</u>
		<b>2.4042</b>	<b>5.3058</b>	<b>0.7833</b>	<b>0.069</b>	<b>0.0065</b>	<b>0.0493</b>	<b>4.7001</b>	<b>0.3624</b>	<b>0.5481</b>
	Cumulative New									
	Incremental	foregone on	foregone on	foregone on	foregone on	foregone on	foregone on	foregone on	foregone on	foregone on
Year	Values in area	new values	new values	new values	new values	new values	new values	new values	new values	new values
2009	\$3,447,090	\$8,287	\$18,290	\$2,700	\$238	\$22	\$170	\$16,202	\$1,249	\$1,889
2010	\$13,111,493	\$31,523	\$69,567	\$10,270	\$905	\$85	\$646	\$61,625	\$4,752	\$7,186
2011	\$23,041,667	\$55,397	\$122,254	\$18,049	\$1,590	\$150	\$1,136	\$108,298	\$8,350	\$12,629
2012	\$36,448,447	\$87,629	\$193,388	\$28,550	\$2,515	\$237	\$1,797	\$171,311	\$13,209	\$19,977
2013	\$43,816,946	\$105,345	\$232,484	\$34,322	\$3,023	\$285	\$2,160	\$205,944	\$15,879	\$24,016
2014	\$52,447,995	\$126,095	\$278,279	\$41,083	\$3,619	\$341	\$2,586	\$246,511	\$19,007	\$28,747
2015	\$63,208,187	\$151,965	\$335,370	\$49,511	\$4,361	\$411	\$3,116	\$297,085	\$22,907	\$34,644
2016	\$72,417,384	\$174,106	\$384,232	\$56,725	\$4,997	\$471	\$3,570	\$340,369	\$26,244	\$39,692
2017	\$84,188,459	\$202,406	\$446,687	\$65,945	\$5,809	\$547	\$4,150	\$395,694	\$30,510	\$46,144
2018	\$100,329,745	\$241,213	\$532,330	\$78,588	\$6,923	\$652	\$4,946	\$471,560	\$36,359	\$54,991
2019	\$116,914,917	\$281,087	\$620,327	\$91,579	\$8,067	\$760	\$5,764	\$549,512	\$42,370	\$64,081
2020	\$127,601,049	\$306,778	\$677,026	\$99,950	\$8,804	\$829	\$6,291	\$599,738	\$46,243	\$69,938
2021	\$136,272,424	\$327,626	\$723,034	\$106,742	\$9,403	\$886	\$6,718	\$640,494	\$49,385	\$74,691
2022	\$145,182,262	\$349,047	\$770,308	\$113,721	\$10,018	\$944	\$7,157	\$682,371	\$52,614	\$79,574
2023	\$151,290,614	\$363,733	\$802,718	\$118,506	\$10,439	\$983	\$7,459	\$711,081	\$54,828	\$82,922
2024	\$157,566,946	\$378,822	\$836,019	\$123,422	\$10,872	\$1,024	\$7,768	\$740,580	\$57,102	\$86,362
2025	\$164,015,877	\$394,327	\$870,235	\$128,474	\$11,317	\$1,066	\$8,086	\$770,891	\$59,439	\$89,897
2026	\$170,642,153	\$410,258	\$905,393	\$133,664	\$11,774	\$1,109	\$8,413	\$802,035	\$61,841	\$93,529
2027	\$177,450,652	\$426,627	\$941,518	\$138,997	\$12,244	\$1,153	\$8,748	\$834,036	\$64,308	\$97,261
2028	\$184,446,385	\$443,446	\$978,636	\$144,477	\$12,727	\$1,199	\$9,093	\$866,916	\$66,843	\$101,095
	<b>Total</b>	<b>\$4,865,718</b>	<b>\$10,738,094</b>	<b>\$1,585,274</b>	<b>\$139,645</b>	<b>\$13,155</b>	<b>\$99,775</b>	<b>\$9,512,254</b>	<b>\$733,440</b>	<b>\$1,109,267</b>
	<b>PV @3.5%</b>	<b>\$3,067,821</b>	<b>\$6,770,337</b>	<b>\$999,511</b>	<b>\$88,046</b>	<b>\$8,294</b>	<b>\$62,858</b>	<b>\$5,997,448</b>	<b>\$462,432</b>	<b>\$699,390</b>

**Note:** School and ESD revenue foregone is replaced dollar-for-dollar by State funds, and does not affect per student funding.

PV = Present value of the revenue foregone. This adjusts future dollars to 2007 dollar totals.

<b>Table 4</b>						
<b>Molalla Urban Renewal Plan</b>						
<b>Estimates of Assessed Values added by New Construction in Renewal Area</b>						
<b>PHASE 1 – Values one to four yrs. away</b>	Begin Year	Years phasing	Total RMV	Change Prop. Ratio**	Total AV	Annual AV
2 small buildings on 17 acre site	2007	1	\$1,750,000	0.563	\$985,250	\$985,250
Phase 1 C-2	2008	3	\$34,140,150	0.563	\$19,220,904	\$6,406,968
Phase 1 - 5 acre R3 SFD section	2008	2	\$3,500,000	0.544	\$1,904,000	\$952,000
Phase 1 - 5 acre R3 MFD section	2007	1	\$2,000,000	0.673	\$1,346,000	\$1,346,000
Phase 1 Residential - 46 units SFD	2008	4	\$8,050,000	0.544	\$4,379,200	\$1,094,800
Phase 1 residential - 40 units MFD	2009	3	\$2,000,000	0.673	\$1,346,000	\$448,667
<b>PHASE 2 - Values four to seven yrs. away</b>						
Avison site, industrial	2010	4	\$24,698,520	0.673	\$16,622,104	\$4,155,526
3.5 acre site, industrial	2012	1	\$3,201,660	0.673	\$2,154,717	\$2,154,717
<b>PHASE 3 - Values seven or more yrs. away</b>						
Comm. Develop along Hwy 211	2013	5	\$35,937,000	0.563	\$20,232,531	\$4,046,506
Indus Develop in 4 Corners Ind Park	2014	4	\$13,721,400	0.673	\$9,234,502	\$2,308,626
<b>PHASE 4 - Values eight or more yrs. away</b>						
Next phase Comm. Develop along Hwy 211	2016	5	\$35,937,000	0.563	\$20,232,531	\$4,046,506
Next phase Indus Develop in 4 Corners Ind Park	2015	4	\$13,721,400	0.673	\$9,234,502	\$2,308,626

\*\* The change property ratio is an assessor's conversion of real market value to assessed value (AV). AV is the basis for tax increment revenue



## **600. RELOCATION**

### **A. PROPERTIES REQUIRING RELOCATION**

No relocation is anticipated at the adoption of this plan.

### **B. RELOCATION METHODS**

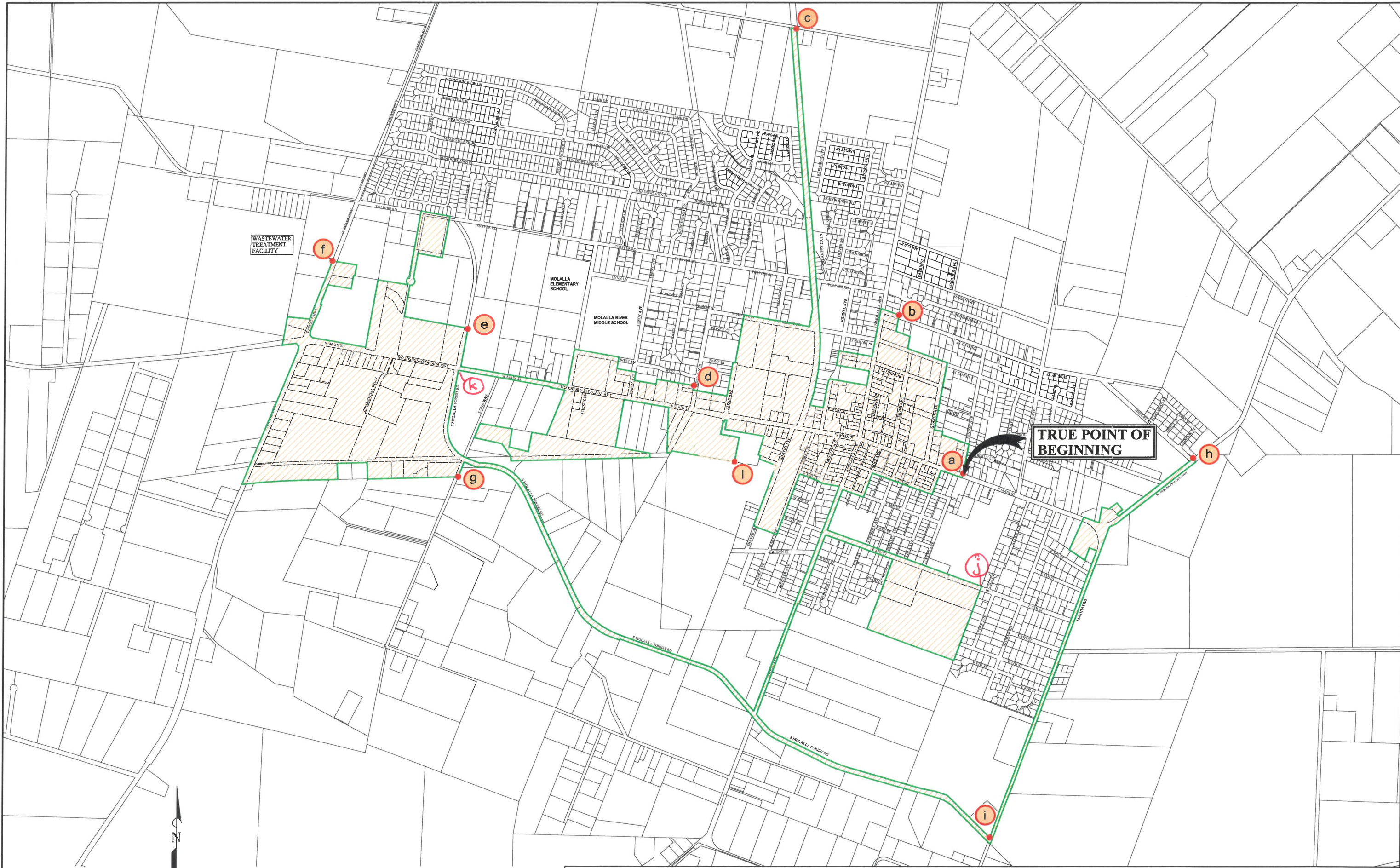
If in the implementation of this Plan, persons or businesses should be displaced by action of the Agency, the Agency shall provide assistance to such persons or businesses to be displaced. Such displaces will be contacted to determine their individual relocation needs. They will be provided information on available space and will be given assistance in moving.

No relocation of businesses or residents is anticipated in this plan.

### **C. HOUSING COST ENUMERATION**

No housing units are scheduled for removal under this plan. It is anticipated that the renewal plan will produce new housing units via rehabilitation and new construction. It is expected that housing units will cover a wide range of unit types and affordability.





SCALE: 1" = 1200'

 URBAN RENEWAL BOUNDARY AREA

**D** THE DYER PARTNERSHIP  
 ENGINEERS & PLANNERS  
 DATE: JULY, 2020  
 PROJECT NO.: 198.24

**CITY OF MOLALLA**  
**URBAN RENEWAL DISTRICT - BOUNDARY MAP**

FIGURE NO.  
 93



# City of Molalla



## Agenda Category: Ordinances and Resolutions

**Subject:** Resolution No. 2020 – 18: Police Public Building Project Concurrence

**Recommendation:** Adoption

**Date of Meeting to be Presented:** August 12, 2020

**Fiscal Impact:** TBA

**Background:**

State Law requires that the Molalla Urban Renewal Agency gain concurrence from three of the top four taxing districts impacted by the District (Including the City of Molalla) when a Public Building Project is included in an Urban Renewal Plan. The attached Resolution provides Council with the opportunity to concur with the Molalla Urban Renewal Agency formally regarding inclusion of the Police Public Building Project.

SUBMITTED BY: Dan Huff, City Manager

APPROVED BY: Dan Huff, City Manager



**RESOLUTION NUMBER 2020-18**

**A RESOLUTION OF THE MOLALLA CITY COUNCIL, OREGON,  
CONCURRING WITH A PUBLIC BUILDING PROJECT FOR THE  
MOLALLA URBAN RENEWAL PLAN**

**WHEREAS**, the Molalla Urban Renewal Agency (“Agency”) is an urban renewal agency formed under ORS Chapter 457; and

**WHEREAS**, the Molalla City Council (“City Council”) adopted the Molalla Urban Renewal Plan (“Plan”) on July 24, 2003; and

**WHEREAS**, the Agency desires to amend the Plan to revise Section 700. Description of Projects to be Undertaken; and

**WHEREAS**, the addition of a public building project requires concurrence of taxing districts in accordance with ORS 457.089; and

**WHEREAS**, these amendments are show in Exhibit A, Plan Amendment and in Exhibit B Report on the Plan Amendment; and

**WHEREAS**, the updated project list and estimated impacts to the taxing districts are attached hereto as Exhibit B;

**WHEREAS**, the Agency is consulting with impacted taxing districts regarding the projects to be undertaken including requesting concurrence for the Police Station project; and

**WHEREAS**, the Agency has requested concurrence from the City of Molalla and

**WHEREAS**, the City of Molalla has considered this request.

**Now, Therefore, Molalla City Council Resolves as follows:**

Section 1. Findings. The above-stated findings contained in this Resolution are hereby adopted.

Section 2. Purpose. The purpose of this Resolution is to concur with the addition of a public building project in the Molalla Urban Renewal Plan.

Section 3. Action. The Molalla City Council hereby approves the addition of a public building project, a police station, to the Molalla Urban Renewal Plan.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2020

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Keith Swigart, Mayor

ATTEST:

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Christie DeSantis, City Recorder

DRAFT

# City of Molalla

## City Council Meeting



### Agenda Category: General Business

**Subject:** Noise Regulation Discussion

**Recommendation:** Staff Direction

**Date of Meeting to be Presented:** August 12, 2020

**Fiscal Impact:** None

**Background:**

At the last regular meeting Staff handed out DEQ noise regulations as a precursor to potentially moving forward with expanded noise regulations for Molalla. Included with this memo is general noise regulations that could be considered by Council at a future meeting.

Staff discussed this issue with the Planning Commission on August 5, 2020 and their concerns are similar to Council and Staff. Molalla does need updated noise regulations, but we need to be careful not to place undue burden on existing industrial users. The Planning Commission asked Staff bring this item back to their September meeting for further discussion.

No decision required.

SUBMITTED BY: Dan Huff, City Manager

APPROVED BY: Dan Huff, City Manager



# Noise Ordinance

## Issue:

Residential properties have no remediation for noise made in an industrial zone. The City would like to maintain a certain degree of leeway for existing industrial users to operate through the night as they have been able to. However, increasing encroachment upon residential users may make our city less attractive to new coming residents. Our revisions to the noise code attempt to strike that balance.

## Current code reads:

### 9.13.050 Exceptions.

7. Commercial/industrial operations located within commercial/industrial zones

## Tools to enforce noise:

DEQ and many cities have adopted noise ordinances to include noise emanating from commercial and industrial zones. Noise is measured by a decibel meter and is often measured from certain distances from the property line. That distance is determined by city ordinance.

Many ordinances also limit the dBA that a business or machinery can operate at and usually break the operating time into two pieces, daytime (7am-10pm) nighttime (10pm-7am)

Some codes also allow for City Council to grant variances to businesses by considering the health, safety and welfare of its citizens and a businesses past, present and future patterns of land use as well as the acoustical nature of the sound emitted.

Any noise ordinance would be through a citizen complaint driven process.

## Amount of acceptable noise:

There should be a measurable standard. Staff believes that a 60-65 dBA limitation during nighttime operations would be a satisfactory. This can be compared to the level of a conversation.

## Proposed scope of affected/noise sensitive areas:

Staff is proposing to thoughtfully draft amended language to our noise ordinance so that our residents in “noise sensitive” areas (Residential) have some remediation for nuisance noise made from our industrial zone businesses during the nighttime. However, we are very aware that this language should also protect the long-standing businesses that have operated peacefully in our city as well.

# CITY OF GLADSTONE

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## Chapter 8.12 NOISE CONTROL

Sections:

**8.12.010 Declaration of purpose.**

**8.12.020 Scope.**

**8.12.030 Standards and definitions.**

**8.12.040 Responsibility and authority.**

**8.12.050 Prohibited acts.**

**8.12.060 Maximum permissible sound levels.**

**8.12.070 Exceptions and variances.**

**8.12.080 Chapter additional to other law.**

**8.12.090 Penalties.**

**8.12.010 Declaration of purpose.**

The City Council has determined that excessive sound is a serious hazard to the public health, welfare and the quality of life and it shall be the policy of the city to prevent excessive sound which may jeopardize the health, welfare and safety of citizens or degrade the quality of life.

**Statutory Reference:** ORS [467.100](#)

**History:** Ord. [1023](#) §2, 1983.

**8.12.020 Scope.**

This chapter shall apply to the regulation of all sounds originating within the city limits.

**Statutory Reference:** ORS [467.100](#)

**History:** Ord. [1023](#) §2, 1983.

**8.12.030 Standards and definitions.**

(1) Terminology and Standards. All terminology used in this chapter that is not defined below shall be in accordance with the American National Standards Institute (ANSI.)

(2) Measurement of Sound Level:

(a) Measurements shall be made with a calibrated sound level meter in good operating condition, meeting the requirements of a Type I or Type II meter, as specified in ANSI Standard 1.4-1971(R1976) or S1.4-1983, "Specifications for Sound Level Meters." For purposes of this chapter, a sound level meter shall contain at least an "A" weighting network, and both fast and slow meter response capability;

- (b) Persons conducting sound level measurements shall have received training in the techniques of sound measurement and the operation of sound measuring instruments prior to engaging in any enforcement activity;
- (c) Procedures and tests required by this chapter and not specified herein shall be placed on file with the City Recorder.

(3) Definitions:

- (a) "Amplifying equipment" means public address systems, musical instruments and other similar devices which are electronically amplified.
- (b) "City" means the City of Gladstone, Oregon, or the area within the territorial city limits of the City of Gladstone, Oregon, and such territory outside of this city over which the city has jurisdiction or control by virtue of ownership, or any Constitutional or charter provision, or any law.
- (c) "Commercial land use" includes land uses zoned C-1, C-2 and C-3 or any use of an office, service establishment, retail store, park, amusement or recreation facility, or other use of the same general type, whether publicly or privately owned.
- (d) "Construction" means any and all activity necessary or incidental to the erection, demolition, assembling, altering, installing, repair or equipping of buildings, roadways and utilities. It shall include land clearing, grading, excavating and filling before, during or following such activity.
- (e) "Continuous sound" means any steady sound with a deviation no greater than plus or minus 2 dBA of its mean, or total fluctuation of 4 dBA, during the period of observation when measured with a sound level meter set on fast response.
- (f) "Daytime period" means seven a.m. until ten p.m. of the same day, local time.
- (g) "Domestic power tools" means any mechanically powered saw, drill, sander, grinder, lawn or garden tool, or similar device generally used out of doors in residential areas.
- (h) "Emergency work" means work made necessary to restore property to a safe condition following severe-inclement weather and natural disasters, work required to restore public utilities or work required to protect persons or property from imminent exposure to danger.
- (i) "Industrial land use" includes land use zoned LI or any use of a warehouse, factory, mine, wholesale trade establishment, or other use of the same general type, whether publicly or privately owned.
- (j) "Nighttime period" means ten p.m. of one day until seven a.m. the following day, local time.
- (k) "Noise sensitive land use" includes property on which residential housing, apartment buildings, schools, churches, hospitals, and nursing homes are located.
- (l) "Off-road recreational vehicle" means any self-propelled land vehicle designed for, or capable of traversing over natural terrain, including, but not limited to, racing vehicles, mini-bikes, motorcycles, go-karts, and dune buggies, when operated off the public right-of-way for noncommercial purposes.
- (m) "Persons" means a person, persons, firm, association, copartnership, joint venture, corporation or any entity public or private in nature.

(n) "Plainly audible" means unambiguously communicated sounds which disturb the comfort, repose or health of the listener. Plainly audible sounds include, but are not limited to, understandable musical rhythms, understandable spoken words, and vocal sounds other than speech which are distinguishable as raised or normal.

(o) "Powered model vehicle" means any self-propelled airborne, waterborne or land-borne plane, vessel or vehicle, which is not designed to carry persons, including, but not limited to, any model airplane, boat, car or rocket.

(p) "Recreational park" means a facility open to the public for the operation of off-road recreational vehicles.

(q) "Warning devices" means electronic devices used to protect persons or property from imminent danger, including, but not limited to, fire alarms, civil defense warning systems, and safety alarms required by law.

**Statutory Reference:** ORS 467.100

**History:** Ord. 1023 §2, 1983; Ord. 1400, 2008.

#### **8.12.040 Responsibility and authority.**

(1) Responsibility. The responsibility for enforcement of this chapter shall reside with the City Administrator or his designee.

(2) Authority. In order to implement this chapter and for the general purpose of sound abatement and control, the City Administrator or his designee shall have, in addition to any other authority vested with him, the following powers:

(a) Planning. Implement a noise control strategy in consonance with the city's zoning ordinance and comprehensive plan to assure public and private enterprises do not adversely impact existing noise sensitive properties and properties designated for noise sensitive use and to prevent the encroachment of noise sensitive uses into high impact areas such as industrial zones and immediately adjacent to major highways or arterials which are incompatible for such uses by virtue of existing or projected noise impacts;

(b) Inspections. Upon presentation of proper credentials, enter and inspect any private property or place, and inspect any report or record at any reasonable time when granted permission by the owner, or by some other person with apparent authority to act for the owner. Such inspection may include administration of

(c) Issue Summons. Issue summons, notices of violation or other legal orders to any person in alleged violation of any provision of this chapter;

(d) Investigate Violations. In accordance with all other provisions of this chapter, investigate and document violations and take necessary actions preparatory to enforcement;

(e) Amendments and Modifications. Develop and recommend amendments and modifications to this chapter so as to maintain or enhance the effectiveness of the noise control program;

(f) Education. Develop programs for public education regarding the requirements and remedies available through the noise control ordinance.

**Statutory Reference:** ORS 467.100



**History:** Ord. 1023 §2, 1983.

**8.12.050 Prohibited acts.**

(1) No person shall knowingly continue, cause or permit to be made or continue to make any excessive or unnecessary sounds which are listed in Subsection (2) of this Section or GMC Section 8.12.060.

(2) The following acts are declared to create excessive and unnecessary sounds in violation of this chapter without regard to the maximum sound levels of GMC Section 8.12.060:

(a) Radios, Phonographs, Tapeplayers, Television Sets, Stereo Systems. The playing, using or operating of any radio, tape player, television set or stereo system, including those installed in a vehicle, in such a manner so as to be plainly audible at any time between ten p.m. and seven a.m. the following day, local time:

(A) within a noise sensitive unit which is not the source of the sound, or

(B) at a distance of one hundred feet or more from the source of the sound.

(b) Amplified sounds, external speakers, paging systems. Sounds produced by sound amplification equipment, specifically including but not limited to external speaker and paging systems, in such a manner so as to be plainly audible at any time between seven p.m. and seven a.m. the following day, local time:

(A) within a noise sensitive unit which is not the source of the sound, or

(B) at a distance of one hundred feet or more from the source of the sound.

(c) Revving engines. Operating any motor vehicle engine above idling speed off the public right-of-way so as to create excessive or unnecessary sounds within a noise sensitive area;

(d) Compression braking devices. Using compression brakes, commonly referred to as jake brakes, on any motor vehicle except fire engines, causing noise in violation of federal Interstate Motor Carrier Operations Standards (see 43 U.S.C. 4917(c) and 40 C.F.R. 202.20), and except to avoid imminent danger to persons or property.

(e) Exhausts. Discharging into the open air the exhaust of any steam engine, internal combustion engine, or any mechanical device operated by compressed air or steam without a muffler, or with a sound control device less effective than that provided on the original engine or mechanical device;

(f) Idling engines on motor vehicles. Idling more than fifteen (15) consecutive minutes between the hours of ten p.m. and seven a.m. the following day, local time, any motor vehicle with a Gross Vehicle Weight Rating (GVWR) of eight thousand pounds (8,000 lbs) or greater which exceeds 50 dBA on the nearest occupied noise sensitive property;

(g) Vehicle tires. Squealing tires by excessive speed or acceleration on or off public right-of-way except when necessary to avoid imminent danger to persons or property;

(h) Motorcycles, go-karts, dune buggies. Operating motorcycles, go-karts, dune buggies and other off-road recreational vehicles off the public right-of-way on property not designated as a recreational park;

(i) Motorboats. Operating or permitting the operation of any motorboat within the city's jurisdictional boundaries in such manner as to exceed 84 dBA at fifty feet (50') or more;

- (j) Powered model vehicles. Operating or permitting the operation of powered model vehicles, with the exception of gliders, aircraft and ground vehicles propelled by electric motors, in areas not designated by the City Administrator or City Council for such use;
- (k) Explosives. The discharge of fireworks and other explosive devices;
- (l) Tampering. The removal or rendering inoperative for purposes other than maintenance, repair or replacement, of any noise control device;
- (m) Animals. Owning, possessing or harboring any bird or other animal, for reasons other than being provoked by a person trespassing or threatening to trespass, which barks, bays, cries, howls or makes any other noise continuously for a period of ten (10) minutes or more;
- (n) Steam whistles. Blowing any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work;
- (o) Horns. The sounding of a horn or signaling device on a vehicle on a street, or public or private place, except as a necessary warning of danger;
- (p) Compressed air devices. The use of a mechanical device operated by compressed air, steam or otherwise, unless the noise thereby created is effectively muffled.

(3) No person shall operate a motor vehicle on a public right-of-way unless it meets the noise emission standards promulgated by Oregon Revised Statute 483.449 and Oregon Administrative Rule 340-35-030 (l)(a) and (c), which are adopted by reference. Copies of ORS 483.449 and (OAR 340-35-030) are on file in the office of the City Administrator.

(4) The Municipal Court in its discretion may dismiss a citation issued under this subsection pursuant to the presentation to the clerk of the court, one day prior to the scheduled arraignment date, a certificate of compliance issued by the Department of Environment Quality.

**Statutory Reference:** ORS 467.100

**History:** Ord. 1023 §2, 1983; Ord. 1139 §1, 1990; Ord. 1241 §1, 1997, Ord. 1400, 2008; Ord. 1423, 2009.

[**Ed. Note:** The publication(s) referred to or incorporated by reference in this ordinance are available from the office of the City Recorder.]

### **8.12.060 Maximum permissible sound levels.**

- (1) No person shall cause or permit sound(s) to intrude onto the property of another person which exceeds the maximum permissible sound levels set forth below in this section.
- (2) The sound limitations established herein, as measured at or within the property boundary of the receiving land use, are as set forth in Table I after any applicable adjustments provided for herein are applied. When the sound limitations are exceeded, it shall constitute excessive and unnecessary sound(s) and shall be violations in their own right as well as being prima facie evidence of noise.
- (3) This section is violated if any of the following occur:
  - (a) Any continuous sound that exceeds Table I for a cumulative total of greater than one minute in any five-minute period; or
  - (b) Any sound that exceeds Table I by 5 dBA for any point in time.

TABLE I

**TABLE OF ALLOWABLE SOUND LEVELS IN  
ANY TEN-MINUTE PERIOD (in dBA)**

Type of Source by Use	Type of Received by Use					
	Noise Sensitive		Commercial		Industrial	
	Day	Night	Day	Night	Day	Night
Noise Sensitive	55	45		—		—
Commercial	55	50	70	65		—
Industrial	55	50	70	65	75	70

**Statutory Reference:** ORS 467.100

**History:** Ord. 1023 §2, 1983, Ord. 1400, 2008.

**8.12.070 Exceptions and variances.**

(1) Exceptions. The following sounds are exempted from provisions of this chapter:

- (a) Sounds caused by the performance of emergency work, vehicles and/or equipment;
- (b) Aircraft operations in compliance with applicable federal laws or regulations;
- (c) Railroad activities as defined in Subpart A, Part 201 of Title 40, CFR of the Environmental Protection Agency's railroad emission standards, incorporated herein by reference;
- (d) Sounds produced by sound amplifying equipment at activities sponsored by Gladstone School District No. 115 between seven a.m. and twelve midnight, local time;
- (e) Sounds created by the tires or motor to propel or retard any vehicle on the public right-of-way in compliance with ORS 483.449 and OAR 340-35-030, incorporated herein by reference;
- (f) Notwithstanding GMC Section 8.12.070(5), sounds created by refuse pickup operations during the period of four a.m. to ten p.m., local time;
- (g) Sounds created by domestic power tools during the period of seven a.m. to ten p.m., local time, provided sound dissipating devices on tools so equipped, are maintained in good repair;
- (h) Sounds made by warning devices operating continuously for three minutes or less;
- (i) Idling motor vehicles with a Gross Vehicle Weight Rating (GVWR) of eight thousand pounds (8,000 lbs) or greater between the hours of seven a.m. to ten p.m., local time, provided they are equipped with an exhaust system which is in good working order and in constant operation;
- (j) Construction activities during the period of seven a.m. to six p.m., local time, provided equipment is maintained in good repair and equipped with sound dissipating devices in good working order.
- (k) Construction activities during the period 6:00 p.m. to 7:00 a.m. on rights of way owned by the Oregon Department of Transportation provided typical measures for work in urban areas are used to mitigate noise, including notification of affected property owners and the city.

(l) Sounds produced by stage entertainment and music performance between ten a.m. and twelve thirty a.m., local time, as part of the annual Chautauqua Festival.

**(2) Variances.** Any person who owns, controls or operates any sound source which violates any of the provisions of this chapter may apply to the City Council for a variance from such provisions. Any person who is planning a noise source which is expected to violate any provision of this chapter may apply to the City Council for a variance from such provision. Any person granted a variance under this chapter may apply for renewal of that variance upon its expiration. Such renewal application shall be processed just as if it was an initial application.

(a) Application. The application shall state the provision from which a variance is being sought, the period of time the variance is to apply, the reason for which the variance is sought and any other supporting information which the City Council may reasonably require.

(b) Review Standards. In establishing exceptions or granting variances, the City Council shall consider:

- (A) The protection of health, safety and welfare of citizens as well as the feasibility and cost of noise abatement;
- (B) The past, present and future patterns of land use;
- (C) The relative timing of land use changes;
- (D) The acoustical nature of the sound emitted;
- (E) Whether compliance with the provision would produce a benefit to the public.

(c) Time Duration of Variance. Any variance shall be granted for a specific time interval, not to exceed one (1) year.

(d) Public Notification and Public Hearing:

- (A) Public notice shall be given in the manner provided for by city ordinance for all variance applications;
- (B) A public hearing shall be held before the granting of a variance if such hearing is requested by any affected party.

(e) Conditions for Granting:

(A) The City Council may grant specific variances from the particular requirements of any rule, regulation or order to such specific persons or class of persons or such specific noise source upon such conditions as it may deem necessary to protect the public health and welfare, if it finds that strict compliance with such rule, regulations or order is inappropriate because of conditions beyond the control of the persons requesting such variance or because of special circumstances which would render strict compliance unreasonable or impractical due to special physical conditions or cause, or because strict compliance would result in substantial curtailment or closing down of a business, plant or operation, or because no other alternative facility or method of handling is yet available.

(B) Procedure for Requesting. Any person requesting a variance shall make his request in writing to the city for consideration by the City Council and shall state in a concise manner the

facts to show cause why such variance should not be granted.

(C) Revocation or Modification. A variance granted may be revoked or modified by the City Council after a public hearing held upon not less than twenty (20) days notice. Such notice shall be served upon the holder of the variance by certified mail and all persons who have filed with the City Council a written request for such notification.

(f) Emergency and Safety Hazard. In the case of an emergency or safety hazard, the City Administrator or his designee, may revoke a variance by setting forth the nature of the emergency or hazard in a letter mailed to the holder of the variance. A public hearing before the City Council shall be held at the next regularly scheduled City Council meeting following the revocation to reverse, affirm or modify the revocation action.

**Statutory Reference:** ORS [467.100](#)

**History:** Ord. [1023](#) §2, 1983; Ord. [1330](#), 2002; Ord. [1335](#), 2002.

[**Ed. Note:** The publication(s) referred to or incorporated by reference in this ordinance are available from the office of the City Recorder.]

#### **8.12.080 Chapter additional to other law.**

The provisions of this chapter shall be cumulative and nonexclusive and shall not affect any other claim, cause of action or remedy; nor, unless specifically provided, shall it be deemed to repeal, amend or modify any law, ordinance or regulation relating to noise or sound, but shall be deemed additional to existing legislation and common law on such subject.

**Statutory Reference:** ORS [467.100](#)

**History:** Ord. [1023](#) §2, 1983.

#### **8.12.090 Penalties.**

(1) A violation of any provision of this chapter is a Class "A" infraction as specified in GMC [1.08.010](#) through [1.08.100](#).

(2) Each and every day during which any provision of this chapter is violated shall constitute a separate offense.

(3) The City Council, acting in the name of the city, may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this chapter as additional remedy.

**Statutory Reference:** ORS [467.100](#)

**History:** Ord. [1023](#) §2, 1983; Ord. [1344](#), 2004.



The Gladstone Municipal Code is current through Ordinance 1501, passed June 9, 2020.

Disclaimer: The City Recorder's Office has the official version of the Gladstone Municipal Code. Users should contact the City Recorder's Office for ordinances passed subsequent to the ordinance cited above.

City Website: <http://www.ci.gladstone.or.us/>

City Telephone: (503) 656-5225

Code Publishing Company.

# CITY OF HOOD RIVER

## Chapter 8.09

# NOISE CONTROL

Sections:

- 8.09.010**    **Definitions.**
- 8.09.020**    **General.**
- 8.09.030**    **Acts prohibited.**
- 8.09.040**    **Permits for potential noise control violations.**
- 8.09.050**    **Abatement of noise.**
- 8.09.060**    **Exceptions to acts prohibited under 8.09.030.**
- 8.09.070**    **Violation penalties.**

Legislative History: Ord. 1708 (1994)

### **8.09.010**    **Definitions.**

For the purpose of the Noise Control Ordinance the following mean:

**Audio or Visual Equipment:** Includes, but is not limited to compact disc players, phonographs, radios, stereo systems, tape recorders, tape players, televisions, video cassette players, video cassette recorders, drums, electrical instruments.

**Noise Sensitive Property:** Real property normally used for sleeping, or normally used as schools, churches, hospitals or public libraries. Property used in industrial or agricultural activity is not noise sensitive property unless it meets the above criteria in more than an incidental manner.

**Plainly Audible Sound:** Unambiguously communicated sound including:

1. spoken speech
2. music; or
3. mechanical or electronic noise.

**Premises Open to the Public:** Street, parking lot, or other premises open to the general public for the use of motor vehicles, whether the premises are publicly or privately owned and whether or not a fee is charged for the use of the premises.

**Public Right of Way:** The area between boundary lines of a street or other area dedicated to the public.

**Residential Party:** A party held in a place of residence, which is a building regularly or intermittently occupied by a person for a dwelling, lodging, or sleeping purposes, whether or not the resident is actually present.

Sound Producing Source: Anything that is capable of making sounds that can be measured by a sound level meter as provided in section [8.09.030](#). "Sound producing source" includes, but is not limited to, the following:

1. Air conditioning or heating units, heat pumps, refrigeration units (including those mounted on vehicles), and swimming pool or hot tub pumps;
2. Air horns, bells, or sirens;
3. Audio or visual equipment;
4. Domestic tools, including chain saws, electric drill, electric saws, hammers, lawn mowers, leaf/snow blowers, and similar tools;
5. Loudspeakers or public address system
6. Musical instruments;
7. Spoken speech
8. Vehicle engines or exhaust systems, other than regular traffic upon a highway, road or street;
9. Vehicle tires, when caused to squeal by excessive speed acceleration;
10. Residential parties in a place of residence that are plainly audible to noise sensitive properties that are not the source of the party.

Vehicle. Any device in, upon, or by which any person, animal, or property is or may be transported or drawn upon the highway and includes vehicles that are propelled or powered by any means.

### **8.09.020 General.**

Certain activities essential to the economic, social, political, educational, and technical advancements of the citizens of the city necessarily require the production of sound that may offend, disrupt, intrude, or otherwise create hardship among the citizenry. The time or manner of sound may constitute a hazard to the health, safety, welfare, and the quality of life of residents of the city. Generally the city will limit and regulate sound deemed to be harmful to the health, safety, welfare, and quality of life of the citizens of the city, and this Ordinance shall be liberally construed to effectuate that purpose.

### **8.09.030 Acts prohibited.**

No person may produce or permit to be produced, with a sound producing source, sound that:

1. When measured at or within the boundary of noise sensitive property and where that noise sensitive property is not the source of the sound and the noise measurement:

- a. exceeds 50 dBA at any time between 10:00 p.m. and 7:00 a.m. the following day; or
  - b. exceeds 60 dBA at any time between 7:00 a.m. and 10:00 p.m. the same day; or
  - c. is plainly audible at any time between 7:00 a.m. and 10:00 p.m. the same day at a distance of at least 100 feet from the source of the sound;
  - d. conduct any construction, excavation or demolition prior to 7:00 am or after 7:00 p.m. (refer to section 8.09.040)
2. Is plainly audible at any time between 10:00 p.m. and 7:00 a.m. the following day:
    - a. within the boundaries of noise sensitive property that is not the source of the sound; or
    - b. on a public right of way at a distance of at least 50 feet from the source of the sound. (Ord. 1708, 1994)

### **8.09.040 Permits for potential noise control violations.**

Permits may be issued by the Council, or designee for acts prohibited by section [8.09.030](#) to allow construction, excavation or demolition, or the use of sound amplifying device(s) to broadcast music, news, speeches, or entertainment provided that the council or designee determines that the permitted sound will not unduly offend or disrupt the public peace or welfare. The permit shall clearly specify the permitted location(s), type of event. Failure to comply with the permit provisions shall constitute a violation of this ordinance. The permit shall be promptly revoked if the permittee fails to comply with all of its terms

### **8.09.050 Abatement of noise.**

- A. Upon determination by the City Manager, Chief of Police or their designee's, that a noise violation exists, personal notice shall be given to person(s) responsible for or in control of the sound source creating the violation, to abate the noise immediately. When notification of a noise violation is issued, abatement of that violation must be time specific. Violation that can be corrected at the time notification is given shall be corrected upon receipt on the notice. When notice of a violation(s) is given and abatement would require specialized equipment, sound proofing, professional services, etc then a reasonable time to abate the noise shall be given.
- B. Failure to abate the noise after personal notice is given will cause a citation to be issued to person(s) responsible for or in control of the sound source creating the violation.
- C. Failure to abate the noise after a citation has been issued may cause the sound source to be impounded. Impoundments must be reasonable and based on a reasonable belief that the sound source will likely be used to persist in causing additional or continued violations of the Noise Ordinance. Promptly, upon impoundment of a sound source notice shall be given to all persons with an interest in the sound source, of the impoundment and a hearing on the impoundment shall be scheduled before the Municipal Court Judge. If the Municipal Court Judge is satisfied that it is unlikely that further violation of this ordinance will be effectuated through use of the impounded



sound source sound source, the sound source will be returned to the owner following the hearing. If the Court is not satisfied, impoundment shall continue until a hearing on the noise violation, at which time the sound source shall be made available to the owner upon payment of the fee owed for impoundment.

If any sound source is not released to its owner on payment of impoundment fees, or as otherwise provided herein, the sound source may be forfeited to the City, in the discretion of the Municipal Court Judge, following notice and opportunity for a hearing.

D. The court, upon a finding of Guilty, shall impose a fee for storage of an impounded sound source based on the total number of days the property was impounded at a rate of \$5.00 per day following the date scheduled for a hearing to contest the impoundment. Failure to pay for the storage and claim the property within 60 days after the Court ruling of Guilty, will cause the City to request the Municipal Court to forfeit said property, after notice and opportunity for a hearing. Notice of hearings shall be given to all parties with interest in the impounded property so that they may appear and protest the forfeiture.

### **8.09.060 Exceptions to acts prohibited under 8.09.030.**

- A. Sounds caused by organized athletic or other group activities, when such activities are conducted on property generally used for such purpose, such as stadiums, parks, schools, churches, and athletic fields. This exception shall not impair the City Manager, Chief of Police or their designee the authority to declare such event or activity in violation of other laws, ordinances or regulations.
- B. Sounds caused by emergency work, or by the ordinary and accepted use of emergency equipment, vehicles, and apparatus, regardless of whether such work is performed by public or private agency, or upon public or private property.
- C. Sounds caused by bona fide use of emergency warning devices and alarm systems.
- D. Sounds regulated by federal law, including, but not limited to, sounds caused by railroads, aircraft, or commercially licensed watercraft operations.
- E. Sounds when performed under a permit issued by the appropriate governmental authorities and only between the times permitted.
- F. Sounds caused by industrial, agricultural, or construction activities during the hours of 7:00 a.m. and 10:00 p.m. of the same day.
- G. Sounds caused by regular vehicular traffic upon premises open to the public.
- H. Sounds caused by domestic tools during the hours of 7:00 a.m. and 7:00 p.m. of the same day.
- I. Sounds which are not subject to regulation due to provisions of the constitution of the United States, or State of Oregon.

## 8.09.070 Violation penalties.

A violation of the Noise Control Ordinance is a Class A infraction and shall be punished by a fine of not less than fifty dollars and not more than five hundred dollars.

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**The Hood River Municipal Code is current through Ordinance 2054, passed February 10, 2020.**

Disclaimer: The City Recorder's Office has the official version of the Hood River Municipal Code. Users should contact the City Recorder's Office for ordinances passed subsequent to the ordinance cited above.

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# CITY OF ST HELENS

## Chapter 8.16 NOISE REGULATIONS

Sections:

**8.16.010 Definitions.**

**8.16.020 Sound measurement.**

**8.16.030 Prohibitions.**

**8.16.040 Exceptions.**

**8.16.050 Variances.**

**8.16.060 Chapter additional to other law.**

**8.16.070 Administration and enforcement.**

**8.16.080 Penalties.**

**8.16.090 Separate violations.**

**8.16.010 Definitions.**

The following terms and definitions shall apply herein unless the context requires otherwise:

(1) "Director" means police chief of the city of St. Helens.

(2) "Idling speed" means that speed at which an engine will run when no pressure is applied to the accelerator or accelerator linkage.

(3) "Noise sensitive unit" means any building or portion thereof, vehicle, boat or other structure used as a church, day care center, hospital, school or adapted or used for the overnight accommodation of persons, including, but not limited to, individual residential units, individual apartments, trailers, and nursing homes.

(4) "Person" includes, in addition to any individual, any public or private corporation, association, partnership, or other legally recognized public or private entity.

(5) "Plainly audible sound" means any sound for which the information content of that sound is unambiguously communicated to the listener, such as, but not limited to, understandable spoken

speech, comprehension of whether a voice is raised or normal, or comprehensible musical rhythms.

(6) "Sound-producing device" includes:

(a) Loudspeakers, public address systems;

(b) Radios, tape recorders and/or tape players, phonographs, television sets, stereo systems, including those installed in a vehicle;

(c) Musical instruments, amplified or unamplified;

(d) Sirens, bells;

(e) Vehicle engines or exhausts, when the vehicle is not on a public right-of-way, particularly when the engine is operated above idling speed;

(f) Vehicle tires, when caused to squeal by excessive speed or acceleration;

(g) Domestic tools, including electric drills, chain saws, lawn mowers, electric saws, hammers, and similar tools, but only between 10:00 p.m. and 7:00 a.m. of the following day;

(h) Heat pumps, air-conditioning units, and refrigeration units, including those mounted on vehicles;

(i) Construction, demolition, exterior alteration or repair of a building or structure, as well as excavation, and land development site preparation activities performed with heavy construction equipment, when such activities are performed by a commercial operator or contractor, but only between 10:00 p.m. and 7:00 a.m. of the following day (Monday through Saturday) and between 8:00 p.m. Saturday through 7:00 a.m. Monday;

(7) "Vehicle" includes automobiles, motorcycles, motorbikes, trucks, buses, snowmobiles, and boats;

(8) "A-scale (dBA)" means the sound level in decibels measured using the A-weighted network as specified in American National Standard Specification for Sound Level Meters (ANSI S1.4-1971). (Ord. 2861 § 1, 2002; Ord. 2405 § 1, 1982)

#### **8.16.020 Sound measurement.**

(1) If measurements are made, they shall be made with a sound level meter. The sound level meter shall be an instrument in good operating condition, meeting the requirements of a type I or type II



meter, as specified in ANSI Standard 1.4-1971. For purposes of this chapter, a sound level meter shall contain at least an A-weighted scale, and both fast and slow meter response capability.

(2) If measurements are made, personnel making those measurements shall have completed training in the use of the sound level meter, and measurement procedures consistent with that training shall be followed.

(3) Measurements may be made at or within the boundary of the property on which a noise sensitive unit which is not the source of the sound is located, or within a noise sensitive unit which is not the source of the sound.

(4) All measurements made pursuant to this chapter shall comply with the provisions of this section. (Ord. 2405 § 2, 1982)

### **8.16.030 Prohibitions.**

It shall be unlawful for any person to produce or permit to be produced, with a sound-producing device, sound which:

(1) When measured at or within the boundary of the property on which a noise sensitive unit which is not the source of the sound is located, or within a noise sensitive unit which is not the source of the sound, exceeds:

(a) Fifty dBA at any time between 10:00 p.m. and 7:00 a.m. of the following day;

(b) Sixty dBA at any time between 7:00 a.m. and 10:00 p.m. the same day;

(c) Fifty dBA at any time between 8:00 p.m. Saturday and 7:00 a.m. Monday; or

(2) Is plainly audible at any time between 10:00 p.m. and 7:00 a.m. the following day or at any time between 8:00 p.m. Saturday and 7:00 a.m. Monday:

(a) Within a noise sensitive unit which is not the source of the sound; or

(b) On a public right-of-way at a distance of 50 feet or more from the source of the sound.

(3) If a measurement of the sound is made, subsection (1) of this section shall supersede subsection (2) of this section and shall be used to determine if a violation of this chapter exists. (Ord. 2861 § 2, 2002; Ord. 2405 § 3, 1982)

### **8.16.040 Exceptions.**

Notwithstanding SHMC 8.16.030, the following exceptions from this chapter are permitted when conditions therefor are met:

- (1) Sounds caused by organized athletic or other group activities, when such activities are conducted out of doors on property generally used for such purposes, including stadiums, parks, schools, churches, athletic fields, racetracks, airports and waterways; provided however, that said exception shall not impair the director's power to declare such event or activities otherwise to violate other laws, ordinances or regulations.
- (2) Sound caused by emergency work, or by the ordinary and accepted use of emergency equipment, vehicles and apparatus, whether or not such work is performed by a public or private agency, upon public or private property.
- (3) Sounds caused by sources regulated as to sound production by federal law, including, but not limited to, sounds caused by railroad, aircraft or commercially licensed watercraft operations.
- (4) Sound caused by bona fide use of emergency warning devices and alarm systems.
- (5) Sound caused by blasting activities when performed under a permit issued by appropriate governmental authorities and only between the hours of 7:00 a.m. and 10:00 p.m., excluding weekends, unless such permit expressly authorizes otherwise. (Ord. 2405 § 4, 1982)

#### **8.16.050 Variances.**

Any person who is planning the use of a sound-producing device, which may violate any provision of this chapter, may apply to the director for a variance from such provision.

(1) Application. The application shall state the provision from which a variance is being sought, the period of time the variance is to apply, the reason for which the variance is sought, the amplification permit fee, as set by resolution, and any other supporting information, which the director may reasonably require.

(2) Review Considerations. The director shall consider:

- (a) The nature and duration of the sound emitted.
- (b) Whether the public health, safety or welfare is endangered.
- (c) Whether compliance with the provision would produce no benefit to the public.
- (d) Whether previous permits have been issued and the applicant's record of compliance.

- (3) Time Duration of Variance. A variance may be granted for a specific time interval only.
- (4) The director shall, within 10 days, deny the application, approve it, or approve it subject to conditions.
- (5) The director's decision may be appealed to the city council. Notice of appeal should be delivered to the city administrator with the appeals fee as set in the miscellaneous fee schedule. The council shall review the application de novo, at the next regularly scheduled meeting, deny the application, approve it, or approve it subject to conditions.
- (6) The director may at any time before or during the operation of a variance granted by the director revoke the variance for good cause. The council may, at any time before or during the operation of any variance, revoke the variance for good cause. (Ord. 3074 § 1, 2008; Ord. 2405 § 5, 1982)

#### **8.16.060 Chapter additional to other law.**

The provisions of this chapter shall be cumulative and nonexclusive and shall not affect any other claim, cause of action or remedy; nor, unless specifically provided, shall it be deemed to repeal, amend or modify any law, ordinance or regulation relating to noise or sound, but shall be deemed additional to existing legislation and common law on such subject. (Ord. 2405 § 6, 1982)

#### **8.16.070 Administration and enforcement.**

- (1) The director shall administer, supervise and perform all acts necessary to enforce this chapter.
- (2) Persons appointed or assigned by the director, as he deems necessary to accomplish effective enforcement of this chapter, may be peace officers or not.
- (3) Upon citation of a person for a violation of this chapter, the person issuing the citation may seize the sound-producing device which was the source of the sound as evidence only if the violation is determined by use of a sound level meter.

The sound-producing device, if seized, shall be impounded subject to disposition of the issued citation and determination by the court whether the sound-producing device shall be returned to the cited person or deemed contraband, subject to SHMC 8.16.080(2). It is the intent of this chapter to avoid such seizures except where the person being cited has received two previous citations within the previous six months for the use of the same or similar sound-producing device. The previous citations may, but need not, occur on the same date as the citation which prompts the seizure.

- (4) Citation forms authorized for use for violations of city ordinances may be used for any violations of SHMC 8.16.030.

(5) In addition to any other enforcement procedures, the city council may, upon its own motion, or upon receipt of a petition requesting hearing by the council signed by no fewer than 10 persons residing in the vicinity of a property upon which is located an alleged violation of this chapter, issue its order to the person producing or permitting to be produced the sound which allegedly violates this chapter, to appear before the council and show cause why the council should not declare the sound a violation of this chapter and order the violation abated. Noncompliance with the order may result in the council referring the order to the city attorney for injunctive enforcement, or alternatively to the district attorney for appropriate action. (Ord. 2861 § 3, 2002; Ord. 2405 § 7, 1982)

#### **8.16.080 Penalties.**

(1) Violation of any provision of SHMC 8.16.030 shall constitute a class C misdemeanor offense.

(2) In addition to the penalties prescribed herein, the court may order any sound-producing device found to have been used to violate this chapter seized, confiscated, and destroyed as contraband, or sold with the proceeds of sale to be deposited in the city general fund. (Ord. 2861 § 4, 2002; Ord. 2405 § 8, 1982)

#### **8.16.090 Separate violations.**

Each day's violation of a provision of this chapter constitutes a separate offense. (Ord. 2405 § 9, 1982)

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The St. Helens Municipal Code is current through Ordinance 3253, passed May 20, 2020.

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