

1. Agenda

Documents:

[CC WS AGENDA 10-03-2018.PDF](#)

2. Meeting Materials

Documents:

[AFFORDABLE HOUSING INITIATIVES.PDF](#)  
[DRAFT AGENDA 10-10-18.PDF](#)  
[FINANCIAL REPORT UPDATE.PDF](#)  
[ORD 352.PDF](#)  
[ORD 354 LIGHT INDUSTRIAL.PDF](#)  
[ORD 356 BUSINESS LIC.PDF](#)  
[PLASTIC CITY COUNCIL ACTION ITEM.PDF](#)  
[RES 2018-34.PDF](#)

*Our village is a place where natural resources are valued and protected, where diversity is celebrated, and where a vibrant economy and sense of community pride create and recreate a living spirit. Yachats cares not just for its citizens' basic needs but also supports them in their efforts to excel mentally, physically, artistically, and spiritually. It is a community with an enduring sense of itself.*



CITY OF YACHATS

**CITY COUNCIL WORK SESSION,  
REGULAR COUNCIL MEETING**

441 Hwy 101 N., Yachats Commons, Room 1, Yachats OR

**Wednesday, October 3, 2018 at 9:30am**

**WORK SESSION AGENDA**

- I. CALL MEETING TO ORDER
- II. WORK SESSION DISCUSSION TOPICS
  - A. Yachats Biosolids Process
  - B. Discussion of plastic bag laws, and eliminating straws and Styrofoam from restaurants
  - C. Debriefing and discussion of Next Steps from the Facilitated Meeting
  - D. Approve agenda for 10/10/18 City Council meeting **at 6:00pm in Room 1**

**REGULAR COUNCIL MEETING**

- I. Announcements, Correspondence and Proclamations
- II. Public Comment: **Topics not listed on the agenda:** 5-minute limitation per person
- III. Public Hearings
  - A. Ordinance 352: Amendments to Section 8.22 VOTE
  - B. Ordinance 354: Light Industrial Uses VOTE
  - C. Ordinance 355: Comprehensive Plan Update VOTE
  - D. Ordinance 356: Business License VOTE
  - E. Resolution 2018-34 – Authorizing a Loan from Safe Drinking Water Revolving Loan Fund VOTE
- IV. Reports
  - A. Financial Report Update
  - B. Planning Commission: Response to Councilor Glenn's May 9, 2018 request that the Planning Commission look at the Newport Report on Affordable Housing Initiatives
- V. New Business
  - A. Evans/Betz Property, Request to Council
- VI. Other Business
  - A. From Mayor
  - B. From Council
  - C. From Staff

*The work session and regular council meeting are open to the public and interested citizens are invited to attend. These are open meetings under Oregon law, but a work session is not a community forum; audience participation is at the discretion of the Council. Meetings are audio-recorded. Public meeting minutes are available for review at City Hall. The meeting place is accessible to persons with disabilities. For accommodations, please call (541) 547-3565, or Oregon Relay 1-800-735-2900 (TDD) two days in advance. City of Yachats does not discriminate on the basis of race, color, religion, creed, gender, national origin, age, disability, marital or veteran status, sexual orientation, or any other legally protected status.*

*In accordance with ORS 192.630, City of Yachats will make a good faith effort to provide accommodations for any person desiring to attend a public meeting, if the request is made at least 48 hours in advance of the meeting time. The meeting room is physically accessible to persons with mobility devices; a sign language or foreign language interpreter may be available, with advance notice. Call City Hall at 541-547-3565 or Oregon Relay 1-800-735-2900 (TDD) two days in advance. Posted September 26, 2018*

## City Council Action Item Cover Sheet

DATE: October 3, 2018

### **Agenda Item:**

Response to Newport Affordable Housing Initiatives

### **Question Before Council:**

For your consideration

### **Person/Group Initiating Request:**

Planning Commission

### **Item Summary/Background:**

Councilor Glenn asked the Planning Commission to look at the May 9 Newport report on Affordable Housing Initiatives. The only issue that the Planning Commission could address was the recommendation for Accessory Dwelling Units. The Commission reviewed code and discussed the matter. Our summary is drafted in the form of a memo to Council.

TO: Yachats City Council  
FROM: Planning Commission  
DATE: September 18, 2018  
RE: Newport Housing Initiatives

Per your request to review the Newport Housing Initiatives, the Planning Commission has explored the suggested options in the memo from Councilor Glenn and concluded only the allowance of Accessory Dwelling Units (ADUs) fell under the jurisdiction of the Planning Commission. We believed the other suggested incentives were policy matters that the Council should address.

As you are aware, the State mandated the allowance of ADUs in cities of greater than 2,500 people. Lincoln County is processing legislation to require that ADUs be allowed regardless of population. This County legislation does not impact Yachats as the City's urban growth boundary is the same as the City limits, meaning there is no buildable property in the City under County jurisdiction. Therefore, Yachats is not required to allow ADUs.

Our current Municipal Code allows for the building of ADUs in zones C-1 and R-4. ADUs could be built within certain limits in zone R-3. In zones R-1 and R-2, significant code changes would be required to allow the building of ADUs.

City Planner Larry Lewis provided the Commission with a model building ordinance for ADUs. The number of questions that would need to be debated and resolved is significant. The Commission spent parts of two work sessions reviewing these questions and the applicable sections of the Yachats Code. A number of issues were identified during the discussions that the Commission believed must be addressed before moving forward. Some of these questions are:

- Should the City require that an owner reside in the ADU or primary home
- Should minimum lot sizes be established for erecting an ADU
- Should ADUs be prohibited from being used as vacation rentals
- What type of parking requirements should be required

Additionally, the Commission strongly believes that the expectation of residents living in an R-1 zone is that they reside in an area where only one family or dwelling is on each tax lot. The Commission suggests residents be allowed to provide input on this topic before the Commission proceeds with the details of developing an ordinance. Residents already seem highly concerned about parking issues in both residential and commercial zones.

We also note that the City faces continuing water shortages, which will likely increase in severity with the growth in tourism, increasing number of homes, and intensifying climate change. The Commission discussed water resources with Water Plant Lead Rick McClung, who indicated Public Works will be revising their water Master Plan in the coming year, which will provide more detail on water resources and maximum capacity the City can supply to residents without purchasing water from other jurisdictions.

Given these factors, if the Council wants to proceed with making ADUs allowable in the residential zones, we recommend they more formally solicit citizen input on the potential change and provide the Commission with more specific direction about what is desired.

*Yachats City Council Vision*

*Our village is a place where natural resources are valued and protected, where diversity is celebrated, and where a vibrant economy and sense of community pride create and recreate a living spirit. Yachats cares not just for its citizens' basic needs but also supports them in their efforts to excel mentally, physically, artistically, and spiritually. It is a community with an enduring sense of itself.*



CITY OF YACHATS

**CITY COUNCIL MEETING**

441 Hwy 101N, Yachats Commons, Room 1

**Wednesday, October 10, 2018 at 6:00pm**

AGENDA

- I. Announcements, Correspondence and Proclamations
- II. Public Comment (**topics not listed on the agenda:** 5-minute limitation per person)
- III. Minutes
  - A. Minutes: 09/05/18 Work Session
  - B. Minutes: 09/10/18 Facilitated Special Work Session
  - C. Minutes: 09/12/18 Regular Meeting
- IV. Reports
  - A. Council Reports
  - B. City Manager Report
  - C. Code Enforcement Report
- V. New Business
  - A. IT
  - B. Dahl Disposal: New Service Option Rate Proposal
  - C. EPA Presentation – sustainability tools
  - D. Commons Policy Manual – Amendment to Alcohol Policy
- VI. Other Business
  - A. From Mayor
  - B. From Council
  - C. From Staff

This meeting is open to the public and all interested persons are invited to attend. This meeting will be audio taped. All items to be considered by the Commission must be submitted to City Hall no later than one week prior to the meeting. Minutes of all public meetings are available for review at City Hall, or on the City website at [www.yachatsoregon.org](http://www.yachatsoregon.org). In accordance with ORS 192.630, City of Yachats will make a good faith effort to provide accommodations for any person desiring to attend a public meeting, if the request is made at least 48 hours in advance of the meeting time. The meeting room is physically accessible to persons with mobility devices; a sign language or foreign language interpreter may be available, with advance notice. Call City Hall at 541-547-3565 or Oregon Relay 1-800-735-2900 (TDD) two days in advance.

**POSTED September 5, 2018**

## City Council Action Item Cover Sheet

DATE: October 3, 2018

### **Agenda Item:**

Financial Report update

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### **Question Before Council:**

Status of Financial reporting options

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### **Person/Group Initiating Request:**

Judy Richter, City Clerk

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### **Item Summary/Background:**

Council has asked to receive financial reports on a regular schedule. What is currently available from the accounting software is a 38 page detail report of every account in the general ledger. I have worked with the vendor on a summary report but so far have been unsuccessful. They are working up a quote and timeline for developing something. In the meantime, I spent about 5 hours on an excel report that shows totals by Fund of the budgeted revenues versus actual revenue and the budgeted expenses versus actual. It is not complete in that there could be a comparison made between actual percentage and projected percentage based on the month of the fiscal year – hence the question marks.

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### **Issues/Concerns:**

It does require staff time to prepare this excel worksheet each month. Since the data is manually keyed, there is the potential for error. Staff requests financial reports be reviewed at the regular council meeting on the 2<sup>nd</sup> Wednesday of the month. Then the prior month financial report can be ready, the 1<sup>st</sup> Wednesday is too soon to be able to have the calculations complete and the report generated.

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# Revenues and Expenditures Fiscal 2018-2019 as of July 31, 2018

| Account                   | Budgeted Revenue | Revenue to Date | Difference   | % Received | Outliers | Budgeted Expenditure | Expenditures to Date | Difference | % Expended | Outliers |
|---------------------------|------------------|-----------------|--------------|------------|----------|----------------------|----------------------|------------|------------|----------|
|                           |                  |                 |              |            | 8.33%    |                      |                      |            |            | 8.33%    |
| General (100)             | 1,166,200.00     | 264,077.16      | (902,122.84) | 22.64%     |          | 649,430.00           | 649,430.00           | 0.00       | 100.00%    | ?        |
| City Hall                 |                  |                 |              |            |          | 422,000.00           | 28,149.01            | 393,850.99 | 6.67%      |          |
| 501 Bldg                  |                  |                 |              |            |          | 26,200.00            | 2,307.02             | 23,892.98  | 8.81%      |          |
| Marketing                 | 138,000.00       | 138,000.00      | 0.00         |            |          | 138,000.00           | 24,422.00            | 113,578.00 | 17.70%     |          |
| Visitor Amenities (120)   | 369,000.00       | 369,000.00      | 0.00         | 100.00%    |          | 435,870.00           | 435,870.00           | 0.00       | 100.00%    | ?        |
| Capital Reserve (150)     | 390,000.00       | 113,438.06      | (276,561.94) | 29.09%     |          | 365,000.00           | 365,000.00           | 0.00       | 100.00%    | ?        |
| City Hall                 | 40,000.00        | 40,000.00       | 0.00         |            |          | 55,000.00            | 0.00                 | 55,000.00  | 0.00%      |          |
| 501 Bldg                  |                  |                 |              |            |          |                      |                      |            |            |          |
| Streets                   | 74,000.00        | 74,000.00       | 0.00         |            |          | 253,500.00           | 0.00                 | 253,500.00 | 0.00%      |          |
| Library                   | 46,100.00        | 46,100.00       | 0.00         |            |          | 50,000.00            | 0.00                 | 50,000.00  | 0.00%      |          |
| ILCM                      | 116,600.00       | 116,600.00      | 0.00         |            |          | 150,000.00           | 0.00                 | 150,000.00 | 0.00%      |          |
| Commons                   | 27,000.00        | 27,000.00       | 0.00         |            |          | 65,000.00            | 34,875.00            | 30,125.00  | 53.65%     |          |
| Parks                     | 68,000.00        | 68,000.00       | 0.00         |            |          | 60,000.00            | 0.00                 | 60,000.00  | 0.00%      |          |
| Water                     | 100,000.00       | 100,000.00      | 0.00         |            |          | 310,000.00           | 0.00                 | 310,000.00 | 0.00%      |          |
| Sewer                     | 230,000.00       | 230,000.00      | 0.00         |            |          | 240,000.00           | 467.15               | 239,532.85 | 0.19%      |          |
| Restricted Reserves (155) |                  |                 |              |            |          |                      |                      |            |            |          |
| Debt Service (17)         | 43,000.00        | 43,000.00       | 0.00         | 100.00%    |          | 42,850.00            | 0.00                 | 42,850.00  | 0.00%      |          |
| GO Bond                   | 44,000.00        | 0.00            | (44,000.00)  |            |          | 44,670.00            | 0.00                 | 44,670.00  | 0.00%      |          |
| South Tank                | 100,000.00       | 100,000.00      | 0.00         |            |          | 40,000.00            | 0.00                 | 40,000.00  | 0.00%      |          |
| Sewer Debt (76)           | 560,000.00       | 560,000.00      | 0.00         |            |          | 509,733.00           | 0.00                 | 509,733.00 | 0.00%      |          |
|                           |                  |                 |              |            |          |                      |                      |            |            |          |
| Sys Dev (160)             | 235,668.00       | 197,969.78      | (37,698.22)  | 84.00%     |          | 190,000.00           | 190,000.00           | 0.00       | 100.00%    | ?        |
|                           |                  |                 |              |            |          |                      |                      |            |            |          |
| City Amenities (240)      |                  |                 |              |            |          |                      |                      |            |            |          |
| Library (122)             | 32,400.00        | 29,502.70       | (2,897.30)   | 91.06%     |          | 32,400.00            | 4,351.23             | 28,048.77  | 13.43%     | ?        |
| Log Church Museum (123)   | 15,900.00        | 13,199.00       | (2,701.00)   | 83.01%     |          | 15,900.00            | 5,415.34             | 10,484.66  | 34.06%     | ?        |
| Commons (124)             | 162,800.00       | 133,723.00      | (29,077.00)  | 82.14%     |          | 162,800.00           | 35,088.04            | 127,711.96 | 21.55%     | ?        |

# Revenues and Expenditures Fiscal 2018-2019 as of July 31, 2018

| Account                  | Budgeted Revenue | Revenue to Date | Difference     | % Received | Outliers | Budgeted Expenditu | Expenditures to Date | Difference   | % Expende | Outliers |
|--------------------------|------------------|-----------------|----------------|------------|----------|--------------------|----------------------|--------------|-----------|----------|
|                          |                  |                 |                |            | 8.33%    |                    |                      |              |           | 8.33%    |
| Parks & Trails (125)     | 37,000.00        | 36,500.00       | (500.00)       | 98.65%     |          | 37,000.00          | 1,433.74             | 35,566.26    | 3.87%     |          |
| Streets (621)            | 121,000.00       | 39,561.85       | (81,438.15)    | 32.70%     |          | 97,700.00          | 12,073.62            | 85,626.38    | 12.36%    | ?        |
| Storm Drains (630)       | 37,000.00        | 37,000.00       | 0.00           | 100.00%    |          | 37,000.00          | 1,245.72             | 35,754.28    | 3.37%     |          |
| Water (660)              | 642,500.00       | 59,430.05       | (583,069.95)   | 9.25%      |          | 627,500.00         | 180,875.83           | 446,624.17   | 28.82%    | ?        |
| Water Construction (668) | 138,500.00       | 150,000.00      | 11,500.00      | 108.30%    |          | 328,500.00         | 2,505.43             | 325,994.57   | 0.76%     |          |
| Sewer (670)              | 628,000.00       | 54,969.01       | (573,030.99)   | 8.75%      |          | 600,150.00         | 178,015.79           | 422,134.21   | 29.66%    | ?        |
| URD (90)                 | 271,000.00       | 0.00            | (271,000.00)   | 0.00%      | ?        | 229,000.00         | 226,000.00           | 3,000.00     | 98.69%    | ?        |
| Totals                   | 5,833,668.00     | 3,041,070.61    | (2,792,597.39) | 52.13%     |          | 6,215,203.00       | 2,377,524.92         | 3,837,678.08 | 38.25%    |          |

Total Income over Expenditures 663,545.69

All Interfund Transfers are done at the first of the Fiscal Year

Budgeted Expenditures do not include contingencies or beginning balances

# Revenues and Expenditures Fiscal 2018-2019 as of August 31, 2018

| Account                   | Budgeted Rev | Revenue to Date | Difference   | % Received | Outliers | Budgeted Expen | Expenditures to E | Difference | % Expende | Outliers |
|---------------------------|--------------|-----------------|--------------|------------|----------|----------------|-------------------|------------|-----------|----------|
|                           |              |                 |              |            | 16.67%   |                |                   |            |           | 16.67%   |
| General (100)             | 1,166,200.00 | 282,716.76      | (883,483.24) | 24.24%     |          | 649,430.00     | 649,430.00        | 0.00       | 100.00%   | ?        |
| City Hall                 |              |                 |              |            |          | 422,000.00     | 49,845.66         | 372,154.34 | 11.81%    |          |
| 501 Bldg                  |              |                 |              |            |          | 26,200.00      | 4,878.36          | 21,321.64  | 18.62%    |          |
| Marketing                 | 138,000.00   | 138,000.00      | 0.00         |            |          | 138,000.00     | 25,178.03         | 112,821.97 | 18.24%    |          |
| Visitor Amenities (120)   | 369,000.00   | 369,000.00      | 0.00         | 100.00%    |          | 435,870.00     | 435,870.00        | 0.00       | 100.00%   | ?        |
| Capital Reserve (150)     | 390,000.00   | 113,486.06      | (276,513.94) | 29.10%     |          | 365,000.00     | 365,000.00        | 0.00       | 100.00%   | ?        |
| City Hall                 | 40,000.00    | 40,000.00       | 0.00         |            |          | 55,000.00      | 455.00            | 54,545.00  | 0.83%     |          |
| 501 Bldg                  |              |                 |              |            |          |                |                   |            |           |          |
| Streets                   | 74,000.00    | 74,000.00       | 0.00         |            |          | 253,500.00     | 487.50            | 253,012.50 | 0.19%     |          |
| Library                   | 46,100.00    | 46,100.00       | 0.00         |            |          | 50,000.00      | 162.50            | 49,837.50  | 0.33%     |          |
| LLCM                      | 116,600.00   | 116,600.00      | 0.00         |            |          | 150,000.00     | 97.50             | 149,902.50 | 0.07%     |          |
| Commons                   | 27,000.00    | 27,000.00       | 0.00         |            |          | 65,000.00      | 66,262.50         | (1,262.50) | 101.94%   |          |
| Parks                     | 68,000.00    | 68,000.00       | 0.00         |            |          | 60,000.00      | 0.00              | 60,000.00  | 0.00%     |          |
| Water                     | 100,000.00   | 100,000.00      | 0.00         |            |          | 310,000.00     | 3,571.24          | 306,428.76 | 1.15%     |          |
| Sewer                     | 230,000.00   | 230,000.00      | 0.00         |            |          | 240,000.00     | 55,547.12         | 184,452.88 | 23.14%    |          |
| Restricted Reserves (155) |              |                 |              |            |          |                |                   |            |           |          |
| Debt Service (17)         | 43,000.00    | 43,000.00       | 0.00         | 100.00%    |          | 42,850.00      | 0.00              | 42,850.00  | 0.00%     |          |
| GO Bond                   | 44,000.00    | 0.00            | (44,000.00)  |            |          | 44,670.00      | 0.00              | 44,670.00  | 0.00%     |          |
| South Tank                | 100,000.00   | 100,000.00      | 0.00         |            |          | 40,000.00      | 0.00              | 40,000.00  | 0.00%     |          |
| Sewer Debt (76)           | 560,000.00   | 560,000.00      | 0.00         |            |          | 509,733.00     | 0.00              | 509,733.00 | 0.00%     |          |
|                           |              |                 |              |            |          |                |                   |            |           |          |
| Sys. Dev. (160)           | 235,668.00   | 200,996.57      | (34,671.43)  | 85.29%     |          | 190,000.00     | 190,000.00        | 0.00       | 100.00%   | ?        |

# Revenues and Expenditures Fiscal 2018-2019 as of August 31, 2018

| Account                  | Budgeted Revenue | Revenue to Date | Difference     | % Received | Outliers | Budgeted Expense | Expenditures to Date | Difference   | % Expended | Outliers |
|--------------------------|------------------|-----------------|----------------|------------|----------|------------------|----------------------|--------------|------------|----------|
|                          |                  |                 |                |            | 16.67%   |                  |                      |              |            | 16.67%   |
| City Amenities (240)     |                  |                 |                |            |          |                  |                      |              |            |          |
| Library (122)            | 32,400.00        | 29,708.20       | (2,691.80)     | 91.69%     |          | 32,400.00        | 5,836.63             | 26,563.37    | 18.01%     | ?        |
| Log Church Museum (123)  | 15,900.00        | 13,618.00       | (2,282.00)     | 85.65%     |          | 15,900.00        | 5,852.76             | 10,047.24    | 36.81%     | ?        |
| Commons (124)            | 162,800.00       | 137,345.00      | (25,455.00)    | 84.36%     |          | 162,800.00       | 43,876.10            | 118,923.90   | 26.95%     | ?        |
| Parks & Trails (125)     | 37,000.00        | 36,500.00       | (500.00)       | 98.65%     |          | 37,000.00        | 2,713.86             | 34,286.14    | 7.33%      |          |
| Streets (621)            | 121,000.00       | 47,123.03       | (73,876.97)    | 38.94%     |          | 97,700.00        | 18,918.31            | 78,781.69    | 19.36%     | ?        |
| Storm Drains (630)       | 37,000.00        | 37,000.00       | 0.00           | 100.00%    |          | 37,000.00        | 2,796.85             | 34,203.15    | 7.56%      |          |
| Water (660)              | 642,500.00       | 131,352.19      | (511,147.81)   | 20.44%     |          | 627,500.00       | 222,814.48           | 404,685.52   | 35.51%     | ?        |
| Water Construction (668) | 138,500.00       | 150,000.00      | 11,500.00      | 108.30%    |          | 328,500.00       | 88,784.07            | 239,715.93   | 27.03%     | ?        |
| Sewer (670)              | 628,000.00       | 121,363.44      | (506,636.56)   | 19.33%     |          | 600,150.00       | 214,185.71           | 385,964.29   | 35.69%     | ?        |
| URD (90)                 | 271,000.00       | 0.00            | (271,000.00)   | 0.00%      | ?        | 229,000.00       | 226,000.00           | 3,000.00     | 98.69%     | ?        |
| Totals                   | 5,833,668.00     | 3,212,909.25    | (2,620,758.75) | 55.08%     |          | 6,215,203.00     | 2,678,564.18         | 3,536,638.82 | 43.10%     |          |

Total Income over 534,345.07

All Interfund Transfers are done at the first of the Fiscal Year  
 Budgeted Expenditures do not include contingencies or beginning

## City Council Action Item Cover Sheet

DATE: October 3, 2018

### Agenda Item:

Ordinance 352

### Question Before Council:

Consideration of changes to Yachats Municipal Code Chapter 8.22

### Person/Group Initiating Request:

City Manager

### Item Summary/Background:

Based upon citizen input, Councilors Tooke & Berdie met and made the attached recommendations.

These recommendations were forwarded to the City Attorney for comment in the relevant sections raised by the review. The attorney's thoughts/responses are in the attached memo, as well as, a revised ordinance and comparison document (red-lined version).

On 8/27 Councilor Tooke and I met to review citizen input on revisions to Ordinance No.352, Chapter 8.22 Our recommendations follow.

#### **Section 8.22.10 Definitions**

“Approved City agents” Suggestion is to strike text “ for the purpose of...ordinance”

We assume that the phrase “for the purpose ...ordinance” was intended to limit the city agents role to checking meters during a water shortage. We recommend leaving as is

Commercial water meter sizes.

We agree and suggest that the first definition be changed to “smaller than 1-1/2”.

Water Shortage reference to 8.22.100. Concern is that it is unclear how shortage designation ceases

We recommend leaving as is. 8.22.100 states that the Public Works Director may declare a shortage and terminate the shortage declaration. That decision is subject to approval of the Council. Once the Council approves the termination, the water shortage is over.

Grey Water needing fuller definition

Grey Water is subject to ORS 454.610 rules and permits. Therefore, no further definition is required in city code.

Drip Irrigation not defined

True, but common usage is apparent. We recognize this as an issue but there are many nouns that could be subject to definition, so we suggest leaving.

General comments on redundant use of “users” throughout definition and other sections

While “users” is indeed redundant, our assumption is that it is a proper legal reference. If so, it should remain. Perhaps the city attorney can provide brief clarification

General comment re. including definitions where used as some terms are only used once

We recommend leaving as is. This is common practice in other ordinances. Changing it here could lead to revisions in all city ordinances which would be an unnecessary cost.

#### **8.22.030 Phase 1**

B: (Also Phase 2 and Phase 3) usage is “City water users shall receive written notice” Suggestion is to change “receive” to “be sent”

We would like clarity on this. The city has no control over users’ receipt of the notice but can be responsible for sending the notice. Perhaps this is the correct wording in law but is confusing to a lay reader.

C:1 Include *be permitted to water* rather than *shall water* in odd/even sentences.

We agree that this would be clearer. (I.E. not forcing people to water). Clarification appreciated or revised if appropriate.

## **8.22.040 Phase 2**

Comment: Add allowing grey water and water from outside city as in Phase 3

Not necessary as all uses except those explicitly not allowed are permitted.

D: Suggestion is to add "post....in a conspicuous location *on the serviced lot* within twenty four..."

This could be changed as it makes sense to a lay reader. However, if the attorney feels it is implied, leave as is.

## **8:22:050 Phase 3**

C:4 Suggested changes to wording to clarify that only dirty linens must be laundered outside city.

Our recommendation is to leave as is. "for laundering" implies the need.

D: Change "vacation rental residential" to "transient water"

We agree with this change. This is show-through from existing ordinance. Vacation Rental was changed to Transient.

E: Concern that paragraph does not address new users/houses with no history over same calendar time

We agree. Add something like "New owners may be restricted to a percentage of usage of previous owners. New houses with no history may be restricted to a percentage of city-wide residential median usage."

G: Concern with clarity and consistency of posting requirements

We need alignment with the council. In Phase 2, large meter, commercial and transient users were given 24 hours to post in a conspicuous location. In phase 3 they are given two days but must post in each rental unit. No posting is required in Phase 1. Is this the will of the council?

Suggest adding "*on the serviced lot* if no rental units and in each rental unit" to address cases where there is only non-rental commercial use.

## **8:22:060 Phase 4**

Concern with lack of succession plan for City Manager. (Note: not part of submitted changes)

No change needed. The city Emergency Operations Plan (EOP) section 1.6: Authorities addresses this situation.



DATE: September 18, 2018

TO: Yachats City Council

FROM: Shannon Beaucaire, City Manager

SUBJECT: City Attorney's thoughts on proposed recommendations to Ordinance 352

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From Ross Williamson, City Attorney:

Based upon the notes, here is a revised ordinance and a new comparison document showing changes in comparison to the current Code.

I believe I've tackled each of the comments – although I did not always adopt the specific suggested wording for changes.

There was a comment about the use of the word “user” in the definitions. The comment thought that the term was redundant. I'm not sure I see the term being used redundantly. Yes, it is used multiple times, but I don't think using a term multiple times means it is redundant. If there is confusion about the term or concern with its use, I'm happy to offer my thoughts.

I included a new change of 8.22.020(E) to address the gray water issue. Rather than addressing gray water (and water sources other than City water) in each Phase, I just added a clarification sentence that the Chapter is not intended to regulate the use of gray water.

There was also a concern about the posting requirements. This is a policy call for the Council, but it seems to make sense to me the way it is written. Right now there is no posting requirement for Phase 1, a 24 posting requirement for Phase 2, and a 48 hour posting requirement for Phase 3. In other words, as the intensity of the water restrictions increase, the City allows a little more seriousness in posting. That seems logical to me, but I also think the Council could choose to harmonize these requirements in some other way too.

In terms of 8.22.050(E), I added some wording to address users without 2 years of usage history. It seemed to me to be fair to take a City-wide average for similar uses, rather than looking back to prior owners. Since the current owner has no control of the prior owner, looking at a City-wide average seemed reasonable to me.

**CITY OF YACHATS  
ORDINANCE NO. 352**

**AN ORDINANCE AMENDMENT THE YACHATS MUNICIPAL CODE CHAPTER 8.22  
RELATED TO WATER USE CURTAILMENT**

**Whereas**, since 2001, the City has had water use curtailment measures in place to deal with water shortages; and

**Whereas**, the City has water rights to draw water for municipal uses from the Yachats River as well as Reedy and Salmon Creek; and

**Whereas**, the City does not currently use its water rights in the Yachats River but instead obtains all its raw water from Reedy and Salmon Creek; and

**Whereas**, through its water permit with the Oregon Water Resources Department for the Yachats River, the City has certain obligations that arise should the City draw water from the Yachats River; and

**Whereas**, the City's water curtailment measures in YMC Chapter 8.22 are potentially confusing as to the curtailment measures relate to the City's use of its water rights in the Yachats River; and

**Whereas**, the City wishes to clarify its water curtailment measures and maintain compliance with its obligations under its water permit for the Yachats River; and

**Whereas**, these amendments to YMC Chapter 8.22 will serve to clarify the Council's role in determining water shortages and will result in more thorough protection of the City's valuable water resources,

**NOW THEREFORE**, the City of Yachats ordains as follows:

**Section 1. Yachats Municipal Code Chapter 8.22.**

Yachats Municipal Code Chapter 8.22, Section 8.22.010, Section 8.22.020, Section 8.22.030, Section 8.22.040, Section 8.22.050, Section 8.22.100, and Section 8.22.110 shall be amended to read as follows:

**Section 8.22.010 Definitions.**

As used in this title:

"Approved City agents" means persons trained by City personnel to read meters and report the readings back to the City for the purpose of reading meters on a more frequent basis to enforce the provisions of this ordinance.

“Commercial water” means those commercial users of meters smaller than 1-1/2” and billed under the City’s water system as “commercial water.”

“Commercial large meter” means those users of meters 1-1/2 inches or larger and billed under the City’s water system as “commercial large meter.”

“Flow control nozzle” means any hand held nozzle type device, in proper working condition, affixed directly to the hose that must be triggered by hand to allow flow.

“Gray water” means water from a water system for which a permit has been obtained under the authority of ORS 454.610.

“Hot tubs, whirlpools and spas” means large bath tub type vessels, jetted or non-jetted, with a capacity greater than 40-gallons.

“Outside City water” means those users of residential sized meters and billed under the City’s water system as “outside City water.”

“Residential water” means those users of residential sized meters and billed under the City’s water system as “residential water.”

“Transient water” means those users of residential sized meters and billed under the City’s water system as “transient residential water.”

“Water shortage” means a status determined by the City Council via resolution. Except in emergencies as determined under Section 8.22.100, it is the Council’s determination of a water shortage that results in the water conservation actions set out under each phase in Sections 8.22.030 through 8.22.050.

#### **Section 8.22.020 Purposes and determinations.**

A. As the result of a drought and the threat of a continued drought or other condition, the ordinary demands and requirements of water consumers may not be satisfied without depleting the water supply of the City of Yachats to the extent that there may be insufficient water for human consumption, sanitation or fire protection.

B. The City Council finds and determines that a water shortage emergency may exist within the City’s water service area and will be likely to continue to exist for an unknown period, but that from time to time there may be sufficient water in the reservoirs from rainfall for temporary suspension of the water conservation measures provided in this Ordinance.

C. The City Council finds, determines and anticipates that a situation, or situations, may occur, or exist, from causes beyond the control of the City, and that are not related to weather, that will result in limited quantities of water being available and is likely to exist for a prolonged period that requires extreme measures to maintain the absolute minimum of treated water for human consumption, sanitation or fire protection.

D. The City Council, to protect the health, safety and general welfare of its citizens in the public interest, finds it necessary to adopt regulations necessary to mitigate any water shortage emergency.

E. During such time that the City Council of the City of Yachats determines that there is a water shortage, as declared by the City Council, no person or entity shall use water supplied by or through the City's water system for the reasons stated under each phase. The water conservation actions required by this Chapter shall not apply to gray water and water obtained from sources other than the City's water supply.

#### **Section 8.22.030 Water conservation actions—Phase 1.**

A. A water shortage is a Phase 1 water shortage when, subject to Section 8.22.110:

1. The flow in the Yachats River is recorded to be less than 35 cubic feet per second (hereafter CFS); or

2. The combined flow of Reedy and Salmon Creek is less than 0.64 CFS (275 Gallons Per Minute (hereafter GPM)); or

3. According to the Palmer Drought Severity Index, the Coastal Region is in a Moderate to Extreme Drought and the Public Works Director determines that conditions exist to warrant Phase 1 restrictions.

B. Upon determination of a Phase 1 water shortage, the City shall send notice to all water utility customers of: the water shortage, the Phase 1 water restrictions in force, and the penalties for non-compliance.

C. Water Alert Status - Phase 1 calls for moderate curtailment. The following non-essential uses are restricted or prohibited under Phase 1:

1. The watering of lawns, gardens and landscaping is restricted to alternative days. Specifically, houses with an address number ending in even numbers (0-2-4-6-8) shall be permitted to water lawns only on even numbered calendar days. Houses with an address number ending in odd numbers (1-3-5-7-9), or fractional addresses, shall be permitted to water only on odd numbered calendar days. All watering of lawns, gardens and landscaping shall be prohibited between the hours of 10:00 A.M. and 7:00 P.M. of each day.

2. All sales of water to persons who are not customers of the water system are prohibited.

3. No water shall be used by the Yachats Rural Fire District for drills, fire hose testing, hydrant flushing or truck washing.

4. The operation of an ornamental fountain, unless it is equipped with a recirculation system, is prohibited.

#### **Section 8.22.040 Water conservation actions—Phase 2.**

A. A water shortage is a Phase 2 water shortage when, subject to Section 8.22.110:

1. The flow of the Yachats River is measured to be less than 20 CFS or
2. The combined flow of Reedy and Salmon Creek is less than 0.50 CFS (200 GPM)

or

3. According to the Palmer Drought Severity Index, the Coastal Region is in a Severe or Extreme Drought and the Public Works Director determines that conditions exist to warrant Phase 2 restrictions.

B. Upon determination of a Phase 2 water shortage, the City shall send notice to all water utility customers of: the water shortage, the Phase 2 water restrictions in force, and the penalties for non-compliance.

C. Water Warning Status - Phase 2 calls for extensive restrictions on water usage. In addition to the restrictions and prohibitions for Phase 1 above, for Phase 2 the following non-essential uses are prohibited:

1. The watering of any vegetation, except that trees and shrubs may be watered with a hand held watering device, bucket or hose with flow control nozzle, or drip irrigation system only (no airborne sprinkler systems).

2. The use of water for washing, hosing and the like of buildings and pavement or other pedestrian surfaces.

3. Drinking water served at restaurants, motels and other businesses which serve food or drink to the public, unless users post “drought notices” in a clearly conspicuous manner so that members of the public will be apprised of the water shortage. If so posted, water for drinking purposes may be served upon request.

4. Washing of vehicles, equipment, watercraft and the like.

5. The operation of all exterior ornamental fountains, even with a recirculating system.

6. Use of City water for dust control.

D. For Phase 2, all commercial large meter, commercial water, and transient water users shall post the written notice, provided by the City, pursuant to subsection B of this section in a conspicuous location on the property receiving City water service within twenty four (24) hours of receiving said notice. For transient water users, the notice shall be posted in each rental unit.

#### **Section 8.22.050 Water conservation actions—Phase 3.**

A. A water shortage is a Phase 3 water shortage when, subject to Section 8.22.110:

1. The flow of the Yachats River is measured to be less than 15 CFS; or
2. The combined flow of Reedy and Salmon Creek is less than 0.40 CFS (175 GPM); or

3. According to the Palmer Drought Severity Index, the Coastal Region is in an Extreme Drought and the Public Works Director determines that conditions exist to warrant Phase 3 restrictions.

B. Upon determination of a Phase 3 water shortage, the City shall send notice to all water utility customers of: the water shortage, the Phase 3 water restrictions in force, and the penalties for non-compliance.

C. Water Emergency Status - Phase 3 is the most restrictive level of water conservation measures. In addition to the restrictions and prohibitions for Phases 1 and 2, above, for Phase 3 the following non-essential uses of water are prohibited:

1. All landscape watering is prohibited.
2. Use of water from a fire hydrant for any use other than for firefighting.
3. Use of non-recirculating hot tubs, whirlpools or spas.
4. All "commercial large meter" users are required to send linens for laundering outside the City except that commercial laundromats are exempt from this regulation.

D. For Phase 3, all small meters, including residential water, outside City water, commercial water, and transient water users shall be charged the base volumetric rate for the first 400 cubic feet per month usage. Usage over 400 cubic feet per month usage shall be charged the base volumetric rate plus \$2 per 100 cubic feet over the 400 cubic feet. Fractions of months under Phase 3 water conservation restrictions shall be billed extra based on daily usage over 13.33 cubic feet per day. Meters may be read more frequently by City personnel or approved City agents to enforce these restrictions. Small meter users using more than 27 cubic feet per day on average shall be given a written warning to reduce usage and thereafter cited under 8.22.070 C.1. (Phase 3 - First offense).

E. For Phase 3, all users may be required to reduce their normal usage by a certain percentage when compared to the average normal usage over the same calendar time period from the previous two (2) years. For water utility accounts with less than two years of usage history, the percentage reduction shall be compared to a City-wide median usage for similar users.

F. No water connections to new residences, business or industry shall be permitted during Phase 3.

G. All commercial large meter, commercial, and transient water users shall post the written notice, provided by the City, pursuant to subsection B of this section in a conspicuous

location on the property receiving City water service within two (2) days of receiving notice of a Phase 3. For transient water users, the notice shall be posted in each rental unit.

**Section 8.22.100 Public Works Director declaring necessity for water conservation.**

In an emergency, as determined in the discretion of the Public Works Director, the Public Works Director may declare a water shortage and the necessity for water conservation actions under Sections 8.22.030 through 8.22.050. The water conservation actions shall be in full force and effect and shall be enforced until such time as the Public Works Director declares a suspension or termination of the water shortage. The Public Works Director shall notify the Council immediately upon such declaration and Council shall meet as soon as practical to accept, reject or modify such determination.

**Section 8.22.110 Method of measurement.**

For purposes of determining the existence of a water shortage and the severity of water conservation actions under Sections 8.22.030 through 8.22.050, the City shall measure the flow of water at sources with developed City rights, as follows:

1. If the City is using the Yachats River to supplement its raw water source, the water flows in the Yachats River will be determined by using a measuring device approved by the Oregon Water Resources Department. If the City is not using the Yachats River to supplement its raw water source, the flow of the Yachats River shall not be considered for determining a water shortage.

2. The combined flow of Reedy and Salmon Creek shall be measured using a staff gage installed in Salmon Creek.

**Section 2. Yachats Municipal Code Section 8.22.090.**

Yachats Municipal Code Section 8.22.090 is hereby repealed and removed from Chapter 8.22.

**Section 3. Effective date.**

Pursuant to the Yachats Charter, this ordinance shall take effect 30 days after adoption.

Passed and adopted by the City Council of the City of Yachats on this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Gerald Stanley, Mayor

Attest: \_\_\_\_\_  
Shannon Beaucaire, City Manager

YMC Chapter 8.22.

**Section 8.22.010 Definitions.**

As used in this title:

~~“Grey water” means water used in the home for domestic means that is collected after primary use and reused for landscape watering.~~

~~“Approved City agents” means persons trained by City personnel to read meters and report the readings back to the City for the purpose of reading meters on a more frequent basis to enforce the provisions of this ordinance.~~

~~“Commercial water” means those commercial users of meters smaller than 1-1/2” and billed under the City’s water system as “commercial water.”~~

“Commercial large meter” means those users of meters 1-1/2 inches or larger and billed under the City’s water system as “commercial large meter.”

~~“Flow control nozzle” means any hand held nozzle type device, in proper working condition, affixed directly to the hose that must be triggered by hand to allow flow.~~

~~“Gray water” means water from a water system for which a permit has been obtained under the authority of ORS 454.610.~~

~~“Hot tubs, whirlpools and spas” means large bath tub type vessels, jetted or non-jetted, with a capacity greater than 40-gallons.~~

~~“Residential water” means those users of residential sized meters and billed under the City’s water system as “residential water.”~~

“Outside City water” means those users of residential sized meters and billed under the City’s water system as “outside City water.”

~~“Residential water” means those users of residential sized meters and billed under the City’s water system as “residential water.”~~

~~“Commercial water” means those commercial users of meters smaller than 1-1/4” and billed under the City’s water system as “commercial water.”~~

“Transient ~~rental residential~~water” means those users of residential sized meters and billed under the City’s water system as “transient residential water.”

~~“Flow control nozzle” means any hand held nozzle type device, in proper working condition, affixed directly to the hose that must be triggered by hand to allow flow.~~

~~“Hot tubs, whirlpools and spas” means large bath tub type vessels, jetted or non-jetted, with a capacity greater than 40 gallons.~~

~~“Drought”~~ “Water shortage” means a status determined by the ~~combined flow of Reedy and Salmon Creeks~~ City Council via resolution. Except in emergencies as specified in determined under Section 8.22.020.

~~“Potential drought” means an assessment of future drought conditions based on 100, it is the Council’s determination of a water shortage that results in the Palmer Drought Severity Index for the Pacific Northwest Region or other appropriate measurements or conditions~~ water conservation actions set out under each phase in Sections 8.22.030 through 8.22.050.

~~“Approved City agents” means persons trained by City personnel to read meters and report the readings back to the City for the purpose of reading meters on a more frequent basis to enforce the provisions of this ordinance.~~

#### **Section 8.22.020 Purposes and determinations.**

A. As the result of a drought and the threat of a continued drought or other condition, the ordinary demands and requirements of water consumers may not be satisfied without depleting the water supply of the City of Yachats to the extent that there may be insufficient water for human consumption, sanitation or fire protection.

B. The City Council finds and determines that a water shortage emergency may exist within the City’s water service area and will be likely to continue to exist for an unknown period, but that from time to time there may be sufficient water in the reservoirs from rainfall for temporary suspension of the water conservation measures provided in this Ordinance.

C. The City Council finds, determines and anticipates that a situation, or situations, may occur, or exist, from causes beyond the control of the City, and that are not related to weather, that will result in limited quantities of water being available and is likely to exist for a prolonged period that requires extreme measures to maintain the absolute minimum of treated water for human consumption, sanitation or fire protection.

D. The City Council, to protect the health, safety and general welfare of its citizens in the public interest, finds it necessary to adopt regulations necessary to mitigate any water shortage emergency.

E. During such time that the City Council of the City of Yachats determines that there is a water shortage, as declared by the City Council, no person or entity shall use water supplied by or through the City's water system for the reasons stated under each phase. The water conservation actions required by this Chapter shall not apply to gray water and water obtained from sources other than the City's water supply.

#### **Section 8.22.030 Water conservation actions—Phase 1.**

A. A water shortage is a Phase 1 ~~shall be in effect~~ water shortage when, subject to Section 8.22.110:

1. The flow in the Yachats River is recorded to be less than 35 cubic feet per second (hereafter CFS); or
2. The combined flow of Reedy and Salmon Creek is less than 0.64 CFS (275 Gallons Per Minute (hereafter GPM)); or
3. According to the Palmer Drought Severity Index, the Coastal Region is in a Moderate to Extreme Drought and the Public Works Director determines that conditions exist to warrant Phase 1 restrictions.

B. All ~~Upon determination of a Phase 1 water shortage, the~~ City ~~water users~~ shall ~~receive written~~ send notice ~~of the to all~~ water utility customers of: the water shortage ~~situation, that,~~ the Phase 1 water restrictions ~~are~~ in force, and the penalties for non-compliance.

C. Water Alert Status - Phase 1 calls for moderate curtailment. The following non-essential uses are restricted or prohibited under Phase 1:

1. The watering of lawns, gardens and landscaping is restricted to alternative days. Specifically, houses with an address number ending in even numbers (0-2-4-6-8) shall be permitted to water lawns only on even numbered calendar days. Houses with an address number ending in odd numbers (1-3-5-7-9), or fractional addresses, shall be permitted to water only on odd numbered calendar days. All watering of lawns, gardens and landscaping shall be prohibited between the hours of 10:00 A.M. and 7:00 P.M. of each day.
2. All sales of water to persons who are not customers of the water system are prohibited.
3. No water shall be used by the Yachats Rural Fire District for drills, fire hose testing, hydrant flushing or truck washing.
4. The operation of an ornamental fountain, unless it is ~~are~~ equipped with a recirculation system, is prohibited.

## Section 8.22.040 Water conservation actions—Phase 2.

A. A water shortage is a Phase 2 ~~shall be in effect~~ water shortage when, subject to Section 8.22.110:

1. The flow of the Yachats River is measured to be less than 20 CFS or
2. The combined flow of Reedy and Salmon Creek is less than 0.50 CFS (200 GPM) or
3. According to the Palmer Drought Severity Index, the Coastal Region is in a Severe or Extreme Drought and the Public Works Director determines that conditions exist to warrant Phase 2 restrictions.

B. All ~~Upon determination of a Phase 2 water shortage, the~~ City ~~water users~~ shall ~~receive written~~ send notice ~~of the to all~~ water utility customers of: the water shortage situation, ~~that,~~ the Phase 2 water restrictions ~~are in force,~~ and the penalties for non-compliance.

C. Water Warning Status - Phase 2 calls for extensive restrictions on water usage. In addition to the restrictions and prohibitions for Phase 1 above, for Phase 2 the following non-essential uses are prohibited:

1. The watering of any vegetation, except that trees and shrubs may be watered with a hand held watering device, bucket or hose with flow control nozzle, or drip irrigation system only (~~Non~~ no airborne sprinkler systems);;
2. The use of water for washing, hosing and the like of buildings and pavement or other pedestrian surfaces;;
3. Drinking water served at restaurants, motels and other businesses which serve food or drink to the public, unless users post “drought notices” in a clearly conspicuous manner so that members of the public will be apprised of the water shortage. If so posted, water for drinking purposes may be served upon request;;
4. Washing of vehicles, equipment, watercraft and the like;;
5. The operation of all exterior ornamental fountains, even with a recirculating system;and;
6. Use of City water for dust control.

D. ~~All~~ For Phase 2, all commercial large meter ~~users~~, commercial water, and transient water users shall post the written notice, provided by the City, pursuant to subsection B of this

section in a conspicuous location on the property receiving City water service within twenty four (24) hours of receiving said notice. For transient water users, the notice shall be posted in each rental unit.

### **Section 8.22.050 Water conservation actions—Phase 3.**

A. A water shortage is a Phase 3 ~~shall be in effect~~ water shortage when, subject to Section 8.22.110:

1. The flow of the Yachats River is measured to be less than 15 CFS; or
2. The combined flow of Reedy and Salmon Creek is less than 0.40 CFS (175 GPM); or
3. According to the Palmer Drought Severity Index, the Coastal Region is in an Extreme Drought and the Public Works Director determines that conditions exist to warrant Phase 3 restrictions.

B. All Upon determination of a Phase 3 water shortage, the City ~~water users~~ shall ~~receive written~~ send notice ~~of the to all water utility customers of: the water shortage situation, that,~~ the Phase 3 water restrictions ~~are~~ in force, and the penalties for non-compliance.

C. Water Emergency Status - Phase 3 is the most restrictive level of water conservation measures. In addition to the restrictions and prohibitions for ~~Phase~~ Phases 1 and 2, above, for Phase 3 the following non-essential uses of water are prohibited:

1. All landscape watering is prohibited, ~~except for use of grey water or water from other than the City's water supply;~~
2. Use of water from a fire hydrant for any use other than for firefighting;
3. Use of non-recirculating hot tubs, whirlpools or spas;
4. All "commercial large meter" users are required to send linens for laundering outside the City except that commercial laundromats are exempt from this regulation;

D. All For Phase 3, all small ~~meter users~~ meters, including residential water, outside City water, commercial water, and ~~vacation rental residential~~ transient water users shall be charged the base volumetric rate for the first 400 cubic feet per month usage. Usage over 400 cubic feet per month usage shall be charged the base volumetric rate plus \$2 per 100 cubic feet over the 400 cubic feet. Fractions of months under Phase 3 water conservation restrictions shall be billed extra based on daily usage over 13.33 cubic feet per day. Meters may be read more frequently by City personnel or approved City agents to enforce these restrictions. Small meter

users using more than 27 cubic feet per day on average shall be given a written warning to reduce usage and thereafter cited under 8.22.070 C.1. (Phase 3 - First offense).

E. ~~All~~For Phase 3, all users may be required to reduce their normal usage by a certain percentage when compared to ~~their~~the average normal usage over the same calendar time period from the previous two (2) years. For water utility accounts with less than two years of usage history, the percentage reduction shall be compared to a City-wide median usage for similar users.

F. No water connections to new residences, business or industry shall be permitted during Phase 3 ~~water conservation restrictions and prohibitions.~~

G. All commercial large meter, commercial, and transient water users shall post ~~at the~~ written notice, approved provided by the City, pursuant to subsection B of this section in a conspicuous location ~~in each rental unit on the property receiving City water service~~ within two (2) days of receiving notice of a Phase 3 ~~status.~~ For transient water users, the notice shall be posted in each rental unit.

#### **Section 8.22.100 Public Works Director declaring necessity for water conservation.**

In an emergency, as determined in the discretion of the Public Works Director, the Public Works Director may declare a water shortage and the necessity for water conservation ~~and upon such declaration, the provisions of actions under~~ Sections 8.22.020 ~~and~~ 8.22.030 ~~through~~ 8.22.050. The water conservation actions shall be in full force and effect and shall be enforced until such time as the Public Works Director declares a suspension or termination of the ~~need for such water conservation measures~~ shortage. The Public Works Director shall notify the Council immediately upon such declaration and Council shall meet as soon as practical to accept, reject or modify such determination.

#### **Section 8.22.110 Method of measurement.**

~~The method to determine~~For purposes of determining the existence of a water shortage and the severity of a drought water conservation actions under Sections 8.22.030 through 8.22.050, the City shall be by measuring measure the flow of water at sources with developed City rights, as follows:

1. If the City is using the Yachats River to supplement its raw water source, the water flows in the Yachats River will be determined by ~~the use of~~using a measuring device approved by the Oregon Water Resources Department. If the City is not using the Yachats River to supplement its raw water source, the flow of the Yachats River shall not be considered for determining a water shortage.

2. ~~For all phases of a water shortage, the~~The combined flow of Reedy and Salmon Creek shall be measured using a staff gage installed in Salmon Creek.

## City Council Action Item Cover Sheet

DATE: October 3, 2018

### **Agenda Item:**

Ordinance 354 Light Industrial Uses

### **Question Before Council:**

Does the Council wish to pass the Planning Commission's proposed Code changes for Light Industrial usage?

### **Person/Group Initiating Request:**

Planning Commission

### **Item Summary/Background:**

The existing Code makes reference to "light industrial uses" but provides no definition or standards for light industrial use. The Commission is recommending including a definition for light industrial and adding four (4) standards specific to light industrial use (in addition to the standards that apply to all commercial use).

The Commission addressed all concerns raised by the City Attorney.

**CITY OF YACHATS  
ORDINANCE NO. 354**

**AN ORDINANCE AMENDMENT THE YACHATS MUNICIPAL CODE TITLE 9  
RELATING TO LIGHT INDUSTRIAL USES AND RELATED DEVELOPMENT  
STANDARDS**

**Whereas**, the City provided notice of this proposed legislative land use Code amendment to the Oregon Department of Land Conservation and Development on May 29, 2018; and

**Whereas**, the City provided notice of this proposed legislative land use Code amendment to property owners with the City's Retail Commercial Zone on July 24, 2018; and

**Whereas**, the City Planning Commission held a public hearing on these proposed Code amendments on August 21, 2018 and the Planning Commission is recommending adoption of these amendments; and

**Whereas**, following the amendment procedures set out in YMC 9.84.020, City Council conducted a public hearing on October 3, 2018 and found the amendments are consistent with applicable criteria in Yachats Municipal Code and Yachats Comprehensive Plan; and

**Whereas**, the City wishes to clarify its land use regulations as they relate to small-scale industrial uses with such regulations intended to ensure that these uses meet the purpose of the City's Retail Commercial Zone,

**NOW THEREFORE**, the City of Yachats ordains as follows:

**Section 1. Yachats Municipal Code Section 9.04.030.**

Yachats Municipal Code Section 9.04.030 is amended to add the following definition, inserted in alphabetical order within the existing definitions:

"Light industrial" means a business that manufactures, fabricates, or assembles goods and that occupies less than 6,000 square feet.

**Section 2. Yachats Municipal Code Section 9.48.010.**

Yachats Municipal Code Section 9.48.010(L) is amended to add a new subparagraph within the existing Code subsection L, as follows:

14. Light industrial: one space for each six hundred (600) square feet of total floor area.

**Section 3. Yachats Municipal Code Section 9.72.050.**

Yachats Municipal Code Section 9.72.050 is amended to add a new subsection to the existing Code provision as follows:

G. Standards for Light industrial.

1. Manufacturing, fabricating, or assembling shall occur within an enclosed building.
2. Goods manufactured, fabricated, or assembled shall be offered for retail sale on the premises with dedicated retail space occupying a minimum 20% of the building.
3. Outdoor storage shall be on the side or rear of the building, and shall be screened with a sight-obscuring fence, hedge or wall.
4. Employee parking and loading area shall be located on the side or rear of the building.

**Section 4. Effective date.**

Pursuant to the Yachats Charter, this ordinance shall take effect 30 days after adoption.

Passed and adopted by the City Council of the City of Yachats on this \_\_\_\_ day of \_\_\_\_\_, 2018.

|                    |                      | Aye                      | No                       | Abstain                  |
|--------------------|----------------------|--------------------------|--------------------------|--------------------------|
| City Council vote: | Mayor Gerald Stanley | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|                    | Craig Berdie         | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|                    | Barbara E Frye       | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|                    | Max Glenn            | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|                    | James Tooke          | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

\_\_\_\_\_  
Gerald Stanley, Mayor

Attest: \_\_\_\_\_  
Shannon Beaucaire, City Manager

## **Kimmie Jackson**

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**From:** Shannon Beaucaire  
**Sent:** Wednesday, September 19, 2018 3:44 PM  
**To:** Helen Anderson  
**Cc:** Kimmie Jackson  
**Subject:** Council Packets  
**Attachments:** City Council Action Item Cover Sheet.docx; City Council Action Item Cover Sheet.pdf

Kimmie,

I have placed the current version of the agenda on your desk. The packet is thin because many of the items are for discussion and I don't have planning ordinances and cover sheets added yet. If the planning commission is ready, Helen needs to get you the Final Draft Ordinance for each item and a cover sheet introducing it to Council.

Helen, please format the Council action sheets for each of the ordinances and have Kimmie add them to the agenda and the packet. When you introduce these items to Council please walk them through the Attorney's concerns and how the Planning Commission responded to each of the concerns. Be as detailed as possible.

Kimmie, when you finalize the packet:

- 1) Email the Council and let them know it is up and online for review
- 2) Provide a color hard copy of the packet for each Councilor, a copy for Helen, and the original for me.
- 3) Make 20 Black and white copies of the agenda for the public.
- 4) Offer to walk Gerald and/or Max through the agenda if they wish

Text me with any questions.

Thank you,  
S.

Shannon Beaucaire  
City Manager  
City of Yachats  
[Citymanager@yachatsmail.org](mailto:Citymanager@yachatsmail.org)  
[YachatsOregon.org](http://YachatsOregon.org)  
PO Box 345  
Yachats, OR 97498  
Phone: 541.547.3565  
Fax: 541.547.3063

## City Council Action Item Cover Sheet

DATE: October 3, 2018

### **Agenda Item:**

Ordinance 356 Business Licenses

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### **Question Before Council:**

1. Does the Council wish to hold a Public Hearing on the proposed Code changes?
  2. Does the Council wish to adopt the Planning Commission's proposed changes for the business licensing process to enable the City to either refrain from issuing a license or revoke a business license should a business fail to pass building inspections?
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### **Person/Group Initiating Request:**

Planning Commission

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### **Item Summary/Background:**

The Planning Commission is concerned that businesses within the City operate without having obtained building permits or passed building inspections.

The Commission responded to the City Attorney's feedback as follows:

1. The City Attorney noted the City can include stronger language to not issue or revoke a business license, although he expressed concern about creating legislation to remedy one aberrant business. The Commission felt strongly that this language was necessary and appropriate to ensure the safety of it's residents and visitors. The Commission also noted there has been more than one business that failed to get a permit.

2. The City Attorney favored only language to revoke a license, as he perceived the City was increasing its liability if it required a certificate of occupancy. His logic was that should the City require this measure and should the City fail to follow through on ensuring the measure was followed, it would be liable for harm that someone incurs on the property. The Commission felt strongly that the City is facing an even greater liability at present in having issued a business license to a business that is operating without having obtained building permits for substantial construction. The Commission also strongly believes it is easier to not issue a license than to revoke one. The Commission also noted there are only approximately 30 structures that would be subject to this requirement.

3. The City Attorney suggested the Commission verify the existence of certificate of occupancies for the buildings. The Commission learned from Lincoln County that building code was not implemented until 1974. Therefore no certificate of occupancies would exist prior to that date. Over half of the businesses in the City are located in buildings older than 1974. The Commission decided that instead of requiring a certificate of occupancy, the requirement could be that for buildings built in 1974 or later and for major construction after 1974, the City could only require evidence that building permits were obtained and inspections were passed. The Commission checked with the Lincoln County Building Inspector, Al Ames, who indicated the City could call the Building Department to verify permits and passed inspections.

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**CITY OF YACHATS  
ORDINANCE NO. 356**

**AN ORDINANCE AMENDMENT THE YACHATS MUNICIPAL CODE CHAPTER 4.04  
RELATED BUSINESS LICENSES**

**Whereas**, the City maintains a business license program with the intent to provide revenue to pay for expenses incurred in issuing licenses, to pay for municipal services to businesses, and to provide for the health, safety and welfare of the citizens of Yachats; and

**Whereas**, as an additional benefit to the health, safety and welfare of citizens, the City seeks to ensure that businesses located in the City are operating within structures that are properly permitted by Lincoln County, which provides building permit services within the City; and

**Whereas**, with these amendments to YMC Chapter 4.04, the City Council believes that safety will be increased for customers and employees of businesses located in the City; and

**Whereas**, the City Council held a public hearing on the Code amendment on October 3, 2018;

**NOW THEREFORE**, the City of Yachats ordains as follows:

**Section 1. Yachats Municipal Code Section 4.04.050 License Application.**

Yachats Municipal Code Section 4.04.050 is amended to add a new subparagraph within the existing subsection A, and renumbering subsequent subsections accordingly, as follows:

14. For businesses operating within the City limits, evidence that building inspections have been passed for any construction after 1974 requiring a building permit.

**Section 2. Yachats Municipal Code Section 4.04.100 Denial, revocation or suspension of license.**

Yachats Municipal Code Section 4.04.100 is amended to add a new subparagraph within the existing subsection A, as follows:

5. The licensed activity is conducted in a structure within the City that does not meet state building code standards as determined by the Lincoln County building official.

**Section 3. Effective date.**

Pursuant to the Yachats Charter, this ordinance shall take effect 30 days after adoption.

Passed and adopted by the City Council of the City of Yachats on this 3rd day of October 2018.

|                    |                      | Aye                      | No                       | Abstain                  |
|--------------------|----------------------|--------------------------|--------------------------|--------------------------|
| City Council vote: | Mayor Gerald Stanley | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|                    | Craig Berdie         | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|                    | Barbara E Frye       | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|                    | Max Glenn            | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|                    | James Tooke          | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

\_\_\_\_\_  
Gerald Stanley, Mayor

Attest: \_\_\_\_\_  
Shannon Beaucaire, City Manager

## **City Council Action Item Cover Sheet**

DATE: October 3, 2018

### **Agenda Item:**

Discussion of plastic bag laws, and eliminating straws and Styrofoam from restaurants

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### **Question Before Council:**

Work Session Discussion

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### **Person/Group Initiating Request:**

Council

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### **Item Summary/Background:**

At the August 8, 2018 meeting a citizen brought forth a proposal regarding plastic bags and eliminating straws and Styrofoam from restaurants. Attached are the ordinances that the citizen brought to that meeting.

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## ORDINANCE 17- 04

### AN ORDINANCE PROHIBITING THE USE OF SINGLE-USE PLASTIC CARRYOUT BAGS

**WHEREAS**, the City of Manzanita Comprehensive Plan includes stated policies to “protect natural and scenic resources” and to “manage the disposal of offensive and dangerous waste materials so that they do not pollute or contaminate the environment”; and,

**WHEREAS**, single-use plastic carryout bags increase litter, degrade local wildlife habitat and are dangerous to marine life; and,

**WHEREAS**, single-use plastic carryout bags are made from finite fossil fuels and are not cost-effective to recycle in our community; and,

**WHEREAS**, alternatives to single-use plastic carryout bags exist, and the City of Manzanita wishes to promote recyclable and reusable options; now, therefore

#### THE CITY OF MANZANITA DOES ORDAIN AS FOLLOWS:

**Section 1. Definitions.** The following words and phrases, as used herein, shall have the following meanings:

- A. Food provider- Any person in the city that provides prepared food for consumption on or off its premises and includes, without limitation, any retail establishment, shop, sales outlet, restaurant, grocery store, delicatessen, or catering truck or vehicle.
- B. Product or produce bags- Any non-handled bag provided to a customer for use within a retail establishment to assist in the collection or transport of products to the point of sale within the retail establishment, including bags used to package bulk items, produce, and small or delicate items.
- C. Recyclable paper bags- A paper bag that is 100% recyclable.
- D. Retail establishment- Any store or vendor located within or doing business within the geographical limits of the city that sells or offers for sale goods at retail.
- E. Reusable bag- A bag with handles that is specifically designed and manufactured for long-term multiple reuse and is made of cloth or other machine washable fabric, or made of durable plastic that is at least 4.0 mils thick. *(Added by Ord. 17-05, passed November 8, 2017)*
- F. Single-use plastic carryout bag- Any plastic bag that is provided by a retail establishment, food provider, or vendor to a customer. A single-use plastic carryout bag does not include reusable bags, recyclable paper bags, or product or produce bags. A single-use plastic carryout bag does not include bags sold in packages containing multiple bags intended for use as garbage bags, pet waste, or food storage bags.
- G. Vendor- Any retail establishment, shop, restaurant, sales outlet or other commercial establishment located within or doing business within the geographical limits of the city, which provides perishable or nonperishable goods for sale to the public.



*A place where businesses and families thrive.*

|                        |       |
|------------------------|-------|
| CITY RECORDER USE ONLY |       |
| AGENDA ITEM #:         | _____ |
| FINAL ACTION:          | _____ |

## CITY COUNCIL STAFF REPORT

**TO:** City Council

**FROM:** Jon Holan, Community Development Director, Jesse VanderZanden, City Manager

**MEETING DATE:** April 11, 2016

**PROJECT TEAM:** Jon Holan, Brandi Walstead, Program Coordinator

**SUBJECT TITLE:** Plastic Bag Ordinance

**ACTION REQUESTED:**

|                                               |                                     |                                 |                                        |
|-----------------------------------------------|-------------------------------------|---------------------------------|----------------------------------------|
| <input checked="" type="checkbox"/> Ordinance | <input type="checkbox"/> Resolution | <input type="checkbox"/> Motion | <input type="checkbox"/> Informational |
|-----------------------------------------------|-------------------------------------|---------------------------------|----------------------------------------|

*X all that apply*

**ISSUE STATEMENT:** The Sustainability Commission has proposed Ordinance 2016- xx with Exhibit A for Council consideration to prohibit the use of plastic carryout bags.

**BACKGROUND:** Over the past year, the Sustainability Commission has developed and solicited comments from the public on a proposed amendment to the City Code to prohibit the use of plastic bags for carry out. The reason for the proposed code is to reduce the amount of plastic bags entering the City's waste stream. Plastic carryout bags do not decompose and has ended up in the environment. It is also intended to encourage people to use recyclable bags rather than relying on the use of paper bags. Paper bags do require energy to manufacture and while it does decompose, it is a lengthy process and adds waste to a landfill. To help implement this ordinance if adopted, funding has been provided to distribute one recyclable bag to each household in the community.

Key elements of the code are as follows:

1. **Application:** The code would ban the use of plastic bags for carry-out of products from a store or at various City sponsored events (see Section 7.910). That is, when you purchase your goods from Safeway or goods from a vendor at the Farmer's Market, for example, the store or vendor must place your purchased goods into either paper or recyclable bags.
2. **Exemptions:** It would not apply to plastic bags used for bulk items, wrapping foods, protection from dampness such as flowers, unwrapped prepared foods or bakery good or prescription bags, dry cleaning or bags sold in packages (e.g. garbage bags) (see Section 7.905 – definition of "carry-out bags").
3. **Charge:** If you do not bring in your own bag(s) (preferably recyclable), then the store would use paper bags and charge you 5¢ for each paper bag used. The ordinance requires stores (not vendors) to include the 5¢ charge on receipts. Stores with 10 full-time equivalent

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|                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Status           | Pending                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Ordinance        | SB131, D 1048                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Notes            | SB 131: Prohibits use of single-use checkout bags except in cases of voucher users, for items marked with protected health or other confidential information, and for fresh meat or seafood packed in ice. D 1048: Prohibits use of single-use checkout bags except certain cases. Prohibits local governments from imposing charges on checkout bags or other bags provided to customers. Repeals statute requiring retail establishments that offer plastic bags to customers to also offer paper bags. |
| More Information | <a href="#">Link to more information</a><br><a href="#">Link to more information</a>                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Updated          | March 20, 2013                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

**Ashland**[top](#)

|                     |                                                                                                                                                                                                                                                                                                             |
|---------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Status              | Approved                                                                                                                                                                                                                                                                                                    |
| Status Date         | 05/06/2014                                                                                                                                                                                                                                                                                                  |
| Plastic Summary     | Requirements: 4.0 thick and Specific ID requirements.                                                                                                                                                                                                                                                       |
| Paper Summary       | "Recyclable Paper Bag" means a paper bag that meets all of the following requirements: a) Is 100% recyclable and contains a minimum of 40% post-consumer recycled content; b) Is capable of composting consistent with the timeline and specifications of the ASTM Standard.                                |
| Reusable Definition | Reusable bag means a bag made of cloth or other material with handles that is specifically designed and manufactured for long term multiple reuses and is made of a natural or synthetic fabric, is washable or otherwise able to be sanitized or, if plastic, has a minimum plastic thickness of 4.0 mils. |

|                  |                                                                                                                                                                        |
|------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Stores Affected  | Retail establishment is any store or vendor located within or doing business within the geographical limits of the city that sells or offers for sale goods at retail. |
| Fees             | Paper Fee: \$0.10 per bag                                                                                                                                              |
| Compliance Date  | 11/06/2014                                                                                                                                                             |
| Ordinance        | 3094                                                                                                                                                                   |
| More Information | <a href="#">Link to more information</a>                                                                                                                               |
| Updated          | March 02, 2018                                                                                                                                                         |

|                                    |                                                                                                                                                                                                                                                                                                                                                    |
|------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| City of Manzanita <span>top</span> |                                                                                                                                                                                                                                                                                                                                                    |
| Status                             | Approved                                                                                                                                                                                                                                                                                                                                           |
| Status Date                        | 09/05/2017                                                                                                                                                                                                                                                                                                                                         |
| Plastic Summary                    | Banned                                                                                                                                                                                                                                                                                                                                             |
| Paper Summary                      | Requirements: 100% recyclable                                                                                                                                                                                                                                                                                                                      |
| Stores Affected                    | Any store or vendor located within or doing business within the geographical limits of the city that sells or offers for sale goods at retail. Any retail establishment, shop, restaurant, sales outlet or other commercial establishment located within or doing business within the geographical limits of the city, which provides ...view more |
| Compliance Date                    | 11/06/2017                                                                                                                                                                                                                                                                                                                                         |
| Ordinance                          | 17-04                                                                                                                                                                                                                                                                                                                                              |
| More Information                   | <a href="#">Link to more information</a>                                                                                                                                                                                                                                                                                                           |
| Updated                            | September 18, 2017                                                                                                                                                                                                                                                                                                                                 |

|                            |                                                                                                                                                                                                                                                                                                                           |
|----------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Corvallis <span>top</span> |                                                                                                                                                                                                                                                                                                                           |
| Status                     | Approved                                                                                                                                                                                                                                                                                                                  |
| Status Date                | 07/02/2012                                                                                                                                                                                                                                                                                                                |
| Plastic Summary            | Requirements: Durable plastic that is a least 2.25 mil thick.                                                                                                                                                                                                                                                             |
| Paper Summary              | Requirements: 100% recyclable, 40% minimum of PCW.                                                                                                                                                                                                                                                                        |
| Reusable Definition        | Reusable bag means a bag that with handles that made of cloth or machine washable material or made of a durable plastic that is at least 2.25 mils thick.                                                                                                                                                                 |
| Stores Affected            | Retail Establishment - means any store, shop, sales outlet, or vendor located within City of Corvallis that sells goods at retail. Retail Establishment does not include any establishment where the primary business is the preparation of food or drink: a) For consumption by the public; b) in a form or ...view more |
| Fees                       | Paper Fee: not less than \$0.05 per bag.                                                                                                                                                                                                                                                                                  |
| Compliance Date            | 01/01/2013                                                                                                                                                                                                                                                                                                                |
| Ordinance                  | 2012-13                                                                                                                                                                                                                                                                                                                   |
| Notes                      | Companies with more than 50 employees the comply date is 01/01/2013. Companies with less than 50 employees the comply date is 07/01/2013.                                                                                                                                                                                 |
| More Information           | <a href="#">Link to more information</a>                                                                                                                                                                                                                                                                                  |
| Updated                    | July 02, 2012                                                                                                                                                                                                                                                                                                             |

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|-------------------------|
| Eugene <span>top</span> |
|-------------------------|

ORDINANCE NO. 3094

AN ORDINANCE ADOPTING A PROHIBITION ON THE DISTRIBUTION  
OF SINGLE USE PLASTIC BAGS

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are **~~bold lined through~~** and additions are **bold underlined**.

WHEREAS, Article 2. Section 1 of the Ashland City Charter provides:

Powers of the City. The City shall have all powers which the constitutions, statutes, and common law of the United States and of this State expressly or impliedly grant or allow municipalities, as fully as though this Charter specifically enumerated each of those powers, as well as all powers not inconsistent with the foregoing; and, in addition thereto, shall possess all powers hereinafter specifically granted. All the authority thereof shall have perpetual succession.

WHEREAS, the City desires to encourage the reduction of many single use items that negatively impact the local environment and likewise encourage the use of reusable products when safe and practical to reduce the volume of the community's waste stream.

WHEREAS, single use plastic bags increase litter, degrade local wildlife habitat and are seldom recycled.

THE PEOPLE OF THE CITY OF ASHLAND DO ORDAIN AS FOLLOWS:

SECTION 1. Chapter 9.21 is hereby added to read as follows:

**SECTION 9.21.010 – Definitions**

**A. ASTM standard.** The American Society for Testing and Materials (ASTM)'s International D-6400

**B. Carryout bag.** Any bag that is provided by a retail establishment at the point of sale to a customer for use to transport or carry away purchases, such as merchandise, goods or food, from the retail establishment. "Carryout bag" does not include:

(a) Bags used by consumers inside retail establishments to:

1. Package bulk items, such as fruit, vegetables, nuts, grains, candy or small hardware items;
2. Contain or wrap frozen foods, meat, fish, whether packaged or not;
3. Contain or wrap flowers, potted plants, or other items where dampness may be a problem;
4. Contain unwrapped prepared foods or bakery goods; or
5. Pharmacy prescription bags;

(b) Laundry-dry cleaning bags or bags sold in packages containing multiple bags intended for

ORDINANCE NO. 5018

An Ordinance restricting the distribution of single use plastic bags.

RECITALS

The City Council has taken an interest in sustainability on many levels, including wishing to encourage the reduction of single use items that negatively impact the local environment.

The City Council wishes to encourage the use of reusable products when safe and practical to reduce the volume of the community's waste stream.

The City Council further desires to reduce the negative impacts caused by single use plastic bags, which increase litter, degrade local wildlife habitat, and are seldom recycled.

NOW, THEREFORE, THE CITY OF McMINNVILLE ORDAINS AS FOLLOWS:

1. The attached language in Exhibit 1 is incorporated into this Ordinance by reference.
2. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.
3. This ordinance shall take effect 30 days from the date of approval.

Passed by the Council February 14, 2017, by the following votes:

Ayes: Drabkin, Garvin, Jeffries, Merike, Stassens, Ruden

Nays: \_\_\_\_\_

Approved February 14, 2017.

  
MAYOR

Attest:

Approved as to Form:

  
CITY RECORDER

  
CITY ATTORNEY



# The City of HOOD RIVER

Custom 

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**An Ordinance Amending Title 8 (Health and Safety) of the Hood River Municipal Code, by Adding a New Chapter 8.15 (Single-Use Plastic Carryout Bags) and Imposing Restrictions on the Distribution of Single-Use Plastic Bags in the City.**

The Hood River City Council adopts the following findings:

WHEREAS, the City of Hood River is an Oregon home-rule charter municipal corporation with a City Charter that grants it all the powers and authority that the constitution, statutes and common law of the United States and this State expressly or impliedly grant or allow as though each such power was specifically enumerated; and

WHEREAS, as a City located at the confluence of two regionally significant rivers that drain to the Pacific Ocean, too many single-use plastic bags are released or find their way into the environment, either being blown by the wind into the Hood River or Columbia River or as part of stormwater flow; and

WHEREAS, the Council recognizes that the contamination of rivers, lakes and the oceans of the world by plastics, including plastic film bags, is a significant form of environmental pollution that is demonstrably harmful to wildlife; and

WHEREAS, plastic consumer waste, including single-use plastic bags, are a significant form of highly persistent environmental pollution that is harmful to wildlife; and

WHEREAS, plastic bag contamination of yard debris, household compost, waste paper recycling and other waste recovery streams damages sorting and processing machinery, impedes resource recovery, and contaminates loads of otherwise reusable or recyclable material; and

WHEREAS, the use of single-use plastic or paper craft bags for day-to-day retail shopping consumes significant amounts of raw material and energy in the manufacture, waste collection, processing and waste disposal; and

WHEREAS, the use of reusable bags for day-to-day retail purchases reduces these troubling sources of contamination and reduces the need to manufacture plastic film and craft paper bags from raw material, and collect and land-fill them after their single use; and

WHEREAS, the Council also seeks to reduce the environmental, energy and related costs associated with the manufacture and disposal of single-use plastic and craft paper bags and to encourage the use of reusable bags for day-to-day shopping throughout the City of Hood River; and

WHEREAS, the City desires to amend the Hood River Municipal Code (HRMC) by adopting Chapter 8.15 that would achieve these policy objectives and toward that end, held a duly noticed public hearing for consideration of such an ordinance, set forth in Exhibit A, attached hereto and by this reference incorporated herein, at its regular meeting on December 12, 2016, at which time the Council took public testimony on the proposal.

NOW THEREFORE, the City Council for the City of Hood River ordains as follows:

Section 1. Incorporation of Recitals: The foregoing recitals are adopted and incorporated herein by this reference and made a part hereof as findings in support of the regulations hereby adopted.

**ORDINANCE NO. 20498**

**AN ORDINANCE ENCOURAGING THE USE OF REUSABLE BAGS, BANNING SINGLE-USE PLASTIC CARRYOUT BAGS, AND ADDING SECTIONS 6.850, 6.855, 6.860, AND 6.865 TO THE EUGENE CODE, 1971.**

**THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:**

**Section 1.** Sections 6.850, 6.855, 6.860, and 6.865 of the Eugene Code, 1971, are added to provide as follows:

**6.850 Plastic Bag Use - Definitions.** For purposes of sections 6.850 to 6.865 of this code, the following words and phrases mean:

**ASTM standard.** The American Society for Testing and Materials (ASTM)'s International D-6400.

**Carryout bag.** Any bag that is provided by a retail establishment at the point of sale to a customer for use to transport or carry away purchases, such as merchandise, goods or food, from the retail establishment. "Carryout bag" does not include:

- (a) Bags used by consumers inside retail establishments to:
  - 1. Package bulk items, such as fruit, vegetables, nuts, grains, candy or small hardware items;
  - 2. Contain or wrap frozen foods, meat, fish, whether packaged or not;
  - 3. Contain or wrap flowers, potted plants, or other items where dampness may be a problem;
  - 4. Contain unwrapped prepared foods or bakery goods; or
  - 5. Pharmacy prescription bags;
- (b) Laundry-dry cleaning bags or bags sold in packages containing multiple bags intended for use as garbage waste, pet waste, or yard waste bags;
- (c) Product bags.

**City sponsored event.** Any event organized or sponsored by the city or any department of the city.

**Customer.** Any person obtaining goods from a retail establishment or from a vendor.

**Food provider.** Any person in the city that provides prepared food for public consumption on or off its premises and includes, without limitation, any retail establishment, shop, sales outlet, restaurant, grocery store, delicatessen, or catering truck or vehicle.

**Grocery store.** Any retail establishment that sells groceries, fresh, packaged, canned, dry, prepared or frozen food or beverage products and similar items and includes supermarkets, convenience stores, and gasoline stations.

## **City Council Action Item Cover Sheet**

DATE: October 3, 2018

### **Agenda Item:**

Resolution 2018-34

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### **Question Before Council:**

Adopt resolution 2018-34 for borrowing of an additional \$300,000 to fund completion of South Tank

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### **Person/Group Initiating Request:**

Judy Richter, City Clerk III

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### **Item Summary/Background:**

This is the additional funding I was authorized to secure. The paperwork is now complete. This resolution authorizes the borrowing and the Mayor to sign the necessary loan documents. Amendment Number 2 is the loan document.

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RESOLUTION 2018-34

**RESOLUTION 2018-34 OF THE CITY OF YACHATS  
AUTHORIZING A LOAN FROM THE SAFE DRINKING WATER REVOLVING LOAN FUND  
BY ENTERING INTO A FINANCING CONTRACT  
WITH THE OREGON INFRASTRUCTURE FINANCE AUTHORITY**

The City Council (the “Governing Body”) of the City of Yachats (the “Recipient”) finds:

A. The Recipient is a community or nonprofit non-community water system as defined in Oregon Administrative Rule 123-049-0010.

B. The Safe Drinking Water Act Amendments of 1996, Pub.L. 104-182, as amended (the “Act”), authorize any community or nonprofit non-community water system to file an application with the Oregon Infrastructure Finance Authority of the Business Development Department (“the IFA”) to obtain financial assistance from the Safe Drinking Water Revolving Loan Fund.

C. The Recipient previously entered into Financing Contract with the IFA for the project described in Exhibit D to the Financing Contract (the “Project”), project number S16018, in the principal loan amount of \$1,400,000, effective 9 March 2016.

D. The IFA has approved the Recipient’s application for additional financial assistance from the Safe Drinking Water Revolving Loan Fund.

E. The Recipient is required, as a prerequisite to the receipt of additional financial assistance from the IFA, to enter into Amendment 2 to the Financing Contract with the IFA, substantially in the form attached hereto as Exhibit A.

F. Notice relating to the Recipient’s consideration of the adoption of this [Ordinance/Resolution/Order] was published in full accordance with the Recipient’s charter and laws for public notification.

NOW THEREFORE, BE IT RESOLVED by the Governing Body of the Recipient as follows:

1. Financing Loan Authorized. The Governing Body authorizes the [Title of Officer] to execute Amendment 2 to the Financing Contract and the Replacement Promissory Note (the “Financing Documents”) and such other documents as may be required to obtain additional financial assistance, including a loan from the IFA on the condition that the principal amount of the loan from the IFA to the Recipient is not more than \$1,730,000 (with \$700,000 eligible for principal forgiveness if contract conditions are met) and the interest rate is not more than 1% if contract conditions are met (and 2.2% if not met). The proceeds of the loan from the IFA must be applied solely to the “Costs of the Project” as such term is defined in the Financing Contract.

2. Security. Amounts payable by the Recipient are payable from the sources described in Section 4 of the Financing Contract and the Oregon Revised Statutes Section 285A.213(5) which include:

- (a) Revenue from any water system project of the Recipient, including special assessment revenue;
- (b) Amounts withheld under subsection 285A.213(6);
- (c) The general fund of the Recipient;
- (d) Any combination of sources listed in paragraphs (a) to (c) of this subsection; or
- (e) Any other source.

3. Additional Documents. The [Title of Officer] is hereby authorized to enter into any agreements and to execute any documents or certificates which may be required to obtain financial assistance from the IFA for the Project pursuant to the Financing Documents.

4. Tax-Exempt Status. The Recipient covenants not to take any action or omit to take any action if the taking or omission would cause interest paid by the Recipient pursuant to the Financing Documents not to qualify for the exclusion from gross income provided by Section 103(a) of the Internal Revenue Code of 1986, as amended. The [name of officer] of the Recipient may enter into covenants on behalf of the Recipient to protect the tax-exempt status of the interest paid by the Recipient pursuant to the Financing Documents and may execute any Tax Certificate, Internal Revenue Service forms or other documents as may be required by the IFA or their bond counsel to protect the tax-exempt status of such interest.

5. Reimbursement Bonds. The Recipient may make certain expenditures on the Project prior to the date the Financing Contract is executed with IFA or the date the State of Oregon issues any bonds to fund the loan. The Recipient hereby declares its intent to seek reimbursement of such expenditures with amounts received from the IFA pursuant to the Financing Contract, but only as permitted by IFA policy, the Financing Contract, and federal tax regulations. Additionally, the Recipient understands that the IFA may fund or reimburse itself for the funding of amounts paid to the Recipient pursuant to the Financing Documents with the proceeds of bonds issued by the State of Oregon pursuant to the Act. This [Ordinance/Resolution/Order] constitute "official intent" within the meaning of Section 1.150-2 of the Income Tax Regulations promulgated by the United States Department of the Treasury.

DATED this 3rd day of October, 2018\_\_.

City of Yachats

\_\_\_\_\_  
Gerald Stanley, Mayor

ATTEST:

\_\_\_\_\_  
Shannon Beaucaire, City Manager

## Amendment Number 2

### Project Name: Yachats South Water Storage Tank

This amendment is made and entered into by and between the State of Oregon, acting by and through the Oregon Infrastructure Finance Authority of the Oregon Business Development Department (“IFA”), and the City of Yachats (“Recipient”), and amends the Financing Contract, Project Number S16018 dated 9 March 2016 for the above-named Project, as previously amended by Amendment Number 1 dated 15 May 2017 (the “Contract”). Capitalized terms not defined in this amendment have the meanings assigned to them by the Contract.

**Recital:** The purpose of this amendment is to increase both the Loan Amount and the Forgivable Loan Amount to pay for increased construction costs related to change orders processed to address soil stabilization and added support of the water storage tank.

### The parties agree to:

1. Amend the following Key Terms in Section 1 of the Contract, as amended, as follows (deletions in ~~strikethrough~~; additions in double underline):

“Estimated Project Cost” means            ~~\$1,417,839~~    \$1,732,839.

“Forgivable Loan Amount” means        ~~\$655,000~~        \$700,000.

“Loan Amount” means                    ~~\$760,000~~        \$1,030,000.

2. The following is added as a new Subsection C to Exhibit B (Security) of the Contract, as amended:

#### C. Pledge of Incremental Property Tax Revenues of Urban Renewal Agency.

1. The Loan shall be repaid, in part, from the ad valorem tax revenues from property within the City of Yachats Revitalization Area (the “Area”) which are attributable to the increase in assessed value of property within the Area as described in Section 1c, Article IX of the Oregon Constitution and ORS Chapter 457 (the “Incremental Property Tax Revenues”) and all earnings thereon while the Incremental Property Tax Revenues are held in a segregated fund for the Area. The Incremental Property Tax Revenues have been pledged to Recipient by the Urban Renewal Agency of the City of Yachats (the “URA”) as described in an intergovernmental agreement (“IGA”) between the Recipient and the URA. The Recipient hereby grants to IFA a security interest in and irrevocably pledges the Incremental Property Tax Revenues to pay all of the obligations owed by the Recipient to IFA under the Contract.

2. Absent IFA’s prior written consent, the Recipient shall not incur any obligations payable from or secured by a lien on and pledge of the Incremental Property Tax Revenues that is superior to or on a parity with the lien of the pledge made by the Recipient in the Contract to secure the repayment of the Loan. The Recipient shall not allow the URA to incur, on or after the date of the IGA, any obligations payable from or secured by a lien on and pledge of Incremental Property Tax Revenues that is superior to or on a parity with the lien of the pledge made by the URA under the IGA.

3. Notwithstanding the requirement of section 2. above, loans previously made and loans made in the future by IFA to Recipient that are secured by the Incremental Property Tax Revenues shall have a lien on such Incremental Property Tax Revenues on a parity with the Loan; provided that this section (3) does not affect the priority of IFA’s lien as against the liens of third parties.

4. The Incremental Property Tax Revenues pledged pursuant to section 1. about and hereafter received by the Recipient shall immediately be subject to the lien of such pledge without physical delivery or further act, and the lien of the pledge shall be superior to all other claims and liens whatsoever, except as provided in section 2. above, to the fullest extent permitted by ORS 287A.310.

5. Recipient agrees that it shall not amend the IGA without the prior written consent of IFA, which consent IFA shall not unreasonably withhold or delay.

3. Delete Exhibits C (Form of Section 2.A. Promissory Note) and C-1 (Form of Forgivable Promissory Note) of the Contract, as amended, and intentionally leave them omitted.
4. Delete Exhibit E (Project Budget) of the Contract, as amended, and replace it with the following new Exhibit E:

| <b>EXHIBIT E - PROJECT BUDGET</b> |                        |                               |
|-----------------------------------|------------------------|-------------------------------|
|                                   | <b>IFA Funds</b>       | <b>Other / Matching Funds</b> |
| <b>Activity</b>                   | <b>Approved Budget</b> | <b>Approved Budget</b>        |
| Design / Engineering              | \$292,499              | \$0                           |
| Construction                      | 1,094,169              | 0                             |
| Construction Contingency          | 178,332                | 2,839                         |
| Property Acquisition              | 135,000                | 0                             |
| Prevailing Wage Specialist        | 15,000                 | 0                             |
| Project Management                | 15,000                 | 0                             |
| <b>Total</b>                      | <b>\$1,730,000</b>     | <b>\$2,839</b>                |

IFA will have no obligation under this amendment, unless within 60 days after receipt, the Recipient delivers to IFA the following items, each in form and substance satisfactory to IFA and its Counsel:

- (i) This amendment duly executed by an authorized officer of the Recipient.
- (ii) A copy of the ordinance, order or resolution of the governing body of Recipient, certified by an authorized officer of Recipient, authorizing all of the following: the borrowing of the new Forgivable Loan Amount and the new Loan Amount; the contemplated transactions under this amendment; and the execution and delivery of this amendment.
- (iii) A copy of the executed Inter-governmental Agreement between Recipient and the URA, in form and substance satisfactory to IFA in its sole discretion, by which the URA pledges not less than \$100,000 per year for fourteen years to service the new Forgivable Loan Amount and Loan Amount.
- (iv) Such other certificates, documents, opinions and information as IFA may reasonably require.

Except as specifically provided above, this amendment does not modify the Contract, and the Contract shall remain in full force and effect during the term thereof. This amendment is effective on the date it is fully executed and approved as required by applicable law.



**STATE OF OREGON**  
acting by and through the  
Oregon Infrastructure Finance Authority



**CITY OF YACHATS**

By: \_\_\_\_\_  
Chris Cummings, Assistant Director for  
Economic Development

By: \_\_\_\_\_  
The Honorable Gerald Stanley  
Mayor of Yachats

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:**

\_\_\_\_\_  
/s/Sam Zeigler (per email dated 27 Sep 2018)  
Sam Zeigler, Sr. Assistant Attorney General