



# AGENDA

## ASTORIA CITY COUNCIL

Tuesday, September 3, 2019  
2nd Floor Council Chambers  
1095 Duane Street  
Astoria OR 97103

1. CALL TO ORDER
2. ROLL CALL
3. REPORTS OF COUNCILORS
4. CHANGES TO AGENDA
5. CONSENT CALENDAR

The items on the Consent Calendar are considered routine and will be adopted by one motion unless a member of the City Council requests to have any item considered separately. Members of the community may have an item removed if they contact the City Manager by 5:00 p.m. the day of the meeting.

- a) Astoria City Council Meeting Minutes for August 5, 2019
- b) Astoria City Council Work Session Meeting Minutes for August 8, 2019
- c) Liquor License Application from Hotel Management Services, LLC and Marine Astoria Hotel, LLC, Doing Business as Holiday Inn Express & Suites Astoria and Located at 204 West Marine Drive, Astoria for a Limited On-Premises and Off-Premises Sales License
- d) FY 2019-2020 Dispatch Service Agreement

### 6. REGULAR AGENDA ITEMS

All agenda items are open for public comment following deliberation by the City Council. Rather than asking for public comment after each agenda item, the Mayor asks that audience members raise their hands if they want to speak to the item and they will be recognized. In order to respect everyone's time, comments will be limited to 3 minutes.

- a) Mill Pond Sale – Consideration of Public Hearing
- b) American Cruise Lines Lease
- c) Council Discussion Regarding Internment of Ashes on Church Grounds
- d) Continuation of Deliberation and First Reading Bridge Vista Overlay Code Amendment B

### 7. NEW BUSINESS & MISCELLANEOUS, PUBLIC COMMENTS (NON-AGENDA)

### 8. EXECUTIVE SESSION

- a) ORS 192.660(2)(i) - Performance Evaluations of Officers and Employees

THIS MEETING IS ACCESSIBLE TO THE DISABLED. AN INTERPRETER FOR THE HEARING IMPAIRED MAY BE REQUESTED UNDER THE TERMS OF ORS 192.630 BY CONTACTING THE CITY MANAGER'S OFFICE, 503-325-5824.



## CITY OF ASTORIA

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### MEMORANDUM • CITY MANAGER

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**DATE:** AUGUST 29, 2019  
**TO:** MAYOR AND CITY COUNCIL  
**FROM:**  BRETT ESTES, CITY MANAGER  
**SUBJECT:** ASTORIA CITY COUNCIL MEETING OF TUESDAY, SEPT 3, 2019

#### CONSENT CALENDAR

- Item 5(a):** City Council Meeting Minutes of August 5, 2019  
**Item 5(b):** City Council Work Session Meeting Minutes of August 8, 2019

The minutes of the City Council meetings are enclosed for review. Unless there are any corrections, it is recommended that Council approve these minutes.

- Item 5(c):** Liquor License Application from Hotel Management Services, LLC and Marine Astoria Hotel, LLC, Doing Business as Holiday Inn Express & Suites Astoria and Located at 204 West Marine Drive, Astoria for a Limited On-Premises and Off-Premises Sales License

A liquor license application has been filed by Hotel Management Services, LLC and Marine Astoria Hotel, LLC, doing business as Holiday Inn Express & Suites Astoria. This application is for a Limited On-Premises and Off Premises sales license. The appropriate departments have reviewed the application and it is recommended that the City Council consider approval of this application.

- Item 5(d):** Fiscal Year 2019-2020 Dispatch Service Agreements

The City of Astoria has provided each agency which subscribes to Astoria all with a copy of the proposed Emergency Communications Budget and the estimated breakdown of subscriber costs. Once City Council authorizes approval of the first draft agreements and final agreements, they will be mailed to each agency.

It is recommended that City Council approve the Dispatch Service Agreements for FY 2019-2020. Subscriber agreements for FY 2019-2020 are included in the packet for submission to Council for approval and signature.

#### REGULAR AGENDA ITEMS

- Item 6(a):** Mill Pond Sale – Consideration of Public Hearing

In November, 2018, the City Council authorized staff to contract with a real estate firm to market the “pier lots” which the City owns. The pier lots are twelve platted lots donated to the City by the developer of the Mill Pond, Art DeMuro of Venerable Properties, in 2012. A potential buyer has provided an offer in the amount of \$35,000. The potential buyer, John Dulcich, is intending to develop all or a portion of the pier lots. If the City Council is interested in considering the

offer from Mr. Dulcich, a public hearing must be held in accordance with the City Code Real Property Sale Procedures. After a public hearing is held, the City Council may decide to sell or not sell the lots.

It is recommended that Council consider scheduling a public hearing for 7:00 pm September 30, 2019.

**Item 6(b): American Cruise Lines Lease**

The City has received a request from American Cruise Lines (ACL) to lease the river boat moorage located at the east end of the 17th Street Dock. We currently rent the area on a per day basis. Staff has reviewed the lease and has discussed lease terms in depth with ACL and have determined that leasing the area could be beneficial to the City.

It is recommended that City Council consider the lease with American Cruise Lines for the east moorage of the 17th Street Dock.

**Item 6(c): Council Discussion Regarding Internment of Ashes on Church Grounds**

Mayor Jones has received a letter from Grace Episcopal Church, who would like to formally request that the city modify the code allowing Grace Church to construct a Columbarium for the respectful internment of ashes on church grounds. Many Episcopal Churches in Oregon have a variety of Columbarium styles on their grounds. Mayor Jones has added this agenda item so Council can determine how to proceed.

**Item 6(d): Continuation and Deliberation - Bridge Vista Overlay Code Amendment B**

City Council opened and closed the public hearing for the proposed amendment and motioned to continue to deliberate at this meeting. Staff has provided additional information to assist with the discussion.

If the draft code meets Council's expectations, it would be in order for Council to conduct a first reading of the ordinance for Bridge Vista Overlay Zone Code amendments.

**EXECUTIVE SESSION**

A regular meeting of the Astoria Common Council was held at the above place at the hour of 7:00 pm.

Councilors Present: Brownson, Rocka, Herman, West, and Mayor Jones.

Councilors Excused: None

Staff Present: City Manager Estes, Parks and Recreation Director Williams, Finance Director Brooks, Fire Chief Crutchfield, Police Chief Spalding, Public Works Director Harrington, Library Director Pearson, and City Attorney Henningsgaard. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

## REPORTS OF COUNCILORS

**Item 3(a): Councilor Rocka** reported that he participated in a teleconference on Pacific Northwest coastal landscape conservation design, which focused on industry, recreation, and open spaces. He talked to people about housing and attended a stakeholder and technical advisory meeting regarding the Uniontown Reborn project. He also attended a presentation on tiny house villages. He joined a meeting with the two candidates for Astoria Community Development Director and heard concerns at his Meet the Councilor event about traffic and construction around Mill Pond. The contractor building the Astoria Co-op has been very considerate about noise. He also heard that creating communities of small cottages could increase workforce housing and that there were issues with the old drug treatment center building. Staff has already followed up on the vacant building issues. He also discussed concerns about insufficient parking where single family homes have become rentals.

**Item 3(b): Councilor West** reported that she also attended the Community Development Director meet and greet. It was fantastic to speak with the two finalists. She also attended the work session, the HOST taskforce meeting, and the presentation from Square One Villages. She volunteered at the KMUN farm-to-table dinner to raise money for Coast Community Radio. She was excited about the trolley extending to 39<sup>th</sup> Street. She congratulated the library on the \$50,000 grant they received for archiving. She attended the Open Studio Tour and bartended at the Fairy Street Friday.

**Item 3(c): Councilor Brownson** reported he worked a 3:30 am shift at Peer Pressure Productions 24-hour fundraiser. He and City Manager Estes met with some City department directors to learn about what was going on in the departments. He also spent time with Senior Officer Hanson as he reached out to homeless individuals and responded to a driving under the influence (DUI) incident. He learned that the managers at the Astoria Safeway consider the store to be very challenging because they have so much theft. This has resulted in a lot of turnover in management and difficulties recruiting employees. He enjoyed meeting the two Community Development Director candidates. He, Representative Mitchell, Public Works Director Harrington, and City Forester Ben Hayes toured the Bear Creek Watershed. The City is fortunate to have Mr. Hayes as a forester because he is very knowledgeable, and his family has been in the business a long time.

**Item 3(d): Councilor Herman** reported that she participated in the first Astoria Constitutional, which was a walkabout along the Riverwalk and downtown. The purpose was to meet people and demonstrate that the community is safe. Astoria Constitutional has a Facebook page. The group does not have a set time to go out, but she hoped the walks would be done regularly. She attended the Homelessness Solutions Taskforce presentation by Pastor Dan Bryant from Eugene on the transitional housing his church has provided to homeless people by raising money through fundraising, grants, and individual donations. She also attended the meet and greet for the Community Development Director finalists and was impressed with both candidates. She wanted the hiring process to be over.

**Item 3(e): Mayor Jones** reported he accepted an invitation to meet with the residents of Clatsop Retirement Village during cookie time. The residents asked tough questions. Astoria hosted the Oregon Historical Society Board of Trustees and the Oregon Community Foundation Board of Trustees meetings. Local

nonprofits took the opportunity to network. He announced he would not be attending the Regatta this year because he would be in Texas at his son's Air Force Basic Training Graduation.

## **CHANGES TO AGENDA**

No changes.

## **CONSENT CALENDAR**

The following items were presented on the Consent Calendar:

- 5(a) City Council Work Session Minutes of June 13, 2019
- 5(b) City Council Meeting Minutes of July 1, 2019
- 5(c) City Council Work Session Minutes of July 11, 2019
- 5(d) Promote Astoria Funds – Agreement for Professional Services with Astoria-Warrenton Chamber of Commerce**
- 5(e) Promote Astoria Funds – Agreement for Professional Services with Astoria Downtown Historic District Association (ADHDA)**
- 5(f) Downtown Parking and Visitor Information Agreement with Astoria Downtown Historic District Association (ADHDA)**
- 5(g) Agreement for Professional Services with Clatsop Economic Development Resources (CEDR)**

Mayor Jones noted that a Councilor had requested Items 5(d), (e), (f), and (g) be removed for further discussion.

**City Council Action:** Motion made by Councilor Herman, seconded by Councilor Brownson, to approve Items 5 (a), (b), and (c) of the Consent Calendar. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

**Item 5(d): Promote Astoria Funds – Agreement for Professional Services with Astoria-Warrenton Chamber of Commerce**

**Item 5(e): Promote Astoria Funds – Agreement for Professional Services with Astoria Downtown Historic District Association (ADHDA)**

**Item 5(f): Downtown Parking and Visitor Information Agreement with Astoria Downtown Historic District Association (ADHDA)**

**Item 5(g): Agreement for Professional Services with Clatsop Economic Development Resources (CEDR)**

Councilor Herman explained that she requested Items 5(d) through (g) be removed because she had some questions after reading the agenda packet over the weekend. She would have asked her questions during the budget meetings in March, but it was her first time going through the process. During the budget process, she did not notice the disparity between the amounts the Chamber and ADHDA receives. She had no complaints about what the Chamber does. They do a great job promoting the area and she appreciated the Chamber's leadership and staff. She noted that Sarah Lu Heath, ADHDA Executive Director, did not approach her and did not know until last night that she planned on saying anything. No ADHDA board members approached her either. She did not believe the disparity should be so great. She had been attending the ADHDA meetings for the last 14 months and has seen how much they do for downtown and for the entire community. Ms. Lu Heath is single handedly responsible for getting \$100,000 in grants for the Merwyn project. The building has been derelict for over 30 years and this fall it would be renovated into workforce housing. Transforming the building will be huge for the community. Ms. Lu Heath is now working on a grant for a reproduction of the historic glass awning that used to hang over the Merwyn. Councilor Herman listed other grants that Ms. Lu Heath received for renovation and restoration projects on other buildings in Astoria. On the surface, it may appear that the ADHDA only serves a small geographic area, but that area is a draw. She realized the ADHDA was much smaller than the Chamber, but she did not believe a modest increase to their budget would be unreasonable. She understood her timing was poor, but she wanted the Mayor and Councilors to respond to her comments.

Mayor Jones agreed that the ADHDA does great work. If the Council proposes to increase funding to the ADHDA, that should be done as part of the budgeting process. The Council should consider all sources of revenue and refrain from tying the ADHDA to the Chamber or the Lower Columbia Tourism Committee (LCTC). There may be other funding that would be a better source of revenue if the Council chose to prioritize increasing funding to the ADHDA. The money spent by the Chamber and LCTC to attract tourism to the region also directly benefits the downtown merchants. If the marketing draws people to Astoria, more than likely visitors will go downtown. He was opposed to making budget amendments to reduce funding to the Chamber or LCTC and increase funding to the ADHDA.

Councilor West said this year was her first budget process and it went by really fast. However, she was confident about approving the budget and moving forward with it as it was adopted. She has seen all the work that Ms. Lu Heath does for Astoria and for downtown. She believed Ms. Lu Heath was doing a lot of the work that people look to the City to do, like improving sidewalks and the look of the historic buildings. She would like to consider more support for the ADHDA in next year's budget.

Councilor Rocka added that during the next budget meetings, the three new Councilors would be better prepared and experienced. If the ADHDA is requesting an increase in funds, he would like to see how the money would be used.

Councilor Brownson explained that the organizations are different with different histories. They have been put together in different ways and their memberships are different with different intentions. If the ADHDA wanted more money from the City, they would request it. He did not see any reason to make changes now.

**City Council Action:** Motion made by Councilor Rocka, seconded by Councilor Brownson, to approve Items 5 (d), (e), (f) and (g) of the Consent Calendar. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

## **REGULAR AGENDA ITEMS**

### **Item 6(a): Public Hearing and First Reading – Ordinance Modifying City Code 5.931 Relating to Parks Rules and Regulations**

In reviewing current standards of possession and use of legal impairing substances in the City of Astoria, alcohol is illegal to possess/use in a city park without a specific exception. Smoking and tobacco are also prohibited in a city park by ordinance. It would therefore seem logical to also make possessing marijuana illegal in a city park. The current city ordinance only restricts the use of marijuana in the park, not possession. State law already prohibits marijuana use in public as well.

It is recommended that Council hold a public hearing and consider holding a first reading of the ordinance amending City Code 5.931.

Councilor Rocka asked how the ordinance would be enforced. Chief Spalding explained that officers would not typically seek out possession of marijuana and a person could not be searched simply based on suspicion. Enforcement would be done upon coming in contact with someone who has marijuana out in the open or as a result of a legal search based on another action the officer is taking.

Councilor Herman said she believed the amended ordinance contained a typographical error, as it stated possession of marijuana would be outlawed. State law allows the possession of marijuana. Chief Spalding noted that while possession of tobacco and alcohol is also legal, it is illegal to possess or use tobacco and alcohol products in City parks. Smoking marijuana in public is already prohibited, and this amendment would also prohibit possession of marijuana in City parks, just like tobacco and alcohol.

Councilor Herman asked why Chief Spalding felt the need to make it a violation to possess marijuana. She also wanted to know what the benefit of passing the ordinance would be. Chief Spalding explained that the ordinance gives officers another tool. It is already illegal to smoke marijuana in public and he wanted to make marijuana regulations analogous to the alcohol regulations.

Mayor Jones added that officers must deal with the behaviors of people under the influence of intoxicants. Officers do not typically see these people consuming the intoxicants, so by prohibiting possession of these items, the officers can take action to stop negative activity. Therefore, he supported the amendment.

Councilor West asked if a fine would be imposed. Chief Spalding said that would be up to a judge. The judge could impose up to a maximum amount for a fine, but no jail time.

Councilor West said her constituents expressed concerns that this amendment was directed at the homeless population who do not have other locations to engage in these behaviors. She supported providing the Police Department with the tools they need. Chief Spalding stated the ordinances apply to everyone in the community. Officers will generally issue warnings to curb the behavior in parks. Parks are held to a higher standard due to a lot of family activity.

Councilor West noted that no citations had been given for panhandling violations. She liked that such ordinances served as tools for officers to address issues. The Police Department has done a good job working with individuals before a citation is issued.

Councilor Brownson said he struggled with this amendment because possession of marijuana is legal. He asked if the Police Department had been experiencing something that led to this. Chief Spalding explained that officers have reported an increase in the use of marijuana since it became legal, so the logical step is to prohibit possession in parks.

Councilor Brownson believed the current prohibition of using marijuana in public was adequate. He asked if seeing someone put a joint in their pocket would give officers cause to investigate. He had not heard of any behavioral issues with marijuana. He wanted to discuss how the Police Department has perceived the impact of legal marijuana. He saw no harm in the amendment, but did not see any benefit either.

Councilor Rocka stated he was struggling with understanding what problem this attempted to solve.

Chief Spalding said officers were seeing increased use of marijuana in parks. The amendment helps officers discourage the use of marijuana in parks.

Councilor Brownson asked how officers would respond to someone eating a cookie that could contain marijuana. Chief Spalding explained that use of marijuana in parks was not a wide-spread problem.

Councilor West understood that the amendment was more parallel to the open container law also on the agenda. This provides consistency for the regulation of two controlled substances.

Mayor Jones opened the public hearing at 7:44 pm and called for public testimony.

Rick Bowers 357 Commercial Street, Astoria, said police enforcement of panhandling has not been a major problem. However, he was concerned about the homeless because they carry their possessions with them and it is legal to be in a park. He had an issue with prohibiting the possession of a legal substance. If the City wants to do some notifications, put up signs in the parks. He asked the Council to postpone this item and have the proposed amendment reviewed by HOST, and allow HOST to make a recommendation to City Council.

Tom Mollodock 793 Erie Avenue, Astoria, said at first he was opposed to the amendment, but after listening to the Council's discussion he believed it was a good idea. Police need tools to do their job. He hoped the police would not use this as a way to harass homeless people and he did not believe Astoria's officers would do that. He wanted parks to be safe for mothers and their children.

Mel Moffit 357 Commercial Street, Astoria, stated homeless people carry their possessions on their backs and the amendment will have disparate impacts towards them because they are unable to leave their marijuana at home.

Mayor Jones closed the public hearing at 7:48 pm and called for Council discussion and deliberation.

Mayor Jones stated he did not see anything in the ordinance that targeted homeless people nor did he see any disparate impacts on homeless people. The ordinance does not allow an officer to conduct an illegal search of a homeless person with marijuana in their pocket. The marijuana would only be discovered if the person had the marijuana out in plain view. Parks are public places where people should feel safe.

Councilor Brownson said he did not see the problem. If someone is acting out because they are intoxicated, the police can act on that by asking them to move on. A person would only have marijuana out in the open because they were using it, which is already illegal. He did not believe this amendment would be useful.

Councilor Herman stated she was ambivalent about this issue. She supported giving the police constructive tools to keep the community safe. However, she had an issue with the request because State law allows possession of marijuana. If someone is obviously using marijuana, officers can cite them. She did not support the amendment.

Councilor Rocka added there were no examples of something happening that led to the need for this amendment. He did not understand what the motivator was or what would make this a good idea. He had a hard time adding one more thing to the books without a reason.

Councilor West said she was torn. She wanted to support the Police Department by giving them tools to effectively deal with issues, but she also wanted to see better examples of where this amendment came from. She did a lot of research on the current laws to understand how this would help and maybe the Council could consider this again in the future after being presented with some examples of why this was added to the agenda.

Mayor Jones reminded this was prompted by concerns expressed by Police officers who believed it would serve as a useful tool. He directed Staff to provide Council with some specific example so that the issue could be reconsidered.

Councilor Brownson also wanted to know if other communities had prohibited possession of marijuana in parks and what their rationale was.

Mayor Jones stated City Council would table the discussion of the ordinance modifying City Code 5.931 relating to Parks rules and regulations to give Staff time to provide the Council with the requested information.

**Item 6(b): Public Hearing and First Reading – Ordinance Modifying City Code 5.370 Relating to Consumption of Alcohol in Public**

The City of Astoria has experienced an increase in public intoxication and alcohol being consumed in public areas. This results in an ongoing and pervasive draw on resources. This includes responses by police, fire, and Medix. This also causes issues with public transportation at the transit center. There are also repeated and ongoing issues in public parks, especially in the downtown areas and on the Riverwalk.

The proposed modifications to this ordinance specifically outline the exceptions to the issue. It also describes the entities required to be contacted in order to get authorization to legally possess open containers of alcohol and legal consumption.

It is recommended that Council hold a public hearing and consider holding a first reading of the ordinance amending City Code 5.370.

Chief Spalding said many communities have an open container ordinance. Astoria's ordinance only prohibits the consumption of alcohol in public and it applies to the entire city, not just parks. Exceptions would be granted for Oregon Liquor Control Commission (OLCC) approved tastings at the farmer's market and other such events.

City Manager Estes added that Astoria's Code allows for alcohol consumption in parks with approval from the Parks Director.

Mayor Jones opened the public hearing at 8:00 pm and called for public testimony.

Rick Bowers, 357 Commercial, Astoria, said he had a friend who thought the open container law still applied. He believed some of the homeless would be in favor of this amendment. Homeless people do not have homes, so consuming alcohol is an issue for them.

Mayor Jones closed the public hearing at 8:01 pm and called for Council discussion and deliberation.

Councilor Brownson asked how this ordinance would be applied to growlers. Chief Spalding said growlers were sealed. Additionally, officers understand the spirit of the law and would exercise discretion.

Councilor Herman understood open containers were not allowed in public. Chief Spalding clarified that open containers were allowed in Astoria. However, most cities prohibit them.

Councilor West said growlers could be put in a bag to carry home. Chief Spalding added that buying a growler was analogous to buying beer at Safeway. City Manager Estes added that growlers are sealed with tape or a paper seal over the cap.

Councilor West supported the amendment because there was evidence to support the prevention of disruptive behavior around alcohol consumption in public parks.

**City Council Action:** Motion made by Councilor Brownson, seconded by Councilor West, to conduct the first reading of the ordinance modifying City Code 5.370 relating to consumption of alcohol in public. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

Director Brooks conducted the first reading of the ordinance.

**Item 6(c): Public Hearing and First Reading – Ordinance Modifying City Code 7.200 Relating to Burglary and Robbery Alarm Regulation**

Included is an ordinance which has proposed changes to the City Code on alarm regulations. The Astoria Police Department is committed to providing a high level of service and apprehending criminals. It is felt these changes would be beneficial in managing this program.

It is recommended that Council hold a public hearing and consider holding a first reading of the ordinance amending City Code 7.200.

Chief Spalding explained this ordinance came to his attention in part because of the proliferation of portable home alarm systems. The Police Department has seen an increase in permits for alarm systems. Newer technology is sometimes confusing, and it is not unusual for alarms to accidentally alarm. The Police Department would respond either way and he did not believe it was appropriate to charge \$50 for a false alarm. The financial impact to the City would be minimal and would eliminate the need for Staff to spend time sending out bills. Additionally, the good will is more valuable than the income that would be lost. The Code language also indicated that after three or four false alarms, the Police Department might stop responding, which is not the case. That language and some other minor cleanup changes were also part of the proposed Ordinance to make the Code more contemporary.

Mayor Jones opened the public hearing at 8:09 pm and called for public testimony. Hearing none, he closed the public hearing at 8:09 pm and called for Council discussion and deliberation.

**City Council Action:** Motion made by Councilor Brownson, seconded by Councilor Rocka to conduct the first reading of the ordinance modifying City Code 7.200 relating to burglary and robbery alarm regulations. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

Director Brooks conducted the first reading of the ordinance.

**Item 6(d): Authorize Oregon Department of Transportation (ODOT) Local Agency Agreement for Oregon Route 202 Sidewalk Project**

In January 2016, City Council authorized a Local Agency Agreement with ODOT for Phase One of a sidewalk project along the north side of the OR202 highway. Phase One of this project includes design and construction of a new sidewalk, bike lane, retaining walls and drainage improvements from the Astoria High School east to Hanover Street. In 2018, Phase Two of the sidewalk project also received funding, which includes the same type of improvements along the north side of the OR202 highway from Dresden to the Department of Motor Vehicles driveway and Hanover St to 4th St. Completion of these two phases of sidewalk project will complete sidewalk continuity from 7th St around the peninsula to 45<sup>th</sup> St. There is now the opportunity to combine the two phases of the project into a single project to reduce cost and disruption to the public.

Funding for the pedestrian improvements are being provided by the ODOT Transportation Enhance Program. The new Local Agency Agreement is for the combined Phase One and Two project. The total estimated project cost is \$4,172,000. ODOT will be providing \$3,743,450 in funding and the City will be responsible for a 10.27% match of \$428,550. Preliminary engineering design for the project is anticipated to start this summer with construction estimated to begin in summer 2021.

It is recommended that Council approve the Local Agency Agreement with ODOT for the Oregon Route 202: Dresden Street to 4th Street Project.

Director Harrington provided an overview of the Highway 202 Sidewalk Project, which would add a sidewalk between the neighborhood and the high school, as well as fill in sidewalk gaps near the Department of Motor Vehicles office (DMV). He displayed a map of the project area on the screen and indicated the locations of Phase 1 and Phase 2, noting Phases 1 and 2 were now being combined. The project would begin with a geologic investigation because the location is a historic slide area. City Council would be notified of any findings immediately. The City's share of funding would come from the Trails Reserve Fund and Surface Transportation Project (STP) funds. Staff would provide City Council with more details about costs when it is time to appropriate the funds. Other funding would come from the Statewide Transportation Improvement Fund (STIP).

Councilor Herman asked if some of the project had already been completed. Director Harrington stated no construction work had been done, but the City had given the State \$25,675 to begin preliminary designs. Office work and some survey work in the field have been completed by ODOT. He confirmed construction would begin in the summer of 2021.

Councilor Brownson said the project would impact residents in the area. Crews would have to cut into the slope and build a retaining wall underneath homes. He asked how long the residents would have to deal with construction. Director Harrington said that would depend on how the wall is constructed, but the wall would have minimal impact on the residents above. Staff is concerned about how the smaller wall below the parking would be managed. Residents might be provided alternative parking or compensated for loss of parking.

Councilor Brownson understood he could forward any concerns to ODOT. He said he is happy his Ward is getting some improvements.

City Manager Estes noted that many of the STIP projects and other projects that deal with ODOT funding do not include completed designs. Concepts are submitted with the application and decisions about how the work would be done are decided upon at a later time. Before construction begins, the design team will coordinate with contractors, Staff and residents. All stakeholders would be kept up to date during construction.

Councilor West asked if a retaining wall would make the properties above more stable. Director Harrington explained that a retaining wall could result in a more stable situation, but removing material during construction in order to build the wall could put homes at risk. Geotechnical engineers will recommend techniques to minimize impacts. This slide has not been active recently, but the State has identified the area as a prehistoric geologic area. Maybe the potential risks are the reason no sidewalk has been built in that area.

**City Council Action:** Motion made by Councilor Brownson, seconded by Councilor West to approve the Oregon Department of Transportation (ODOT) Local Agency Agreement for the Oregon Route 202 Sidewalk Project. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

**Item 6(e): Authorization to Award Construction Contract – Bridgeview Court Utility Repair Project**

As a result of a landslide near Bridgeview Court in 2005, multiple City utilities were displaced and damaged. The utilities were temporarily repaired immediately after the slide. They have been maintained in a temporary state since 2005, while the City looked for an opportunity to complete a permanent repair. In 2016, the property owner located at 985 Bridgeview Court (one of two properties primarily impacted by the slide) completed a project to repair slide damage associated with his property. The City used this opportunity to permanently replace a portion of the temporary storm drain pipe aligned through their yard.

The intent of the Bridgeview Court Utility Repair Project is to replace the remaining sections of jointed pipe with welded HDPE (High Density Polyethylene) solid wall pipe and to construct drainage improvements in an attempt to remove surface and groundwater from the slope. The project will include construction of storm drainage improvements, replacement of utilities, restoration of existing concrete walks, and restoration of existing landscaping.

Two bids were received for the project. The lowest responsible bid was received from Big River Construction, Inc. in the amount of \$63,885.00. The Engineer's estimate for this project is \$70,000, including contingency.

It is recommended that City Council authorize award of a construction contract to Big River Construction, Inc. in the amount of \$63,885.00 for the Bridgeview Court Utility Repair Project.

Councilor Herman asked why this equipment had not already been repaired. City Manager Estes explained that lawsuits were involved and several issues had to be resolved incrementally over the years. Director Harrington added that this construction would be for clean up work. This project has been in the budget for about a year or two, but Staff has not had time to design it and get it out to bid. Staff has been in contact with the resident through the entire process; however, the work would not affect him or his property.

Councilor Herman asked for the current status of the slide. Director Harrington said he did not believe the land had moved much. The high school had issues with a floor cracking, so they looked at slide indicators and found it had not moved much.

**City Council Action:** Motion made by Councilor Brownson, seconded by Councilor West to authorize award of a construction contract to Big River Construction, Inc. in the amount of \$63,885.00 for the Bridgeview Court Utility Repair Project. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

The City Council proceeded to Item 8: New Business, Miscellaneous, and Public Comments at this time.

**EXECUTIVE SESSION**

The City Council recessed into Executive Session at 8:40 pm immediately following Item 8: New Business, Miscellaneous, and Public Comments.

**Item 7(a): ORS192.660(2)(e) – Real Property Transactions**

The City Council will meet in executive session to discuss real property transactions.

The regular session reconvened at 9:36 pm.

**NEW BUSINESS & MISCELLANEOUS, PUBLIC COMMENTS (NON-AGENDA)**

This item was addressed immediately following Regular Agenda Item 6 (e).

Mark Wheeler 1715 East Wind Terrace, Hammond, said he worked at the Chamber of Commerce and Visitor's Center. He was happy to announce the trolley was running all the way along the Riverwalk from 12:00 pm to 6:00 pm. The Visitor's Center receives a couple dozen calls about the trolley every day. As County

Commissioner for District 1, he announced the new County Administrator, Don Boone from Washington County, would begin on September 16th. The interim County Administrator, Monica Steel did a great job holding three positions, Finance Director, Assistant County Manager, and Interim County Manager. He invited anyone with something of interest to County government to reach out to him. He appreciated the opportunity to get to know Astoria better.

David Reed 4924 Cedar Street, Astoria, Executive Director, Astoria Warrenton Chamber of Commerce, said the ADHDA and the Chamber of Commerce work together on many things. The two organizations are very different and he wanted to make the case for the money that goes to the LCTC and the Chamber of Commerce to run the visitor's center, adding the money is well-spent.

The City Council recessed at 8:31 pm. The meeting reconvened in Executive Session at 8:40 pm.

**ADJOURNMENT**

There being no further business, the meeting was adjourned at 9:37 pm.

**ATTEST:**

**APPROVED:**

---

Finance Director

---

City Manager

A work session of the Astoria Common Council was held at the above place at the hour of 1:00 pm.

Councilors Present: Brownson, Herman, Rocka, and West.

Councilors Excused: Mayor Jones

Staff Present: City Manager Estes, Executive Assistant Benoit, and Finance Director Brooks. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

## **REGULAR AGENDA ITEMS**

City Manager Estes explained that work began to update the City's website two years ago at the direction of City Council. This work would impact the way agenda packets, minutes, and other information would be tracked online.

### **Item 3(a): Implementation of Granicus Peak and iLegislate – Overview**

Executive Assistant Benoit briefly introduced the City's new agenda management software called Peak and a new application called iLegislate. She noted this presentation would focus on the Council's use of the programs and Staff would receive role-specific training next week.

Michael, Granicus (via telephone) gave a high-level overview of the software and application via GoToMeeting, which included an outline of the implementation process and how they integrate with the City's website, a brief explanation of their functions and capabilities, differences between the software and application, and basic instructions on how to use the software and application. Peak would integrate with the City's website, allowing the public to access interactive documents, files, and information. iLegislate would be used internally by Councilor and Staff to manage website content, documents, and files. During the presentation, he and Staff answered clarifying questions from Councilors about both programs and other services offered by Granicus.

City Manager Estes noted the new programs would make access to public information easier to find and more thorough. He gave a brief explanation of the City's transition from employing a stenographer to having digitally recorded minutes transcribed, noting the cost savings. He confirmed for President Brownson that the City is required by law to provide audio recordings and written accounts of all public meeting, noting what had to be included in meeting minutes. Over the years, the City has preferred more detailed minutes for better transparency.

The Councilors and Staff discussed the pros and cons of audio versus transcribed minutes, agreeing that some people prefer to listen while others prefer to read. Additionally, in digital formats, both types of files are searchable.

Stan stated the audio equipment for the hearing impaired worked wonderfully. He was currently using two of the Bluetooth connected devices and could hear. He also noted that he was able to read lips when the curtains were down. He appreciated the accessibility.

### **Item 3(b): Preview of City of Astoria Website Redesign**

Executive Assistant Benoit displayed the new City website on the screen, pointing out links, buttons, information, and other features. She explained how the updates would make it easier for people to find the information they came to the website to find. She and City Manager Estes answered questions about website maintenance, the functionality of the search feature and the calendar, and the user experience.

President Brownson suggested his page include links to his social media accounts. The Council and Staff discussed cyber-security and the legal requirements and limitations that regulate publicly available information. They also discussed the pros and cons of social media accounts for elected and public officials.

Executive Assistant Benoit noted the new website could be live by the end of the month.

City Manager Estes asked Councilors to inform Staff of any bugs they find in the new site. The next work session would include a presentation on OpenGov, the City's financial reporting software.

President Brownson called for a recess at 2:14 pm. The meeting reconvened at 2:33 pm.

**CELEBRATING THE 125<sup>TH</sup> ANNIVERSARY OF THE ASTORA REGATTA (2:30)**

**Item 4(a): Congresswoman Suzanne Bonamici presents a Statement for the Congressional Record honoring the 125<sup>th</sup> anniversary of the Astoria Regatta and City leaders**

Congresswoman Bonamici said she was honored to represent Clatsop County in the United States Congress. She congratulated Astoria on the 125<sup>th</sup> anniversary of the Regatta. She explained that Congress celebrates significant achievements across the country and the statement she would be presenting would become part of the official Congressional record.

President Brownson, Congressional Aid Fred Happes, Regatta Presidents Eric and Paul joined Congresswoman Bonamici at the front of the room as she read the statement into the record. She presented the statement to Regatta officials and City Council, noting that paper copies were available for the public.

President Brownson thanked Congresswoman Bonamici for her leadership, representation, and acknowledgement of the Regatta.

Eric presented Congresswoman Bonamici, her staff, and City Council with 2019 Regatta pins and lanyards. He added that all of the princesses gave a history lesson on the Regatta during their speeches and it was nice to hear some of the same history in the Congressional statement.

**ADJOURNMENT**

There being no further business, the meeting was adjourned at 2:44 pm.

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Finance Director

\_\_\_\_\_  
City Manager




CITY OF ASTORIA  
Founded 1811 • Incorporated 1856

**MEMORANDUM • FINANCE DEPARTMENT**

**DATE:** AUGUST 23, 2019

**TO:** MAYOR AND CITY COUNCIL

**FROM:**  BRETT ESTES, CITY MANAGER

**SUBJECT:** LIQUOR LICENSE APPLICATION FROM HOTEL MANAGEMENT SERVICES, LLC AND MARINE ASTORIA HOTEL, LLC, DOING BUSINESS AS HOLIDAY INN EXPRESS & SUITES ASTORIA, LOCATED AT 204 WEST MARINE DRIVE, ASTORIA, FOR A LIMITED ON-PREMISES AND OFF-PREMISES SALES LICENSE (FINANCE)

**DISCUSSION/ANALYSIS**

A liquor license application has been filed by Hotel Management Services, LLC and Marine Astoria Hotel, LLC, doing business as Holiday Inn Express & Suites Astoria.

This application is a Limited on-premises and off-premises Sales License.

The Limited on-premises Sales license allows the following:

- May sell and serve malt beverages, wine, and cider for consumption on the licensed premises.
- May sell malt beverages in a container holding seven or more gallons ("keg") directly to consumers for consumption off the licensed premises. A "keg" is defined in ORS 471.478(4). If sell kegs must follow OAR 845-006-0441 (keg tag).
- May sell malt beverages, wine, and cider to individuals in a securely covered container ("growler") for consumption off the licensed premises (the container may not hold more than 2 gallons).
- Eligible to apply to get pre-approved to cater some events off of the licensed premises (events that are small, usually closed to the general public, and where food service is the primary activity).
- Eligible to apply for a "special event" license

The Off-premises Sales license allows the following:

- May sell factory-sealed containers of malt beverages, wine, and cider at retail to individuals in Oregon for consumption off the licensed premises.
- A factory-sealed container of malt beverages may not hold more than 2 ¼ gallons.
- May sell malt beverages, wine, and cider to individuals in a securely covered container ("growler") for consumption off the licensed premises (the container may not hold more than 2 gallons)
- Eligible to apply to get pre-approval to provide sample tastings of malt beverages, wine, and cider for consumption on the premises.


- The license comes with the privilege to make next-day delivery of malt beverages, wine, and cider directly to an Oregon resident. Note: must follow OAR 845-006-0392 and 845-006-0396.
- To make same-delivery of malt beverages, wine, and cider directly to an Oregon resident the licensee must apply and received OLCC prior approval. Note: must follow OAR 845-006-0392 and 845-006-0396.

The site is located at 204 West Marine Drive, Astoria. The application will be considered at the September 3, 2019 meeting. A copy of the application is attached.

The appropriate Departments have reviewed the application. The Astoria Police Department has prepared the attached memorandum for Council's review. No objections to approval were noted.

### **RECOMMENDATION**

It is recommended that City Council consider this application.

By: 

Susan Brooks, Director of Finance  
and Administrative Services



OREGON LIQUOR CONTROL COMMISSION

# LIQUOR LICENSE APPLICATION

1. Application. **Do not include** any OLCC fees with your application packet (the license fee will be collected at a later time). Application is being made for:

License Applied For:	CITY AND COUNTY USE ONLY
<input type="checkbox"/> Brewery 1 <sup>st</sup> Location	Date application received: <u>8-5-19</u>
<input type="checkbox"/> Brewery 2 <sup>nd</sup> Location	Name of City or County: <u>City of Astoria</u>
<input type="checkbox"/> Brewery 3 <sup>rd</sup> Location	Recommends this license be:
<input type="checkbox"/> Brewery-Public House 1 <sup>st</sup> location	<input type="checkbox"/> Granted <input type="checkbox"/> Denied
<input type="checkbox"/> Brewery-Public House 2 <sup>nd</sup> location	By: _____
<input type="checkbox"/> Brewery-Public House 3 <sup>rd</sup> location	Date: _____
<input type="checkbox"/> Distillery	
<input type="checkbox"/> Full On-Premises, Commercial	
<input type="checkbox"/> Full On-Premises, Caterer	
<input type="checkbox"/> Full On-Premises, Passenger Carrier	
<input type="checkbox"/> Full On-Premises, Other Public Location	
<input type="checkbox"/> Full On-Premises, For Profit Private Club	
<input type="checkbox"/> Full On-Premises, Nonprofit Private Club	
<input type="checkbox"/> Grower Sales Privilege 1 <sup>st</sup> location	
<input type="checkbox"/> Grower Sales Privilege 2 <sup>nd</sup> location	
<input type="checkbox"/> Grower Sales Privilege 3 <sup>rd</sup> location	
<input checked="" type="checkbox"/> Limited On-Premises	
<input checked="" type="checkbox"/> Off-Premises	
<input type="checkbox"/> Off-Premises with Fuel Pumps	
<input type="checkbox"/> Warehouse	
<input type="checkbox"/> Wholesale Malt Beverage & Wine	
<input type="checkbox"/> Winery 1 <sup>st</sup> Location	
<input type="checkbox"/> Winery 2 <sup>nd</sup> Location	
<input type="checkbox"/> Winery 3 <sup>rd</sup> Location	
	<b>OLCC USE ONLY</b>
	Date application received: <u>7/30/2019</u>
	By: <u>Onwick</u>
	Date application accepted as initially complete: <u>7/30/2019</u>
	By: <u>Onwick</u>
	License Action(s): <u>N/O</u>

2. Identify the applicant(s) applying for the license(s). ENTITY (example: corporation or LLC) or INDIVIDUAL(S) applying for the license(s):

Hotel Management Services LLC

(Applicant #1)

Marine Astoria Hotel LLC

(Applicant #2)

(Applicant #3)

(Applicant #4)

OLCC USE ONLY	OLCC FINANCIAL SERVICES USE ONLY
<p>RECEIVED</p> <p>OREGON LIQUOR CONTROL COMMISSION</p> <p>JUL 30 2019</p> <p>SALEM REGIONAL OFFICE</p>	



OREGON LIQUOR CONTROL COMMISSION

**LIQUOR LICENSE APPLICATION**

3. Applicant #1 Hotel Management Services LLC		Applicant #2 Marine Astoria Hotel LLC	
Applicant #3		Applicant #4	
4. Trade Name of the Business (Name Customers Will See) Holiday Inn Express & Suites Astoria			
5. Business Address (Number and Street Address of the Location that will have the liquor license) 204 West Marine Drive			
City Astoria	County Clatsop	Zip Code 97103	
6. Does the business address currently have an OLCC liquor license? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
7. Does the business address currently have an OLCC marijuana license? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
8. Mailing Address/PO Box, Number, Street, Rural Route (where the OLCC will send your mail) 918 W. Idaho Street, Suite 210			
City Boise	State ID	Zip Code 83702	
9. Phone Number of the Business Location 208-519-4200		Email Contact for this Application bmills@bt-hosp.com	
Contact Person for this Application Brian Mills		Phone Number 208-519-4049	
Mailing Address 918 W. Idaho St., Suite 210	City Boise	State ID	Zip Code 83702

I understand that marijuana (such as use, consumption, ingestion, inhalation, samples, give-away, sale, etc.) is prohibited on the licensed premises.

I attest that all answers on all forms, documents, and information provided to the OLCC are true and complete.

**Applicant Signature(s)**

- Each individual person listed as an applicant must sign the application.
- If an applicant is an entity, such as a corporation or LLC, at least one person who is authorized to sign for the entity must sign the application.
- A person with the authority to sign on behalf of the applicant (such as the applicant's attorney or a person with power of attorney) may sign the application. If a person other than an applicant signs the application, please provide proof of signature authority.

(Applicant #1)   
Hotel Management Services, LLC  
by J. Scott Ableman, President

(Applicant #2)   
Marine Astoria Hotel, LLC  
by Ryan Van Alfen, Manager of TCSF16-E LLC, Manager of  
Cameron S-Sixteen Broadway LLC, sole member of  
TCSF16-D MLK & Orem K8 LLC, its Member & Manager

(Applicant #3)

(Applicant #4)



# OREGON LIQUOR CONTROL COMMISSION BUSINESS INFORMATION

Please Print or Type Marine Astoria Hotel LLC

Applicant Name: Hotel Management Services, LLC Phone: 208-519-4200

Trade Name (dba): Holiday Inn Express & Suites Astoria

Business Location Address: 204 West Marine Drive

City: Astoria ZIP Code: 97103

## DAYS AND HOURS OF OPERATION

### Business Hours:

Sunday 12:00 am to 11:59 pm  
Monday 12:00 am to 11:59 pm  
Tuesday 12:00 am to 11:59 pm  
Wednesday 12:00 am to 11:59 pm  
Thursday 12:00 am to 11:59 pm  
Friday 12:00 am to 11:59 pm  
Saturday 12:00 am to 11:59 pm

### Outdoor Area Hours:

Sunday 7:00 am to 2:30 am  
Monday 7:00 am to 2:30 am  
Tuesday 7:00 am to 2:30 am  
Wednesday 7:00 am to 2:30 am  
Thursday 7:00 am to 2:30 am  
Friday 7:00 am to 2:30 am  
Saturday 7:00 am to 2:30 am

The outdoor area is used for:

☐ Food service Hours: \_\_\_\_\_ to \_\_\_\_\_  
☒ Alcohol service Hours: 7:00 am to 2:30 am  
☐ Enclosed, how \_\_\_\_\_

The exterior area is adequately viewed and/or supervised by Service Permittees.

\_\_\_\_\_  
(Investigator's Initials)

Seasonal Variations: ☐ Yes ☒ No If yes, explain: \_\_\_\_\_

## ENTERTAINMENT

Check all that apply:

- |  |   |
|--|---|
| <input type="checkbox"/> Live Music        | <input type="checkbox"/> Karaoke                |
| <input type="checkbox"/> Recorded Music    | <input type="checkbox"/> Coin-operated Games    |
| <input type="checkbox"/> DJ Music          | <input type="checkbox"/> Video Lottery Machines |
| <input type="checkbox"/> Dancing           | <input type="checkbox"/> Social Gaming          |
| <input type="checkbox"/> Nude Entertainers | <input type="checkbox"/> Pool Tables            |
|  | <input type="checkbox"/> Other: _____           |

## DAYS & HOURS OF LIVE OR DJ MUSIC

Sunday \_\_\_\_\_ to \_\_\_\_\_  
Monday \_\_\_\_\_ to \_\_\_\_\_  
Tuesday \_\_\_\_\_ to \_\_\_\_\_  
Wednesday \_\_\_\_\_ to \_\_\_\_\_  
Thursday \_\_\_\_\_ to \_\_\_\_\_  
Friday \_\_\_\_\_ to \_\_\_\_\_  
Saturday \_\_\_\_\_ to \_\_\_\_\_

## SEATING COUNT

Restaurant: 0 Outdoor: 0 patio seats *OK BKK 1/50*  
Lounge: 0 Other (explain): 57 in Breakfast and Sitting areas  
Banquet: 0 Total Seating: 64

### OLCC USE ONLY

Investigator Verified Seating: (Y) (N)

Investigator Initials: \_\_\_\_\_

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

I understand if my answers are not true and complete, the OLCC may deny my license application.

Applicant Signature: *[Signature]* Date: 7/18/19

1-800-452-OLCC (6522)

www.oregon.gov/olcc

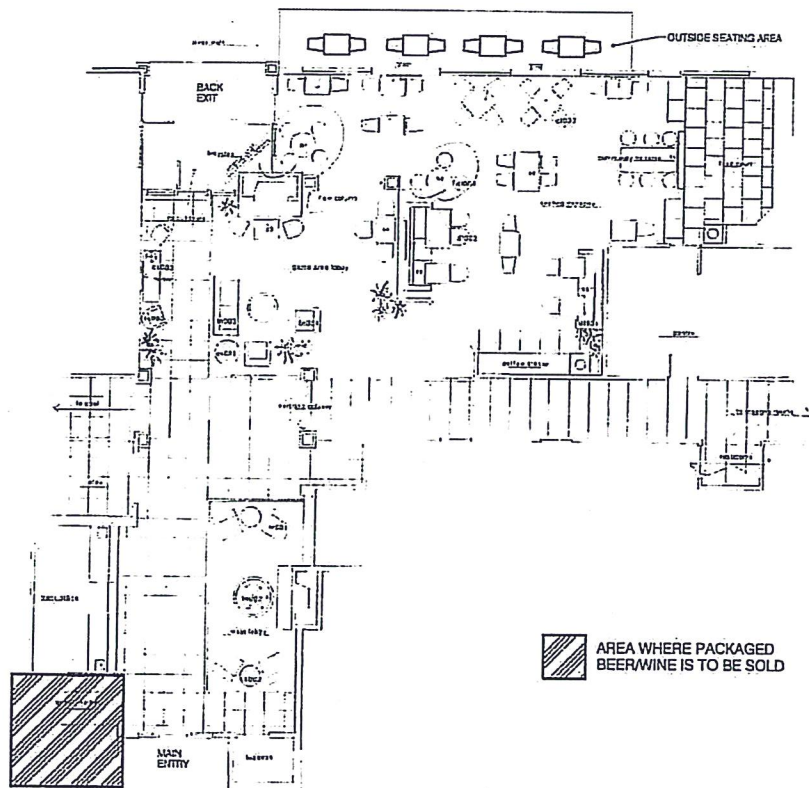
(rev. 12/07)



## OREGON LIQUOR CONTROL COMMISSION FLOOR PLAN

- Your floor plan must be submitted on this form.
- Use a separate Floor Plan Form for each level or floor of the building.
- The floor plan(s) must show the specific areas of your premises (e.g. dining area, bar, lounge, dance floor, video lottery room, kitchen, restrooms, outside patio and sidewalk cafe areas.)
- Include all tables and chairs (see example on back of this form). Include dimensions for each table if you are applying for a Full On-Premises Sales license.

Off Premises



AREA WHERE PACKAGED  
BEER/WINE IS TO BE SOLD

Hotel Management Services, LLC

Applicant Name

Holiday Inn Express & Suites Astoria

Trade Name (dba):

Astoria, 97103

City and ZIP Code

.....OLCC USE ONLY.....  
MINOR POSTING ASSIGNMENT(S)

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

1-800-452-OLCC (6522)  
www.oregon.gov/olcc

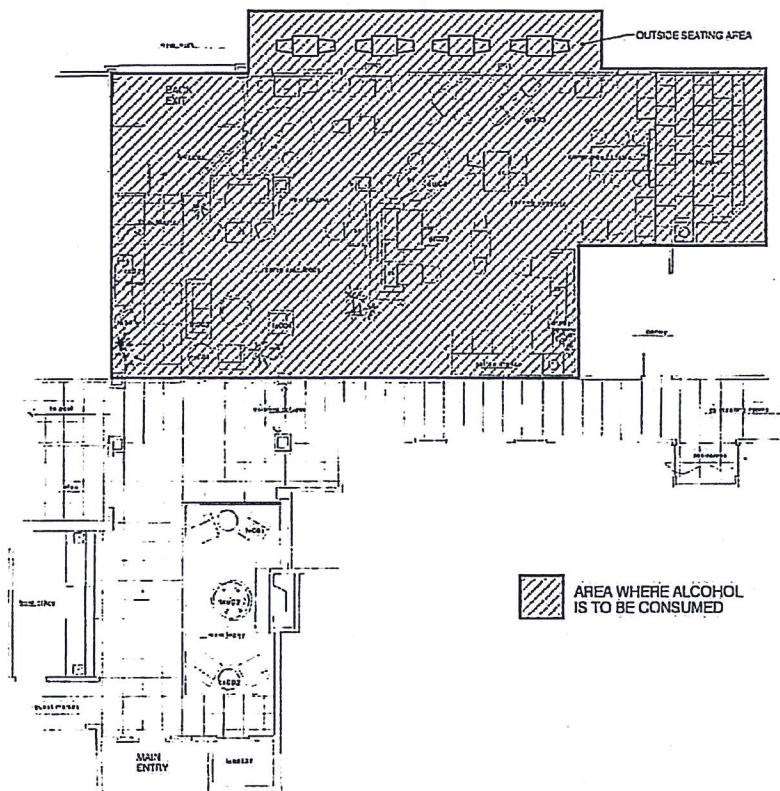
(rev. 09/12)



## OREGON LIQUOR CONTROL COMMISSION FLOOR PLAN

- Your floor plan must be submitted on this form.
- Use a separate Floor Plan Form for each level or floor of the building.
- The floor plan(s) must show the specific areas of your premises (e.g. dining area, bar, lounge, dance floor, video lottery room, kitchen, restrooms, outside patio and sidewalk cafe areas.)
- Include all tables and chairs (see example on back of this form). Include dimensions for each table if you are applying for a Full On-Premises Sales license.

Limited On-Premises



Hotel Management Services, LLC

Applicant Name

Holiday Inn Express & Suites Astoria

Trade Name (dba):

Astoria, 97103

City and ZIP Code

.....OLCC USE ONLY.....  
MINOR POSTING ASSIGNMENT(S)

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

1-800-452-OLCC (6522)  
[www.oregon.gov/olcc](http://www.oregon.gov/olcc)

(rev. 09/12)



August 7, 2019

### INVESTIGATION REPORT FOR LIQUOR LICENSE APPLICATION

Type of License: Limited On Premises / Off Premises

Amount and Receipt # \$150.00 – Receipt #265630

Applicant: Hotel Management Services, LLC /Marine Astoria Hotel, LLC

Trade Name: Holiday Inn Express & Suites Astoria

Address: 204 West Marine Drive, Astoria, OR 97103

Contact #: Brian Mills, 208-519-4049

Representatives of the departments listed below have reviewed this application with respect to the requirements of their departments.

Reviewed: (Initial below)

Public Works	Approved By: <i>Kate Carter</i>	Denied By:	Conditional Approval By: Comments:
Community Development	Approved By: <i>Mike Morgan</i>	Denied By:	Conditional Approval By: Comments:
Building Inspector	Approved By: <i>Alton Butler</i>	Denied By:	Conditional Approval By: Comments:

**Return to Finance by 5:00 pm: August 22, 2019**



## CITY OF ASTORIA

Founded 1811 • Incorporated 1856

**MEMORANDUM • POLICE DEPARTMENT**

**DATE:** AUGUST 22, 2019

**TO:** MAYOR AND CITY COUNCIL

**FROM:** BRETT ESTES, CITY MANAGER

**SUBJECT:** LICENSE RECOMMENDATION HOLIDAY INN EXPRESS AND SUITES  
ASTORIA, LIMITED ON PREMISES, OFF PREMISES SALES LICENSE.

**DISCUSSION/ANALYSIS**

On August 7, 2019, Hotel Management Services, LLC. /Marine Astoria Hotel, LLC, operating under trade name, Holiday Inn Express & Suites Astoria, 204 West Marine Dr., Astoria applied for a Limited On-Premises and Off Premises Sales license. The hotel's plan is for package sales that guests can purchase and consume on premises or take as sealed containers from the premises.

The license privileges and requirements include:

(1) The holder of a limited on-premises sales license may sell by the drink at retail wine, malt beverages and cider. Except as provided in this section, all alcoholic beverages sold under a limited on-premises sales license must be consumed on the licensed premises.

(2) The holder of a limited on-premises sales license may sell malt beverages in factory-sealed containers for consumption off the licensed premises. Containers sold under this subsection may not hold less than seven gallons per container.

(3) The holder of a limited on-premises sales license may sell for consumption off the licensed premises, malt beverages, wines and cider in securely covered containers provided by the consumer and having capacities of not more than two gallons each.

(4) The holder of a limited on-premises sales license shall allow a patron to remove a partially consumed bottle of wine from the licensed premises if the wine is served in conjunction with the patron's meal, the patron is not a minor and the patron is not visibly intoxicated.

(5) Sales of alcoholic beverages under a limited on-premises sales license must consist principally of sales by the drink for consumption on the licensed premises.

**Off Premises Sales License**

1) The holder of an off-premises sales license may sell factory-sealed containers of malt beverages, wine and cider. Factory-sealed containers of malt beverages sold under the license may not hold more than two and one-quarter gallons.

(2) The holder of an off-premises sales license may sell for consumption off the licensed premises, malt beverages, wines and cider in securely covered containers supplied by the consumer and having capacities of not more than two gallons each.

(3) The holder of an off-premises sales license may provide sample tasting of alcoholic beverages on the licensed premises if the licensee makes written application to the Oregon Liquor Control Commission and receives approval from the commission to conduct tastings on the premises. Tastings must be limited to the alcoholic beverages that may be sold under the privileges of the license.

(4) An off-premises sales license may not be issued for use at a premises that is mobile.

(5) Except as provided in ORS 471.402, a manufacturer or wholesaler may not provide or pay for sample tastings of alcoholic beverages for the public on premises licensed under an off-premises sales license.

(6) The holder of an off-premises sales license may deliver malt beverages, wine or cider that is sold under the privileges of the license to retail customers in this state without a direct shipper permit issued under ORS 471.282. Any deliveries by the holder of an off-premises sales license are subject to any rules adopted by the commission relating to deliveries made under this subsection. Deliveries under this subsection:

(a) May be made only to a person who is at least 21 years of age;

(b) May be made only for personal use and not for the purpose of resale; and

(c) Must be made in containers that are conspicuously labeled with the words: "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 YEARS OR OLDER REQUIRED FOR DELIVERY."

(7) The holder of an off-premises sales license that makes deliveries of malt beverages, wine or cider under subsection (6) of this section must take all actions necessary to ensure that a carrier used by the licensee does not deliver any malt beverages, wine or cider unless the carrier:

(a) Obtains the signature of the recipient of the malt beverages, wine or cider upon delivery;

(b) Verifies by inspecting government-issued photo identification that the recipient is at least 21 years of age; and

(c) Determines that the recipient is not visibly intoxicated at the time of delivery.

(8) Any person who knowingly or negligently delivers malt beverages, wine or cider under the provisions of this section to a person under 21 years of age, or who knowingly or negligently delivers malt beverages, wine or cider under the provisions of this section to a visibly intoxicated person, violates ORS 471.410.

(9) If a court determines that deliveries of malt beverages, wine or cider under subsection (6) of this section cannot be restricted to holders of off-premises sales licenses, and the decision is a final judgment that is no longer subject to appeal, the holder of an off-premises sales license may not make deliveries of malt beverages, wine or cider under the provisions of subsection (6) of this section after entry of the final judgment.

### **Food service is not a requirement of this license**

For the purposes of OLCC Licensing, Holiday Inn Express & Suites Astoria hours of alcohol service are 7:00 AM – 2:30 PM Sunday – Saturday. The outdoor seating area

hours of operation are 7:00 AM – 2:30 AM. The seating count for this business is 57 seats in the breakfast and seating areas and 8 outdoor seats.

### **APPLICANT**

Hotel Management Services, LLC. /Marine Astoria Hotel, LLC, operating under trade name, Holiday Inn Express & Suites Astoria. Individual History Forms were submitted for Brian Mills and Ryan Van Alfen. Representatives from the Astoria Police Department have investigated the background of the applicants named above utilizing available databases specific to restrictions for licensing. No derogatory information was located regarding the applicants.

The applicant currently operates three other businesses licensed by the Oregon Liquor Control Commission including:

Hampton Inn & Suites, 730 SW Columbia St. Bend OR,

Hilton Garden Inn, 425 SW Bluff Dr. Bend OR,

Comfort Suites Redmond Airport Hotel, 2243 SW Yew Ave., Redmond OR

Staff has contacted the OLCC regarding the listed businesses. None of the listed businesses have any history of OLCC violations.

### **NEIGHBORHOOD SURVEY**

There were no objections to the granting of the liquor license.

### **RECOMMENDATION**

Given the listed information, staff has no objection to the granting of the Oregon, Limited On-Premises and Off Premises Sales license Sales License.



By: \_\_\_\_\_

Eric Halverson, Deputy Chief of Police



## CITY OF ASTORIA

Founded 1811 • Incorporated 1856

**MEMORANDUM • POLICE DEPARTMENT**

**DATE:** AUGUST 27, 2019

**TO:** MAYOR AND CITY COUNCIL

**FROM:**  BRETT ESTES, CITY MANAGER

**SUBJECT:** FY 2019-2020 DISPATCH SERVICE AGREEMENTS

**DISCUSSION/ANALYSIS**

Enclosed are the following signed subscriber agreements for FY 2019-2020 for submission to Council for approval and signature.

Port of Astoria	\$ 3,096
Warrenton Police Department*	243,320
Clatsop County Sheriff's Office*	379,977
Elsie-Vinemapple RFPD	5,960
John Day-Fernhill RFPD	2,213
Knappa-Svenson RFPD	10,180
Lewis & Clark RFPD	5,563
Oregon State Department of Forestry	1,500
Olney-Walluski RFPD	3,277
Warrenton Fire Department and RFPD*	30,673
Westport-Wauna RFPD	2,635
City of Astoria PD/FD (APD-\$408,167/AFD-\$35,745)	443,912

Total	\$1,132,306
-------	-------------

The passage of Senate Bill 1559 has allowed us to simplify our formula for allocating costs. In past years the formula for allocating costs of the Astoria Regional 9-1-1 center was based on population, assessed value, and calls for service. SB 1559 now directs the associated 9-1-1 tax monies collected directly to the Public Safety Answering Point (PSAP) instead of the County. The Astoria Subscribers reached consensus that the annual tax collected will be deducted from the total amount the Center needs to collect for the fiscal year. The balance will then be divided by the total number of calls for service. Once the cost of a call for service is determined, this figure will be multiplied by the number of calls for each Subscriber. All Agencies with the exception of the Clatsop County Sheriff's Office, The Port of Astoria, and the Oregon Department of Forestry also pay an annual Communications Equipment Infrastructure Maintenance fee of \$500. The total amount to be collected from all subscribers is the total Emergency

Communications Fund budget minus the ending fund balance and any capital carry-over items. The Subscribers have also agreed to a minimum fee of \$1,500.

The City of Astoria has provided each agency with a copy of the proposed Emergency Communications Budget and the estimated breakdown of Subscriber Costs at the first regular meeting of the Subscriber's Board for the calendar year. Any affected agency will be advised of any changes to those estimates during the course of the budget process. Once City Council authorizes approval of the agreements, they will be mailed to each agency.

(\*) Indicates agencies have submitted original and one copy for signatures.

### **RECOMMENDATION**

It is recommended that City Council approve the Dispatch Service Agreements for FY 2019-2020.

By: Candace Pozdolski

Candace Pozdolski  
Operations Supervisor

A G R E E M E N T  
POLICE DISPATCH SERVICES

THIS AGREEMENT is entered into on the 1st day of July, 2019 by and between CLATSOP COUNTY, hereinafter called "County", and the CITY OF ASTORIA, a municipal corporation and hereinafter called "Astoria," both of Clatsop County, Oregon.

County and Astoria enter into this agreement because the Astoria Police Radio Communications Center, hereinafter called "Dispatch Center", has the staff and facilities to provide emergency radio dispatch service to County, and County has the necessary funds to pay Astoria for services performed under this agreement.

Nothing in this agreement shall be interpreted to cause the City of Astoria to violate any rules and regulations set forth by the United States of America Federal Communications Commission.

I.

SERVICES TO BE PROVIDED BY ASTORIA

A. Basic Services

Astoria shall provide County with twenty-four (24) hour emergency dispatch service. This will include:

1. Answering service for County police emergency incoming telephone lines;
2. Advising appropriate police agency by means of radio of services requested by the public;
3. Answering police radio calls for service and provide appropriate information to authorized personnel;
4. Maintaining a log of citizen-called-for services;
5. Providing LEDS teletype service to authorized personnel and agencies using ORI OR004000.

Astoria shall retain control of its Dispatch Center Personnel and their performance of services under this agreement. All such personnel performing services for the City of Astoria pursuant to this agreement shall be Astoria employees.

II.

CONSIDERATION

A. For the service provided by Astoria, County agrees to a cost of \$379,977 for the period of July 1, 2019 to June 30, 2020.

B. County shall pay Astoria as follows:

The sum \$379,977, payment due on September 30, 2019

OR

1. For the period from the 1st day of July, 2019 to the 30th day of September, 2019, the sum of \$94,994.25; payment due on September 30, 2019;
2. For the period from the 1st day of October, 2019 to the 31st day of December, 2019, the sum of \$94,994.25; payment due on December 31, 2019;

3. For the period from the 1st day of January, 2020 to the 31st day of March, 2020, the sum of \$94,994.25; payment due on March 31, 2020;
4. For the period from the 1st day of April, 2020 to the 30th day of June, 2020, the sum of \$94,994.25; payment due on June 30, 2020.

### III.

#### LIABILITY INSURANCE

Each party to this agreement represents to the other that it will have in effect at all times during this agreement liability insurance coverage which covers all sums that each shall be legally obligated to pay as damages for liability under the Oregon Revised Statutes 30.260 to 30.300, the Oregon Tort Claims Act.

### IV.

#### TELEPHONE LINES

County shall assume all costs for installation, maintenance, repair or rental for all emergency telephone lines originating from County.

### V.

#### TERM OF CONTRACT

This contract shall be effective from July 1, 2019 to June 30, 2020 and may be modified or renewed upon the consent of both parties. This contract may be terminated at any time by either party provided that the terminating party gives the other party at least ninety (90) days written notice.

### VI.

#### ATTORNEY FEES

In the event suit or action is instituted to enforce any of the terms of this contract, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorney's fees at trial or on appeal of such suit or action, in addition to all other sums provided by law.

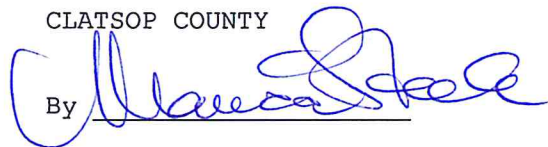
IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day, month and year first above written.

CITY OF ASTORIA

By \_\_\_\_\_  
Bruce Jones, Mayor

By \_\_\_\_\_  
Brett Estes, City Manager

CLATSOP COUNTY

By 

By \_\_\_\_\_

  
Astoria City Attorney

APPROVED AS TO FORM

It is the policy of the City of Astoria that no person shall be denied the benefits of or be subjected to discrimination in any City program, service, or

activity on the grounds of age, disability, race, religion, color, national origin, sex, sexual orientation, gender identity and expression. The City of Astoria also requires its contractors and grantees to comply with this policy.

A G R E E M E N T  
FIRE DISPATCH SERVICES

THIS AGREEMENT is entered into on the 1st day of July, 2019 by and between LEWIS & CLARK RURAL FIRE PROTECTION DISTRICT, hereinafter called "LEWIS & CLARK RFPD", and the CITY OF ASTORIA, a municipal corporation and hereinafter called "Astoria," both of Clatsop County, Oregon.

LEWIS & CLARK RFPD and Astoria enter into this agreement because the Astoria Police Radio Communications Center, hereinafter called "Dispatch Center", has the staff and facilities to provide emergency radio dispatch service to LEWIS & CLARK RFPD, and LEWIS & CLARK RFPD has the necessary funds to pay Astoria for services performed under this agreement.

Nothing in this agreement shall be interpreted to cause the City of Astoria to violate any rules and regulations set forth by the United States of America Federal Communications Commission.

I.

SERVICES TO BE PROVIDED BY ASTORIA

A. Basic Services

Astoria shall provide LEWIS & CLARK RFPD with twenty-four (24) hour emergency dispatch service. This will include:

1. Answering service for LEWIS & CLARK RFPD emergency incoming telephone lines;
2. Advising appropriate agency by means of radio of services requested by the public;
3. Answering radio calls for service and provide appropriate information to authorized personnel;
4. Maintaining a log of citizen-called-for services;
5. Providing teletype service to authorized personnel
6. Provide communications equipment infrastructure maintenance for all equipment licensed by the FCC to Astoria 911 not including end user equipment.
7. Run records checks for backgrounds on volunteers.

Astoria shall retain control of its Dispatch Center Personnel and their performance of services under this agreement. All such personnel performing services for the City of Astoria pursuant to this agreement shall be Astoria employees.

II.

CONSIDERATION

- A. For the service provided by Astoria, LEWIS & CLARK RFPD agrees to a cost of \$5,563 for the period of July 1, 2019 to June 30, 2020.

The sum \$5,563, payment due on September 30, 2019

OR

1. For the period from the 1st day of July, 2019 to the 30th day of September, 2019, the sum of \$1,390.75; payment due on September 30, 2019;
2. For the period from the 1st day of October, 2019 to the 31st day of December, 2019, the sum of \$1,390.75; payment due on December 31, 2019;

3. For the period from the 1st day of January, 2020 to the 31st day of March, 2020, the sum of \$1,390.75; payment due on March 31, 2020;
4. For the period from the 1st day of April, 2020 to the 30th day of June, 2020, the sum of \$1,390.75; payment due on June 30, 2020.

## III.

## LIABILITY INSURANCE

Each party to this agreement represents to the other that it will have in effect at all times during this agreement liability insurance coverage which covers all sums that each shall be legally obligated to pay as damages for liability under the Oregon Revised Statutes 30.260 to 30.300, the Oregon Tort Claims Act.

## IV.

## TELEPHONE LINES

LEWIS & CLARK RFPD shall assume all costs for installation, maintenance, repair or rental for all emergency telephone lines originating from LEWIS & CLARK RFPD.

## V.

## TERM OF CONTRACT

This contract shall be effective from July 1, 2019 to June 30, 2020 and may be modified or renewed upon the consent of both parties. This contract may be terminated at any time by either party provided that the terminating party gives the other party at least ninety (90) days written notice.

## VI.

## ATTORNEY FEES

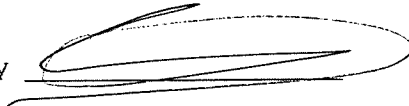
In the event suit or action is instituted to enforce any of the terms of this contract, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorney's fees at trial or on appeal of such suit or action, in addition to all other sums provided by law.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day, month and year first above written.

CITY OF ASTORIA

LEWIS &amp; CLARK RURAL FIRE PROTECTION DISTRICT


By \_\_\_\_\_  
Bruce Jones, Mayor

By 

By \_\_\_\_\_  
Brett Estes, City Manager

By 

APPROVED AS TO FORM

  
Astoria City Attorney

It is the policy of the City of Astoria that no person shall be denied the benefits of or be subjected to discrimination in any City program, service, or activity on the grounds of age, disability, race,

religion, color, national origin, sex, sexual orientation, gender identity and expression. The City of Astoria also requires its contractors and grantees to comply with this policy.

## A G R E E M E N T

THIS AGREEMENT is made effective as of the 1st day of July 2019, between the City of Astoria, a municipal corporation and hereinafter called "City," and the Oregon State Department of Forestry, hereinafter called "State." The above parties agree to the following:

### I.

The City will provide telephone after-hour emergency notification services relating to fire situations for the State. This service shall be made available to the State on a twenty-four (24) hour basis. The State shall not use the services for routing work or business calls or communication without first obtaining the consent of the City. Immediate notice shall be given by each party of any break in communication service.

### II.

The State shall provide the City with a list of telephone numbers for emergency situation notification. City will be responsible for notifying numbers in consecutive order as they appear on the list. City shall allow telephone to ring a minimum of four (4) times prior to moving to the next number. The State shall review and update the list on a continuous basis. All updating will be provided to the City a minimum of twenty-four (24) hours prior to the list taking effect.

### III.

City will record in writing all fire-related calls outlining the caller's name, address, telephone number, landmark identification, and the time the call was received. City will provide the forms to record data. State will pick up forms from City on a monthly basis.

### IV.

The term of this agreement is from July 1, 2019 through June 30, 2020. This agreement may be terminated by either party, provided that the terminating party give the other party at least ninety (90) days written notice.

### V.

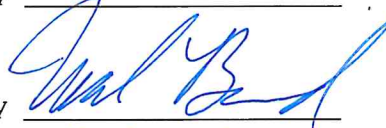
State shall pay to the City the sum of \$1,500 for the fiscal year beginning July 1, 2019. The sum will be paid to the City prior to September 30, 2019.

## VI.

Each party to this agreement represents to the other that it will have in effect at all times during this agreement liability insurance coverage which covers all sums that each shall be legally obligated to pay as damage for liability under the Oregon Revised Statutes 30.260 to 30.300, the Oregon Tort Claims Act.

IN WITNESS WHEREOF, The parties hereto have executed this agreement on the day, month and year first above written.

CITY OF ASTORIA

OREGON STATE DEPARTMENT  
OF FORESTRYBy \_\_\_\_\_  
Bruce Jones, MayorBy \_\_\_\_\_  
By \_\_\_\_\_  
Brett Estes, City ManagerBy \_\_\_\_\_  
Neal Bond  
Protection Unit Forester  
Astoria District, Oregon Dept. of Forestry

APPROVED AS TO FORM

By  \_\_\_\_\_  
Astoria City Attorney

It is the policy of the City of Astoria that no person shall be denied the benefits of or be subjected to discrimination in any City program, service, or activity on the grounds of age, disability, race, religion, color, national origin, sex, sexual orientation, gender identity and expression. The City of Astoria also requires its contractors and grantees to comply with this policy.

36  
**RECEIVED**

AUG 9 2019

A G R E E M E N T  
FIRE DISPATCH SERVICES

Astoria Fire Department

THIS AGREEMENT is entered into on the 1st day of July, 2019 by and between WESTPORT-WAUNA RURAL FIRE PROTECTION DISTRICT, hereinafter called "WESTPORT-WAUNA RFPD", and the CITY OF ASTORIA, a municipal corporation and hereinafter called "Astoria," both of Clatsop County, Oregon.

WESTPORT-WAUNA RFPD and Astoria enter into this agreement because the Astoria Police Radio Communications Center, hereinafter called "Dispatch Center", has the staff and facilities to provide emergency radio dispatch service to WESTPORT-WAUNA RFPD, and WESTPORT-WAUNA RFPD has the necessary funds to pay Astoria for services performed under this agreement.

Nothing in this agreement shall be interpreted to cause the City of Astoria to violate any rules and regulations set forth by the United States of America Federal Communications Commission.

I.

SERVICES TO BE PROVIDED BY ASTORIA

- A. Basic Services  
Astoria shall provide WESTPORT-WAUNA RFPD with twenty-four (24) hour emergency dispatch service. This will include:
1. Answering service for WESTPORT-WAUNA RFPD emergency incoming telephone lines;
  2. Advising appropriate agency by means of radio of services requested by the public;
  3. Answering radio calls for service and provide appropriate information to authorized personnel;
  4. Maintaining a log of citizen-called-for services;
  5. Providing teletype service to authorized personnel
  6. Provide communications equipment infrastructure maintenance for all equipment licensed by the FCC to Astoria 911 not including end user equipment.
  7. Run records checks for backgrounds on volunteers.

Astoria shall retain control of its Dispatch Center Personnel and their performance of services under this agreement. All such personnel performing services for the City of Astoria pursuant to this agreement shall be Astoria employees.

II.

CONSIDERATION

- A. For the service provided by Astoria, WESTPORT-WAUNA RFPD agrees to a cost of \$2,635 for the period of July 1, 2019 to June 30, 2020.

The sum \$2,635, payment due on September 30, 2019

OR

1. For the period from the 1st day of July, 2019 to the 30th day of September, 2019, the sum of \$658.75; payment due on September 30, 2019;
2. For the period from the 1st day of October, 2019 to the 31st day of December, 2019, the sum of \$658.75; payment due on December 31, 2019;
3. For the period from the 1st day of January, 2020 to the 31st day of March, 2020, the sum of \$658.75; payment due on March 31, 2020;

4. For the period from the 1st day of April, 2020 to the 30th day of June, 2020, the sum of \$658.75; payment due on June 30, 2020.

### III.

#### LIABILITY INSURANCE

Each party to this agreement represents to the other that it will have in effect at all times during this agreement liability insurance coverage which covers all sums that each shall be legally obligated to pay as damages for liability under the Oregon Revised Statutes 30.260 to 30.300, the Oregon Tort Claims Act.

### IV.

#### TELEPHONE LINES

WESTPORT-WAUNA RFPD shall assume all costs for installation, maintenance, repair or rental for all emergency telephone lines originating from WESTPORT-WAUNA RFPD.

### V.

#### TERM OF CONTRACT

This contract shall be effective from July 1, 2019 to June 30, 2020 and may be modified or renewed upon the consent of both parties. This contract may be terminated at any time by either party provided that the terminating party gives the other party at least ninety (90) days written notice.

### VI.

#### ATTORNEY FEES

In the event suit or action is instituted to enforce any of the terms of this contract, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorney's fees at trial or on appeal of such suit or action, in addition to all other sums provided by law.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day, month and year first above written.

CITY OF ASTORIA

By \_\_\_\_\_  
Bruce Jones, Mayor

By \_\_\_\_\_  
Brett Estes, City Manager

WESTPORT-WAUNA RURAL FIRE PROTECTION DISTRICT

By Stephanie Nolden  
(Secretary/treasurer)

By [Signature]  
(Chairman)

APPROVED AS TO FORM

[Signature]  
Astoria City Attorney

It is the policy of the City of Astoria that no person shall be denied the benefits of or be subjected to discrimination in any City program, service, or activity on the grounds of age, disability, race, religion, color, national origin, sex, sexual orientation, gender identity and expression. The City of Astoria also requires its contractors and grantees to comply with this policy.

A G R E E M E N T  
FIRE DISPATCH SERVICES

THIS AGREEMENT is entered into on the 1st day of July, 2019 by and between ELSIE-VINEMAPLE RURAL FIRE PROTECTION DISTRICT, hereinafter called "ELSIE-VINEMAPLE RFPD", and the CITY OF ASTORIA, a municipal corporation and hereinafter called "Astoria," both of Clatsop County, Oregon.

ELSIE-VINEMAPLE RFPD and Astoria enter into this agreement because the Astoria Police Radio Communications Center, hereinafter called "Dispatch Center", has the staff and facilities to provide emergency radio dispatch service to ELSIE-VINEMAPLE RFPD, and ELSIE-VINEMAPLE RFPD has the necessary funds to pay Astoria for services performed under this agreement.

Nothing in this agreement shall be interpreted to cause the City of Astoria to violate any rules and regulations set forth by the United States of America Federal Communications Commission.

I.

SERVICES TO BE PROVIDED BY ASTORIA

A. Basic Services

Astoria shall provide ELSIE-VINEMAPLE RFPD with twenty-four (24) hour emergency dispatch service. This will include:

1. Answering service for ELSIE-VINEMAPLE RFPD emergency incoming telephone lines;
2. Advising appropriate agency by means of radio of services requested by the public;
3. Answering radio calls for service and provide appropriate information to authorized personnel;
4. Maintaining a log of citizen-called-for services;
5. Providing teletype service to authorized personnel;
6. Provide communications equipment infrastructure maintenance for all equipment licensed by the FCC to Astoria 911 not including end user equipment.
7. Run records checks for backgrounds on volunteers.

Astoria shall retain control of its Dispatch Center Personnel and their performance of services under this agreement. All such personnel performing services for the City of Astoria pursuant to this agreement shall be Astoria employees.

II.

CONSIDERATION

- A. For the service provided by Astoria, ELSIE-VINEMAPLE RFPD agrees to a cost of \$5,960 for the period of July 1, 2019 to June 30, 2020.

The sum \$5,960 payment due on September 30, 2019

OR

1. For the period from the 1st day of July, 2019 to the 30th day of September, 2019, the sum of \$1,490.00; payment due on September 30, 2019;
2. For the period from the 1st day of October, 2019 to the 31st day of December, 2019, the sum of \$1,490.00; payment due on December 31, 2019;

3. For the period from the 1st day of January, 2020 to the 31st day of March, 2020, the sum of \$1,490.00; payment due on March 31, 2020;
4. For the period from the 1st day of April, 2020 to the 30th day of June, 2020, the sum of \$1,490.00; payment due on June 30, 2020.

### III.

#### LIABILITY INSURANCE

Each party to this agreement represents to the other that it will have in effect at all times during this agreement liability insurance coverage which covers all sums that each shall be legally obligated to pay as damages for liability under the Oregon Revised Statutes 30.260 to 30.300, the Oregon Tort Claims Act.

### IV.

#### TELEPHONE LINES

ELSIE-VINEMAPLE RFPD shall assume all costs for installation, maintenance, repair or rental for all emergency telephone lines originating from ELSIE-VINEMAPLE RFPD.

### V.

#### TERM OF CONTRACT

This contract shall be effective from July 1, 2019 to June 30, 2020 and may be modified or renewed upon the consent of both parties. This contract may be terminated at any time by either party provided that the terminating party gives the other party at least ninety (90) days written notice.

### VI.

#### ATTORNEY FEES

In the event suit or action is instituted to enforce any of the terms of this contract, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorney's fees at trial or on appeal of such suit or action, in addition to all other sums provided by law.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day, month and year first above written.

CITY OF ASTORIA

ELSIE-VINEMAPLE RURAL FIRE PROTECTION DISTRICT

By \_\_\_\_\_  
Bruce Jones, Mayor

By Wayne W. Child Pres. Lt. EV RFPD

By \_\_\_\_\_  
Brett Estes, City Manager

By Michael Wammack  
Fire Chief. Michael Wammack

APPROVED AS TO FORM

[Signature]  
Astoria City Attorney

It is the policy of the City of Astoria that no person shall be denied the benefits of or be subjected to discrimination in any City program, service, or activity on the grounds of age, disability, race,

religion, color, national origin, sex, sexual orientation, gender identity and expression. The City of Astoria also requires its contractors and grantees to comply with this policy.

A G R E E M E N T  
FIRE DISPATCH SERVICES

THIS AGREEMENT is entered into on the 1st day of July, 2019 by and between KNAPPA-SVENSEN RURAL FIRE PROTECTION DISTRICT, hereinafter called "KNAPPA-SVENSEN RFPD", and the CITY OF ASTORIA, a municipal corporation and hereinafter called "Astoria," both of Clatsop County, Oregon.

KNAPPA-SVENSEN RFPD and Astoria enter into this agreement because the Astoria Police Radio Communications Center, hereinafter called "Dispatch Center", has the staff and facilities to provide emergency radio dispatch service to KNAPPA-SVENSEN RFPD, and KNAPPA-SVENSEN RFPD has the necessary funds to pay Astoria for services performed under this agreement.

Nothing in this agreement shall be interpreted to cause the City of Astoria to violate any rules and regulations set forth by the United States of America Federal Communications Commission.

I.

SERVICES TO BE PROVIDED BY ASTORIA

- A. Basic Services  
Astoria shall provide KNAPPA-SVENSEN RFPD with twenty-four (24) hour emergency dispatch service. This will include:
1. Answering service for KNAPPA-SVENSEN RFPD emergency incoming telephone lines;
  2. Advising appropriate agency by means of radio of services requested by the public;
  3. Answering radio calls for service and provide appropriate information to authorized personnel;
  4. Maintaining a log of citizen-called-for services;
  5. Providing teletype service to authorized personnel;
  6. Provide communications equipment infrastructure maintenance for all equipment licensed by the FCC to Astoria 911 not including end user equipment.
  7. Run records checks for backgrounds on volunteers.

Astoria shall retain control of its Dispatch Center Personnel and their performance of services under this agreement. All such personnel performing services for the City of Astoria pursuant to this agreement shall be Astoria employees.

II.

CONSIDERATION

- A. For the service provided by Astoria, KNAPPA-SVENSEN RFPD agrees to a cost of \$10,180 for the period of July 1, 2019 to June 30, 2020.

The sum \$10,180, payment due on September 30, 2019

OR

1. For the period from the 1st day of July, 2019 to the 30th day of September, 2019, the sum of \$2545.00; payment due on September 30, 2019;
2. For the period from the 1st day of October, 2019 to the 31st day of December, 2019, the sum of \$2545.00; payment due on December 31, 2019;
3. For the period from the 1st day of January, 2020 to the 31st day of March, 2020, the sum of \$2545.00; payment due on March 31, 2020;

4. For the period from the 1st day of April, 2020 to the 30th day of June, 2020, the sum of \$2545.00; payment due on June 30, 2020.

### III.

#### LIABILITY INSURANCE

Each party to this agreement represents to the other that it will have in effect at all times during this agreement liability insurance coverage which covers all sums that each shall be legally obligated to pay as damages for liability under the Oregon Revised Statutes 30.260 to 30.300, the Oregon Tort Claims Act.

### IV.

#### TELEPHONE LINES

KNAPPA-SVENSEN RFPD shall assume all costs for installation, maintenance, repair or rental for all emergency telephone lines originating from KNAPPA-SVENSEN RFPD.

### V.

#### TERM OF CONTRACT

This contract shall be effective from July 1, 2019 to June 30, 2020 and may be modified or renewed upon the consent of both parties. This contract may be terminated at any time by either party provided that the terminating party gives the other party at least ninety (90) days written notice.

### VI.

#### ATTORNEY FEES

In the event suit or action is instituted to enforce any of the terms of this contract, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorney's fees at trial or on appeal of such suit or action, in addition to all other sums provided by law.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day, month and year first above written.

CITY OF ASTORIA

KNAPPA-SVENSEN RURAL FIRE PROTECTION DISTRICT

By \_\_\_\_\_  
Bruce Jones, Mayor

By 

By \_\_\_\_\_  
Brett Estes, City Manager

By 

APPROVED AS TO FORM

  
Astoria City Attorney

It is the policy of the City of Astoria that no person shall be denied the benefits of or be subjected to discrimination in any City program, service, or activity on the grounds of age, disability, race, religion, color, national origin, sex, sexual orientation, gender identity and expression. The City of Astoria also requires its contractors and grantees to comply with this policy.

# A G R E E M E N T

## FIRE DISPATCH SERVICES

THIS AGREEMENT is entered into on the 1st day of July, 2019 by and between JOHN DAY-FERNHILL RURAL FIRE PROTECTION DISTRICT, hereinafter called "JOHN DAY-FERNHILL RFPD", and the CITY OF ASTORIA, a municipal corporation and hereinafter called "Astoria," both of Clatsop County, Oregon.

JOHN DAY-FERNHILL RFPD and Astoria enter into this agreement because the Astoria Police Radio Communications Center, hereinafter called "Dispatch Center", has the staff and facilities to provide emergency radio dispatch service to JOHN DAY-FERNHILL RFPD, and JOHN DAY-FERNHILL RFPD has the necessary funds to pay Astoria for services performed under this agreement.

Nothing in this agreement shall be interpreted to cause the City of Astoria to violate any rules and regulations set forth by the United States of America Federal Communications Commission.

### I.

#### SERVICES TO BE PROVIDED BY ASTORIA

- A. Basic Services  
Astoria shall provide JOHN DAY-FERNHILL RFPD with twenty-four (24) hour emergency dispatch service. This will include:
1. Answering service for JOHN DAY-FERNHILL RFPD emergency incoming telephone lines;
  2. Advising appropriate agency by means of radio of services requested by the public;
  3. Answering radio calls for service and provide appropriate information to authorized personnel;
  4. Maintaining a log of citizen-called-for services;
  5. Providing teletype service to authorized personnel;
  6. Provide communications equipment infrastructure maintenance for all equipment licensed by the FCC to Astoria 911 not including end user equipment.
  7. Run records checks for backgrounds on volunteers.

Astoria shall retain control of its Dispatch Center Personnel and their performance of services under this agreement. All such personnel performing services for the City of Astoria pursuant to this agreement shall be Astoria employees.

### II.

#### CONSIDERATION

- A. For the service provided by Astoria, JOHN DAY-FERNHILL RFPD agrees to a cost of \$2,213 for the period of July 1, 2019 to June 30, 2020.

The sum \$2,213, payment due on September 30, 2019

#### OR

1. For the period from the 1st day of July, 2019 to the 30th day of September, 2019, the sum of \$553.25, payment due on September 30, 2019;
2. For the period from the 1st day of October, 2019 to the 31st day of December, 2019, the sum of \$553.25, payment due on December 31, 2019;

3. For the period from the 1st day of January, 2020 to the 31st day of March, 2020, the sum of \$553.25, payment due on March 31, 2020;
4. For the period from the 1st day of April, 2020 to the 30th day of June, 2020, the sum of \$553.25, payment due on June 30, 2020.

## III.

## LIABILITY INSURANCE

Each party to this agreement represents to the other that it will have in effect at all times during this agreement liability insurance coverage which covers all sums that each shall be legally obligated to pay as damages for liability under the Oregon Revised Statutes 30.260 to 30.300, the Oregon Tort Claims Act.

## IV.

## TELEPHONE LINES

JOHN DAY-FERNHILL RFPD shall assume all costs for installation, maintenance, repair or rental for all emergency telephone lines originating from JOHN DAY-FERNHILL RFPD.

## V.

## TERM OF CONTRACT

This contract shall be effective from July 1, 2019 to June 30, 2020 and may be modified or renewed upon the consent of both parties. This contract may be terminated at any time by either party provided that the terminating party gives the other party at least ninety (90) days written notice.

## VI.

## ATTORNEY FEES

In the event suit or action is instituted to enforce any of the terms of this contract, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorney's fees at trial or on appeal of such suit or action, in addition to all other sums provided by law.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day, month and year first above written.

CITY OF ASTORIA

JOHN DAY-FERNHILL RURAL FIRE PROTECTION DISTRICT

By \_\_\_\_\_  
Bruce Jones, Mayor

By *Dennis R Hal*

By \_\_\_\_\_  
Brett Estes, City Manager

By *MR*

APPROVED AS TO FORM

*[Signature]*  
Astoria City Attorney

It is the policy of the City of Astoria that no person shall be denied the benefits of or be subjected to discrimination in any City program, service, or activity on the grounds of age, disability, race,

religion, color, national origin, sex, sexual orientation, gender identity and expression. The City of Astoria also requires its contractors and grantees to comply with this policy.

# A G R E E M E N T

## FIRE DISPATCH SERVICES

THIS AGREEMENT is entered into on the 1st day of July, 2019 by and between the City of WARRENTON, hereinafter called "WARRENTON", and the CITY OF ASTORIA, a municipal corporation and hereinafter called "Astoria," both of Clatsop County, Oregon.

WARRENTON and Astoria enter into this agreement because the Astoria Police Radio Communications Center, hereinafter called "Dispatch Center", has the staff and facilities to provide emergency radio dispatch service to WARRENTON, and WARRENTON has the necessary funds to pay Astoria for services performed under this agreement.

Nothing in this agreement shall be interpreted to cause the City of Astoria to violate any rules and regulations set forth by the United States of America Federal Communications Commission.

### I.

#### SERVICES TO BE PROVIDED BY ASTORIA

- A. Basic Services  
Astoria shall provide WARRENTON with twenty-four (24) hour emergency dispatch service. This will include:
1. Answering service for WARRENTON emergency incoming telephone lines;
  2. Advising appropriate agency by means of radio of services requested by the public;
  3. Answering radio calls for service and provide appropriate information to authorized personnel;
  4. Maintaining a log of citizen-called-for services;
  5. Providing teletype service to authorized personnel;
  6. Provide communications equipment infrastructure maintenance for all equipment licensed by the FCC to Astoria 911 not including end user equipment.
  7. Run records checks for backgrounds on volunteers.

Astoria shall retain control of its Dispatch Center Personnel and their performance of services under this agreement. All such personnel performing services for the City of Astoria pursuant to this agreement shall be Astoria employees.

### II.

#### CONSIDERATION

- A. For the service provided by Astoria, WARRENTON agrees to a cost of \$29,887 for the period of July 1, 2019 to June 30, 2020.

The sum \$30,673 payment due on September 30, 2019

### OR

1. For the period from the 1st day of July, 2019 to the 30th day of September, 2019, the sum of \$7,668.25; payment due on September 30, 2019;
2. For the period from the 1st day of October, 2019 to the 31st day of December, 2019, the sum of \$7,668.25; payment due on December 31, 2019;
3. For the period from the 1st day of January, 2020 to the 31st day of March, 2020, the sum of \$7,668.25; payment due on March 31, 2020;
4. For the period from the 1st day of April, 2020 to the 30th day of June, 2020, the sum of \$7,668.25; payment due on June 30, 2020.

III.

LIABILITY INSURANCE

Each party to this agreement represents to the other that it will have in effect at all times during this agreement liability insurance coverage which covers all sums that each shall be legally obligated to pay as damages for liability under the Oregon Revised Statutes 30.260 to 30.300, the Oregon Tort Claims Act.

IV.

TELEPHONE LINES

WARRENTON shall assume all costs for installation, maintenance, repair or rental for all emergency telephone lines originating from WARRENTON.

V.

TERM OF CONTRACT

This contract shall be effective from July 1, 2019 to June 30, 2020 and may be modified or renewed upon the consent of both parties. This contract may be terminated at any time by either party provided that the terminating party gives the other party at least ninety (90) days written notice.

VI.

ATTORNEY FEES

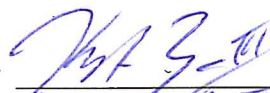
In the event suit or action is instituted to enforce any of the terms of this contract, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorney's fees at trial or on appeal of such suit or action, in addition to all other sums provided by law.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day, month and year first above written.

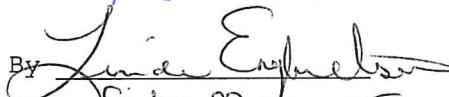
CITY OF ASTORIA

CITY OF WARRENTON

By \_\_\_\_\_  
Bruce Jones, Mayor

By   
Henry A. B. Knisler III, Mayor

By \_\_\_\_\_  
Brett Estes, City Manager

By   
Linda Englund  
City Manager

  
Astoria City Attorney

APPROVED AS TO FORM

It is the policy of the City of Astoria that no person shall be denied the benefits of or be subjected to discrimination in any City program, service, or activity on the grounds of age, disability, race, religion, color, national origin, sex, sexual orientation, gender identity and expression. The City of Astoria also requires its contractors and grantees to comply with this policy.

A G R E E M E N T  
POLICE DISPATCH SERVICES

THIS AGREEMENT is entered into on the 1st day of July, 2019 by and between the City of WARRENTON, hereinafter called "Warrenton", and the CITY OF ASTORIA, a municipal corporation and hereinafter called "Astoria," both of Clatsop County, Oregon.

Warrenton and Astoria enter this agreement because the Astoria Police Radio Communications Center, hereinafter called "Dispatch Center", has the staff and facilities to provide emergency radio dispatch service to Warrenton, and Warrenton has the necessary funds to pay Astoria for services performed under this agreement.

Nothing in this agreement shall be interpreted to cause the City of Astoria to violate any rules and regulations set forth by the United States of America Federal Communications Commission.

I.

SERVICES TO BE PROVIDED BY ASTORIA

- A. Basic Services  
Astoria shall provide Warrenton with twenty-four (24) hour emergency dispatch service. This will include:
1. Answering service for Warrenton police emergency incoming telephone lines;
  2. Advising appropriate police agency by means of radio of services requested by the public;
  3. Answering police radio calls for service and provide appropriate information to authorized personnel;
  4. Maintaining a log of citizen-called-for services;
  5. Providing LEMS teletype service to authorized personnel and agencies ORI OD0040400.
  6. Provide communications infrastructure maintenance for all equipment licensed by the FCC to Astoria 911 not including end user equipment.

Astoria shall retain control of its Dispatch Center Personnel and their performance of services under this agreement. All such personnel performing services for the City of Astoria pursuant to this agreement shall be Astoria employees.

II.

CONSIDERATION

- A. For the service provided by Astoria, Warrenton agrees to a cost of \$209,856 for the period of July 1, 2019 to June 30, 2020.

- B. Warrenton shall pay Astoria as follows:

The sum \$243,320.00 payment due on September 30, 2019

OR

1. For the period from the 1st day of July, 2019 to the 30th day of September, 2019, the sum of \$60,830; payment due on September 30, 2019;
2. For the period from the 1st day of October, 2019 to the 31st day of December, 2019, the sum of \$60,830; payment due on December 31, 2019;

3. For the period from the 1st day of January, 2020 to the 31st day of March, 2020, the sum of \$60,830; payment due on March 31, 2020;

4. For the period from the 1st day of April, 2020 to the 30th day of June, 2020, the sum of \$60,830; payment due on June 30, 2020.

### III.

#### LIABILITY INSURANCE

Each party to this agreement represents to the other that it will have in effect at all times during this agreement liability insurance coverage which covers all sums that each shall be legally obligated to pay as damages for liability under the Oregon Revised Statutes 30.260 to 30.300, the Oregon Tort Claims Act.

### IV.

#### TELEPHONE LINES

Warrenton shall assume all costs for installation, maintenance, repair or rental for all emergency telephone lines originating from Warrenton.

### V.

#### TERM OF CONTRACT

This contract shall be effective from July 1, 2019 to June 30, 2020 and may be modified or renewed upon the consent of both parties. This contract may be terminated at any time by either party provided that the terminating party gives the other party at least ninety (90) days written notice.

### VI.

#### ATTORNEY FEES

In the event suit or action is instituted to enforce any of the terms of this contract, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorney's fees at trial or on appeal of such suit or action, in addition to all other sums provided by law.

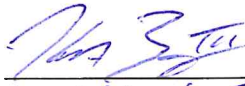
IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day, month and year first above written.

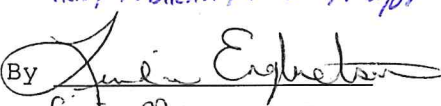
CITY OF ASTORIA

By \_\_\_\_\_  
Bruce Jones, Mayor

By \_\_\_\_\_  
Brett Estes, City Manager

CITY OF WARRENTON

By   
Henry A. Blenzer III, Mayor

By   
City Manager

APPROVED AS TO FORM

  
Astoria City Attorney

It is the policy of the City of Astoria that no person shall be denied the benefits of or be subjected to discrimination in any City program, service, or activity on the grounds of age,

disability, race, religion, color, national origin, sex, sexual orientation, gender identity and expression. The City of Astoria also requires its contractors and grantees to comply with this policy.

A G R E E M E N T  
POLICE DISPATCH SERVICES

THIS AGREEMENT is entered into on the 1st day of July, 2019 by and between the Port of ASTORIA, hereinafter called "the Port", and the CITY OF ASTORIA, a municipal corporation and hereinafter called "Astoria," both of Clatsop County, Oregon.

The Port and Astoria enter this agreement because the Astoria Police Radio Communications Center, hereinafter called "Dispatch Center", has the staff and facilities to provide emergency radio dispatch service to the Port, and the Port has the necessary funds to pay Astoria for services performed under this agreement.

Nothing in this agreement shall be interpreted to cause the City of Astoria to violate any rules and regulations set forth by the United States of America Federal Communications Commission.

I.

SERVICES TO BE PROVIDED BY ASTORIA

A. Basic Services

Astoria shall provide the Port with twenty-four (24) hour emergency dispatch service. This will include:

1. Answering service for the Port police emergency incoming telephone lines;
2. Advising appropriate police agency by means of radio of services requested by the public;
3. Answering police radio calls for service and provide appropriate information to authorized personnel;
4. Maintaining a log of citizen-called-for services;
5. Providing teletype service to authorized personnel;
6. Provide communications infrastructure maintenance for all equipment licensed by the FCC to Astoria 911 not including end user equipment.

Astoria shall retain control of its Dispatch Center Personnel and their performance of services under this agreement. All such personnel performing services for the City of Astoria pursuant to this agreement shall be Astoria employees.

II.

CONSIDERATION

A. For the service provided by Astoria, the Port agrees to a cost of \$3,096 for the period of July 1, 2019 to June 30, 2020.

B. The Port shall pay Astoria as follows:

The sum \$3,096, payment due on September 30, 2019

OR

1. For the period from the 1st day of July, 2019 to the 30th day of September, 2019, the sum of \$774; payment due on September 30, 2019;
2. For the period from the 1st day of October, 2019 to the 31st day of December, 2019, the sum of \$774; payment due on December 31, 2019;

3. For the period from the 1st day of January, 2020 to the 31st day of March, 2020, the sum of \$774; payment due on March 31, 2020;
4. For the period from the 1st day of April, 2020 to the 30th day of June, 2020, the sum of \$774; payment due on June 30, 2020.

### III.

#### LIABILITY INSURANCE

Each party to this agreement represents to the other that it will have in effect at all times during this agreement liability insurance coverage which covers all sums that each shall be legally obligated to pay as damages for liability under the Oregon Revised Statutes 30.260 to 30.300, the Oregon Tort Claims Act.

### IV.

#### TELEPHONE LINES

The Port shall assume all costs for installation, maintenance, repair or rental for all emergency telephone lines originating from the Port.

### V.

#### TERM OF CONTRACT

This contract shall be effective from July 1, 2019 to June 30, 2020 and may be modified or renewed upon the consent of both parties. This contract may be terminated at any time by either party provided that the terminating party gives the other party at least ninety (90) days written notice.

### VI.

#### ATTORNEY FEES

In the event suit or action is instituted to enforce any of the terms of this contract, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorney's fees at trial or on appeal of such suit or action, in addition to all other sums provided by law.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day, month and year first above written.

CITY OF ASTORIA

PORT OF ASTORIA

By \_\_\_\_\_  
Bruce Jones, Mayor

By Susan Shawne

By \_\_\_\_\_  
Brett Estes, City Manager

By \_\_\_\_\_

APPROVED AS TO FORM

[Signature]  
Astoria City Attorney

It is the policy of the City of Astoria that no person shall be denied the benefits of or be subjected to discrimination in any City program, service, or activity on the grounds of age,

disability, race, religion, color, national origin, sex, sexual orientation, gender identity and expression. The City of Astoria also requires its contractors and grantees to comply with this policy.

# A G R E E M E N T

## FIRE DISPATCH SERVICES

THIS AGREEMENT is entered into on the 1st day of July, 2019 by and between OLNEY-WALLUSKI RURAL FIRE PROTECTION DISTRICT, hereinafter called "OLNEY-WALLUSKI RFPD", and the CITY OF ASTORIA, a municipal corporation and hereinafter called "Astoria," both of Clatsop County, Oregon.

OLNEY-WALLUSKI RFPD and Astoria enter into this agreement because the Astoria Police Radio Communications Center, hereinafter called "Dispatch Center", has the staff and facilities to provide emergency radio dispatch service to OLNEY-WALLUSKI RFPD, and OLNEY-WALLUSKI RFPD has the necessary funds to pay Astoria for services performed under this agreement.

Nothing in this agreement shall be interpreted to cause the City of Astoria to violate any rules and regulations set forth by the United States of America Federal Communications Commission.

### I.

#### SERVICES TO BE PROVIDED BY ASTORIA

- A. Basic Services  
Astoria shall provide OLNEY-WALLUSKI RFPD with twenty-four (24) hour emergency dispatch service. This will include:
1. Answering service for OLNEY-WALLUSKI RFPD emergency incoming telephone lines;
  2. Advising appropriate agency by means of radio of services requested by the public;
  3. Answering radio calls for service and provide appropriate information to authorized personnel;
  4. Maintaining a log of citizen-called-for services;
  5. Providing teletype service to authorized personnel;
  6. Provide communications equipment infrastructure maintenance for all equipment licensed by the FCC to Astoria 911 not including end user equipment.
  7. Run records checks for backgrounds on volunteers.

Astoria shall retain control of its Dispatch Center Personnel and their performance of services under this agreement. All such personnel performing services for the City of Astoria pursuant to this agreement shall be Astoria employees.

### II.

#### CONSIDERATION

- A. For the service provided by Astoria, OLNEY-WALLUSKI RFPD agrees to a cost of \$3,277 for the period of July 1, 2019 to June 30, 2020.

The sum \$3,277, payment due on September 30, 2019

#### OR

1. For the period from the 1st day of July, 2019 to the 30th day of September, 2019, the sum of \$819.25; payment due on September 30, 2019;
2. For the period from the 1st day of October, 2019 to the 31st day of December, 2019, the sum of \$819.25; payment due on December 31, 2019;

3. For the period from the 1st day of January, 2020 to the 31st day of March, 2020, the sum of \$819.25; payment due on March 31, 2020;
4. For the period from the 1st day of April, 2020 to the 30th day of June, 2020, the sum of \$819.25; payment due on June 30, 2020.

## III.

## LIABILITY INSURANCE

Each party to this agreement represents to the other that it will have in effect at all times during this agreement liability insurance coverage which covers all sums that each shall be legally obligated to pay as damages for liability under the Oregon Revised Statutes 30.260 to 30.300, the Oregon Tort Claims Act.

## IV.

## TELEPHONE LINES

OLNEY-WALLUSKI RFPD shall assume all costs for installation, maintenance, repair or rental for all emergency telephone lines originating from OLNEY-WALLUSKI RFPD.

## V.

## TERM OF CONTRACT

This contract shall be effective from July 1, 2019 to June 30, 2020 and may be modified or renewed upon the consent of both parties. This contract may be terminated at any time by either party provided that the terminating party gives the other party at least ninety (90) days written notice.

## VI.

## ATTORNEY FEES

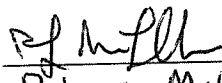
In the event suit or action is instituted to enforce any of the terms of this contract, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorney's fees at trial or on appeal of such suit or action, in addition to all other sums provided by law.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day, month and year first above written.

CITY OF ASTORIA

OLNEY-WALLUSKI RURAL FIRE PROTECTION DISTRICT

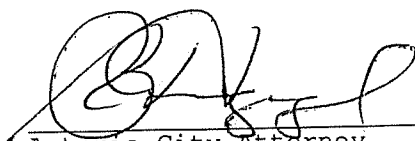
By \_\_\_\_\_  
Bruce Jones, Mayor

By   
Robert McLellan, Board President

By \_\_\_\_\_  
Brett Estes, City Manager

By \_\_\_\_\_

APPROVED AS TO FORM

  
Astoria City Attorney

It is the policy of the City of Astoria that no person shall be denied the benefits of or be subjected to discrimination in any City program, service, or activity on the grounds of age, disability, race,

religion, color, national origin, sex, sexual orientation, gender identity and expression. The City of Astoria also requires its contractors and grantees to comply with this policy.




## CITY OF ASTORIA

Founded 1811 • Incorporated 1856

### MEMORANDUM • COMMUNITY DEVELOPMENT

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**DATE:** AUGUST 26, 2019  
**TO:** MAYOR AND CITY COUNCIL  
**FROM:**  BRETT ESTES, CITY MANAGER  
**SUBJECT:** MILL POND LOTS SALE OPTIONS

#### DISCUSSION

In November, 2018, the City Council authorized staff to contract with a real estate firm to market the "pier lots" which the City owns. The pier lots are twelve platted lots donated to the City by the developer of the Mill Pond, Art DeMuro of Venerable Properties, in 2012. Since that time, the City has paid fees to the Mill Pond Homeowners Association in excess of \$50,000. The lots have been listed through the local firm Area Properties for \$45,000 for each pier, or \$90,000 total. Some individual homeowners, especially those situated just south of the pier lots, have expressed interest in purchasing the lots by soliciting donations in order to preserve their views and the open space. The amount these homeowners have offered is \$11,500. More recently, a potential buyer has provided an offer (as attached) in the amount of \$35,000. The potential buyer, John Dulcich, is intending to develop all or a portion of the pier lots. If the City Council is interested in considering the offer from Mr. Dulcich, a public hearing must be held in accordance with the City Code Real Property Sale Procedures. Attachment A is the City Manager's Report of a Real Property Sale, as required by Sec. 1.500 of the City Code. Attachment B is the Real Property Sales Procedures, Sec. 1.500 through 1.510. After a public hearing is held, the City Council may decide to sell or not sell the lots.

#### RECOMMENDATION

It is recommended that Council consider scheduling a public hearing for 7:00 pm September 30, 2019.

By:   
Mike Morgan, Contract Planner  
Community Development Department

## Attachment A

### City Manager Report of a Proposed Real Property Sale

(a) A description of the property offered for sale.

The property consists of Lots 74 through 85 of the Plan of Mill Pond Village No. 3. It is also described as Map T8N-R9W Section 9CB, Tax Lots 6882, 6883, 6884, 6885, 6886, 6887, 6888, 6889, 6890, 6891, 6892 and 6893. All lots are in the AH-MP zone, Attached Housing-Mill Pond. The lots total .55 acres of buildable land.

(b) Reasons for the proposal to sell.

The property has been for sale since it was donated to the City by Venerable Properties in 2013. Since that time the City has paid over \$50,000 in fees and assessments. The offer is the first Purchase and Sale Agreement received by the City for this property. If the Council accepts the offer, the City will recoup a portion of the sunk costs, and the buyer will assume responsibility for any fees.

(c) The sale procedure recommended and, if appropriate, a recommended sales price or minimum sale price.

The sale procedure is outlined in Section 1.500. The offer proposed by Mr. Dulcich is \$35,000.

(d) The terms and conditions of the sale.

The terms and conditions of the sale are in the Purchase and Sale Agreement provided by Mr. Dulcich.

(e) Any other information which is pertinent.

No other information is pertinent. The City Council may hold a public hearing and decide to sell the property to the buyer, or reject the offer.

Brett Estes, City Manager

---

**Real Property Sale Procedures**

**1.500 Sale of Real Property.** The city may sell at public or private sale any real property which is owned by the city which is not needed for public use, or whenever the public interest may be furthered. The city, by resolution, may provide for sale procedures. *[Section 1.500 amended by Ordinance No. 05-15, passed September 6, 2005.]*

**1.501 Application and Fee.** Applications for purchase of city-owned property shall be filed with the City Manager's office or office designated by the City Manager on forms provided by the city. A fee as established in the Fee for Service Resolution shall accompany each application. The public works director shall require an appraisal except in those cases where it is deemed unnecessary, such as very small lot size or an appraisal that has been recently completed. When an appraisal is required, an additional fee, as established in the Fee for Service Resolution, shall be applied. If the property sale is denied prior to an appraisal and notices being published, the application fee will be refunded to the applicant. If the applicant is not the successful buyer, and the property is sold to another, any appraisal fee shall be refunded to the applicant and the successful buyer will be held responsible for the fee. If the public works director or city council determines a geological survey should be performed on the property, the applicant shall be required to obtain such a report and pay all costs associated with obtaining this report. *[Section 1.501 added by Ordinance No. 65-17, enacted November 1, 1965; amended by Ordinance No. 93-10, passed November 15, 1993; amended by Ordinance No. 01-11, passed November 5, 2001; amended by Ordinance No. 05-15, passed September 6, 2005.]*

**1.505 Report to Council and Call for Hearing.**

- (1) When real property is proposed to be sold, the city manager shall submit to the city council a report of the proposed sale. The report to city council shall include:
  - (a) A description of the property offered for sale.
  - (b) Reasons for the proposal to sell.
  - (c) The sale procedure recommended and, if appropriate, a recommended sales price or minimum sale price.

- (d) The terms and conditions of the sale.
  - (e) Any other information which is pertinent.
- (1) After reviewing the city manager's report and if willing to proceed toward a property sale, the city council, at a regular meeting, shall call for a public hearing on the proposed sale of the property. If the city council deems it necessary, a geological survey shall be ordered on the property and the applicant, if there is an applicant, will be responsible for all costs of said survey. *[Section 1.505 repealed by Ordinance No. 90-06, passed February 21, 1990; added by Ordinance No. 93-10, passed November 15, 1993; amended by Ordinance No. 05-15, passed September 6, 2005.]*

**1.507 Notice and Hearing.**

- (1) The city council shall publish a notice of the proposed sale and public hearing in a newspaper of general circulation in the city.
- (2) The notice shall be published at least once not more than 14 days nor less than 5 days prior to the public hearing required under this section. The notice shall state the time and place of the public hearing, a description of the property or interest proposed to be sold and the reason the council considers it necessary or convenient to sell the property.
- (3) A copy of the public notice shall be sent to all property owners who reside within 200-feet of the exterior boundary of the property proposed to be sold notifying them of the proposed sale and advising them of their opportunity to present written or oral testimony at the public hearing. *[Section 1.507 added by Ordinance No. 93-10, passed November 15, 1993.]*
- (4) Not earlier than five days after publication of the notice, the public hearing concerning the sale shall be held at the time and place stated in the notice. Any resident or property owner of the city shall be given the opportunity to present oral or written testimony.
- (5) The nature of the proposed sale and the general terms thereof, including an appraisal or other evidence of the market value of the property, and a copy of the geological survey if a survey was completed, shall be fully disclosed at the public hearing. *[Section 1.507 added by Ordinance No. 93-10, passed*

*November 15, 1993; amended by Ordinance No. 05-15, passed September 6, 2005.]*

- 1.510 Completion of Sale.** If the city council approves the sale, the sale shall be conducted by or arranged for by the public works director in the manner directed by the council. In approving the sale, the city council may modify any terms or conditions of the sale. *[Section 1.510 repealed by Ordinance No. 90-06, passed February 21, 1990; added by Ordinance No. 93-10, passed November 15, 1993; amended by Ordinance No. 05-15, passed September 6, 2005.]*

## PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (this “**Agreement**”) is dated as of September \_\_\_\_, 2019 (the “**Effective Date**”), between City of Astoria, an Oregon municipal corporation (“**Seller**”), and John D. Dulcich (“**Buyer**”).

### Recitals

A. Seller owns certain unimproved land located in Astoria, Oregon, commonly known as Lots 74 through 85 of the Plat of Mill Pond Village No. 3 (the “**Land**”).

B. Buyer desires to purchase from Seller, and Seller desires to sell to Buyer, the Land and certain related property pursuant to the terms set forth in this Agreement.

### Agreement

1. **Purchase and Sale.** Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, upon the terms and conditions set forth in this Agreement, (a) the Land and any improvements thereon, (b) all easements, if any, benefiting the Land, and (c) all rights and appurtenances pertaining to the Land, including without limitation all assignable continuing business licenses, governmental approvals, and development rights. The items described in clauses (a) through (c) of this Section 1 shall hereinafter be collectively referred to as the “**Property**.”

2. **Purchase Price.** The purchase price for the Property (the “**Purchase Price**”) shall be the sum of Thirty-Five Thousand Dollars (\$35,000).

3. **Payment of the Purchase Price.** The Purchase Price shall be payable as follows:

3.1 **Deposit.** Within three (3) business days after the Execution Date (as such term is defined in Section 21.12 of this Agreement), Buyer shall execute and deliver to Fidelity National Title, Attention: Aubry Ludberg, 600 University Street, Suite 2424, Seattle, Washington 98101 (the “**Title Company**”), as earnest money, the sum of \$5,000 (the “**Earnest Money**”). The Earnest Money shall be applied toward the Purchase Price at Closing (defined in Section 4.2 of this Agreement).

3.2 **Balance of the Purchase Price.** On or before the Closing Date (as such term is defined in Section 4.2 of this Agreement), Buyer shall deposit into escrow with the Title Company, in the form of cash, wire transfer of funds, or cashier’s check, the balance of the Purchase Price, which shall be an amount equal to the Purchase Price less the amount of the Earnest Money, subject to adjustments and credits as set forth in this Agreement.

4. **Escrow.**

4.1 **Opening of Escrow.** Buyer shall open escrow at the Title Company for consummating this transaction. Seller or Buyer shall deliver a copy of this Agreement, fully executed, to the Title Company. Buyer and Seller hereby authorize their respective attorneys to execute and deliver into escrow any additional or supplemental instructions as may be necessary or convenient to implement the terms of this Agreement and to close this transaction. In the

event of any conflict between such additional or supplemental instructions and the express terms of this Agreement, the terms of this Agreement shall control.

4.2 **Closing Date.** This transaction shall close at or through the office of the Title Company on a date selected by Buyer that is not more than thirty (30) days after the Due Diligence Date (as such term is defined in Section 8.2 of this Agreement). “**Closing**” shall occur when the Deed (as such term is defined in Section 9.1(a) of this Agreement) is recorded and the Purchase Price is disbursed to Seller pursuant to Section 3.2 of this Agreement.

## 5. **Title Exceptions.**

5.1 **Title Report.** A preliminary title report for issuing title insurance related to the Property (the “**Title Report**”) shall be ordered by Buyer and provided to Seller, together with copies of documents affecting title referenced in the Title Report.

5.2 **Objectionable Exceptions.** Within ten (10) days after the last to occur of the Execution Date or Buyer’s receipt of the Title Report (the “**Objection Period**”), Buyer shall notify Seller in writing of all title exceptions to which Buyer objects (the “**Objectionable Exceptions**”). Those exceptions not objected to by Buyer within the above-referenced time period shall be deemed “**Permitted Exceptions**.” Within seven (7) days after receiving Buyer’s notice of objections, Seller will notify Buyer whether Seller will remove, prior to Closing, the Objectionable Exceptions. (If Seller fails to provide such notice to Buyer within such seven (7)-day period, Seller shall be deemed to have elected not to remove the Objectionable Exceptions.) If Seller is unable or unwilling to remove any Objectionable Exceptions, Buyer shall, within five (5) business days after receiving Seller’s response (or within five (5) business days after the expiration of the seven (7)-day period for Seller’s response if Seller fails to provide notice to Buyer within such seven (7)-day period), by notice to Seller, elect whether to purchase the Property subject to the Objectionable Exceptions that will not be removed by Seller, or terminate this Agreement. If Buyer elects to terminate this Agreement, the Earnest Money shall be promptly returned to Buyer, and Buyer shall have no further obligations under this Agreement. If Buyer fails to notify Seller within such five (5) business-day period that Buyer elects to terminate this Agreement, or if Buyer elects to purchase the Property subject to the Objectionable Exceptions that will not be removed by Seller, Buyer shall be deemed to have waived its objection to such Objectionable Exceptions, and they shall be deemed “**Permitted Exceptions**.”

5.3 **Subsequently-Discovered Exceptions.** If, after the time periods set forth in Section 5.2 but before the Closing, Buyer receives notice of an additional title exception that is reported or discovered by the Title Company or Buyer, including without limitation any exception disclosed by or arising from a survey of the Property, Buyer may object to such exception by giving written notice to Seller within five (5) business days after Buyer receives notice of such exception. If such exception is not removed or resolved in a manner satisfactory to Buyer in Buyer’s sole discretion within four (4) business days after Buyer’s notice to Seller of such objection, Buyer may terminate this Agreement by notice to Seller given within such four (4) business-day period. The Closing Date shall be extended if necessary to provide Buyer with sufficient time to object to any such exception or to terminate this Agreement pursuant to this Section 5.3.

## 6. **Seller's Documents and Buyer's Inspections.**

6.1 **Seller's Documents.** Within five (5) days after the Execution Date, Seller shall deliver to Buyer the documents described on Exhibit A attached hereto ("**Seller's Documents**"), to the extent such documents are in the possession, custody, or control of Seller.

6.2 **Buyer's Inspections.** Subject to the provisions of this Section 6.2, Buyer and its representatives may enter upon the Property for the purpose of making any non-invasive inspection, investigation, test, or survey, including without limitation environmental assessments, of the Property as Buyer deems necessary. Buyer shall indemnify Seller for, hold Seller harmless from, and defend Seller against any loss, damage, or claim arising out of Buyer's entry and/or activities upon the Property, including without limitation any claim of lien against the Property arising from services performed on behalf of Buyer or at Buyer's request. The parties agree that (i) all inspections of the Property by Buyer or its representatives shall be conducted after reasonable prior notice to Seller; (ii) Seller shall be entitled to require that a representative of Seller accompany representatives of Buyer on all inspections of the Property; (iii) all inspections by Buyer or its representatives shall be conducted in such manner as shall be required in order not to physically damage the Property in any respect; and (iv) Buyer shall be required to obtain Seller's prior written approval of the scope and methods of any Phase II environmental assessment of the Property or other physically intrusive inspection or examination.

7. **Seller's Contingencies.** In addition to the other conditions set forth in this Agreement, Seller's obligation to close this transaction shall be subject to the following conditions:

(a) Buyer shall have complied in all material respects with all of Buyer's covenants and agreements to be performed under this Agreement; and the representations and warranties of Buyer under this Agreement shall, in all material respects, as of the Execution Date and Closing Date, be true and complete.

(b) Buyer's delivery to the Title Company on or before the Closing Date, for disbursement as provided herein, the balance of the Purchase Price pursuant to Section 3.2 of this Agreement, and any other amounts due to Seller pursuant to this Agreement, and the documents and materials described in Section 9.2 of this Agreement.

## 8. **Buyer's Contingencies.**

8.1 **Conditions.** Buyer's obligation to purchase the Property is subject to the satisfaction of each of the following conditions:

(a) Buyer's satisfaction, in Buyer's sole and absolute discretion, with the Property and every aspect thereof, including without limitation the physical condition of the Property, zoning and land use restrictions applicable to the Property, location of the Property, all systems, utilities, and access rights relating to the Property, the condition of title, any survey of the Property, the economic feasibility of the Property to Buyer, Seller's Documents, the suitability of the Property for Buyer's intended use, and the environmental condition of the Property.

(b) Seller having complied in all material respects with all of Seller's covenants to be performed by Seller under this Agreement (including, without limitation, the delivery of the documents and materials described in Section 9.1 of this Agreement), and the representations and warranties of Seller under this Agreement shall, in all material respects, as of the Effective Date and Closing Date, be true and complete.

(c) Issuance to Buyer at Closing of the Title Policy (as such term is defined in Section 10 of this Agreement) in the amount of the Purchase Price.

(d) There shall have been no material adverse changes to the Property or to the condition of the Property prior to Closing.

**8.2 Due Diligence Date.** If on or before the date that is forty-five (45) days after the Execution Date (the "**Due Diligence Date**"), any of the conditions described in Section 8.1(a) of this Agreement are not satisfied or waived by Buyer, or if Buyer otherwise determines, in its sole and absolute discretion, that the Property, or any aspect thereof, for any reason or no reason whatsoever, is not satisfactory to Buyer, Buyer may terminate this Agreement by written notice to Seller given on or before the Due Diligence Date, in which event the Earnest Money shall be promptly returned to Buyer, and Buyer shall have no further obligations under this Agreement. If Buyer fails to provide such written notice of termination on or before the Due Diligence Date, the conditions set forth in Section 8.1(a) above shall be deemed to have been satisfied or waived by Buyer, and the Earnest Money shall be deemed nonrefundable to Buyer unless Buyer terminates this Agreement pursuant to Section 5.2, 5.3, 8.3, or 19.1 of this Agreement.

**8.3 Closing Conditions.** If any of the conditions described in Sections 8.1(b), (c), and (d) of this Agreement have not been satisfied or waived by Buyer on or before the Closing Date, Buyer may terminate this Agreement by written notice to Seller given at any time before the Closing, in which event the Earnest Money shall be promptly returned to Buyer, and Buyer shall have no further obligations under this Agreement.

## **9. Deliveries to Title Company.**

**9.1 By Seller.** On or before the Closing Date, Seller shall deliver the following in escrow to the Title Company:

(a) A statutory warranty deed (the "**Deed**"), executed and acknowledged by Seller, in substantially the same form and content as that attached hereto as Exhibit B, conveying the Property to Buyer, subject only to the Permitted Exceptions. (The Permitted Exceptions shall be set forth on Exhibit B to the Deed.)

(b) A certification of Seller representing and warranting that Seller is not a "foreign person" as defined in Internal Revenue Code Section 1445.

(c) Such proof of Seller's authority and authorization to enter into this Agreement and consummate the transaction contemplated by it, as may be reasonably required by the Title Company.

(d) Such affidavits or other documents, executed by Seller, that may be required by the Title Company to issue to Buyer the Title Policy or any extended coverage title insurance or title endorsements that may be purchased by Buyer.

9.2 **By Buyer.** On or before the Closing Date, Buyer shall deliver the following in escrow to the Title Company:

- (a) The Purchase Price in accordance with Section 3 of this Agreement.
- (b) The amount due to Seller, if any, after the adjustments and prorations are computed in accordance with Sections 11 and 12 of this Agreement.
- (c) Such proof of Buyer's authority and authorization to enter into this Agreement and consummate the transaction contemplated by it, as may be reasonably required by the Title Company.

10. **Title Insurance.** At Closing, Seller shall provide to Buyer, at Seller's expense, an ALTA standard owner's title insurance policy (the "**Title Policy**") in the amount of the Purchase Price, insuring title vested in Buyer, subject only to the Permitted Exceptions and the usual preprinted exceptions. Buyer shall have the right, if Buyer so elects, to cause the Title Policy to be issued as an extended coverage policy, provided that Buyer pays the additional premiums and all survey costs associated therewith.

11. **Adjustments.** At Closing, Seller shall pay, in the form of a credit to Buyer, for one-half of all escrow fees and costs, all real property transfer or excise taxes, Seller's share of prorations pursuant to Section 12 of this Agreement, and all recording and other charges relating to the release or reconveyance of any deeds of trust or other security instruments against the Property or Seller's interest therein. At Closing, Buyer shall pay all charges relating to the recordation of the Deed and of any security instruments relating to Buyer's financing, one-half of all escrow fees and costs, and Buyer's share of prorations pursuant to Section 12 below. Buyer and Seller shall pay their own respective legal and professional fees.

## 12. **Prorations.**

12.1 **General.** All utilities with respect to the Property for the month in which the Closing occurs, real estate and personal property taxes and other assessments with respect to the Property for the tax or assessment year in which the Closing occurs, and owners' association dues and assessments shall be prorated as of the Closing Date. For the purpose of calculating prorations, Buyer will be deemed to be in title to the Property and entitled to the income and responsibility for the expenses therefor, beginning at 12:01 a.m. on the Closing Date. Such prorations, if and to the extent known and agreed on as of the Closing Date, shall be paid by Buyer to Seller (if the prorations result in a net credit to Seller) or by Seller to Buyer (if the prorations result in a net credit to Buyer) by increasing or reducing the cash to be paid by Buyer at Closing.

12.2 **Utilities.** Seller shall use Seller's reasonable best efforts to have the utilities transferred to Buyer as of the Closing Date, and Seller shall be responsible for all utility services to the Property through the day prior to the Closing Date. If the Closing shall occur before the actual amount of utilities and other similar operating expenses with respect to the Property for

the month in which the Closing occurs are determined, the proration of such utilities and other similar expenses shall be upon the basis of Seller's reasonable estimate of such utilities and other similar expenses for such month. Subsequent to the Closing, when the actual amount of such utilities and other similar expenses with respect to the Property for the month in which the Closing occurs are determined, the parties agree to equitably adjust the proration of such utilities and other similar expenses and, if necessary, to refund or repay such sums as shall be necessary to effect such adjustment.

**12.3 Taxes.** If the Closing shall occur before the taxes payable on the Property for the tax year in which Closing occurs are known, the proration of such taxes shall be upon the basis of the taxes payable for the Property during the immediately preceding tax year. Subsequent to the Closing, but no later than sixty (60) days after the actual taxes for the Property have been determined for the tax year in which Closing occurs, the parties agree to adjust the proration of taxes and, if necessary, to refund or pay such sums as shall be necessary to effect such adjustment.

**12.4 Survival.** The covenants and agreements set forth in this Section 12 shall survive the Closing.

### **13. Seller's Representations and Warranties.**

**13.1 Representations and Warranties.** Seller represents and warrants to Buyer as of the Effective Date and, unless Seller notifies Buyer otherwise in writing, as of the Closing, as follows:

(a) Seller has the legal power, right, and authority to enter into this Agreement and the instruments referred to herein and to consummate the transaction contemplated herein.

(b) The execution, delivery and performance by Seller of Seller's obligations under this Agreement do not constitute a default under any of the provisions of any law, governmental rule, regulation, judgment, decree or order by which such Seller is bound, or under any provision of any contract to which such Seller is a party.

(c) There is no litigation, claim, or arbitration pending, or, to Seller's knowledge, threatened with regard to the Property or its operation.

(d) There is no existing, pending, or intended local improvement district or any taxing authority for public improvements or work that may give rise to an assessment, lien, or imposition of any other charges against the Property or any portion thereof. There is no assessment for public improvements relating to the Property that is now due or will in the future become due.

(e) At Closing, there will be no leases, subleases, or other tenancies relating to the Property.

(f) To Seller's knowledge, the Property is not presently in violation of any law, including Environmental Laws. "**Environmental Laws**" includes any present and future local, state and federal laws, regulations, rules, or ordinances relating to the environment and environmental conditions, including without limitation the Resource Conservation and Recovery

Act of 1976 ("RCRA"), 42 U.S.C. § 6901 et seq., the Comprehensive Environmental Response Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. §§ 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. § 5101 et seq., the Clean Air Act, 42 U.S.C. § 7401 et seq., the Clean Water Act, 33 U.S.C. §§ 1251 et seq., the Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq., the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., and all federal, state, or local regulations, orders and decrees now or hereafter promulgated thereunder. To Seller's knowledge, there are no underground storage tanks on or under the Property.

(g) Seller has not granted an option and has not executed a contract with any other party regarding a purchase or sale of the Property or any portion thereof or interest therein that remains in effect as of the Effective Date. There are no rights of first refusal or first offer or options to purchase the Property or any portion thereof. Seller has not sold, transferred, conveyed, or entered into any agreement regarding "air rights" or other development rights, or restrictions relating to the Property.

(h) All persons and entities supplying labor, materials, and/or equipment to the Property at the request of Seller have been paid, and there are no claims of liens applicable to the Real Property.

13.2 **Survival.** The representations and warranties of Seller set forth in Section 13.1 above and elsewhere in this Agreement are true and accurate and shall survive the Closing.

14. **Buyer's Representations and Warranties.** In addition to any express agreements of Buyer contained herein, the following constitute representations and warranties of Buyer to Seller as of the Effective Date and, unless Buyer notifies Seller otherwise in writing, as of the Closing:

(a) Buyer has the legal power, right, and authority to enter into this Agreement and the instruments referred to herein and to consummate the transaction contemplated herein.

(b) The execution, delivery and performance by Buyer of Buyer's obligations under this Agreement do not constitute a default under any of the provisions of any law, governmental rule, regulation, judgment, decree or order by which Buyer is bound, or under any provision of any contract to which Buyer is a party or by which Buyer is bound.

15. **"AS IS" Sale.** Except for the representations and warranties of Seller set forth in this Agreement and in the Deed and any other documents executed by Seller and delivered to Buyer at Closing, the sale of the Property from Seller to Buyer is "as is, where is" condition, with all faults.

16. **Notices.** All notices or other communications required or permitted under this Agreement shall be in writing and shall be (a) personally delivered (including by means of professional messenger service), which notices and communications shall be deemed given on the date of their receipt at the office of the addressee; (b) sent by registered or certified mail, postage prepaid, return receipt requested, which notices and communications shall be deemed given two (2) business days after the date of their deposit in the United States mail; or (c) sent by

overnight delivery using a nationally recognized overnight courier service, which notices and communications shall be deemed given one business day after the date of their deposit with such courier. Notices shall be sent to the following addresses:

To Seller: City of Astoria

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To Buyer: John D. Dulcich  
14247 S.E. 83<sup>rd</sup> Street  
Newcastle, Washington 98059

Notice of change of address shall be given by written notice in the manner detailed in this Section 16. Notices may be given by a party or a party's attorney.

17. **Brokers.** Seller represents and warrants to Buyer that no broker or finder has been engaged by Seller in connection with the transaction contemplated by this Agreement. Buyer represents and warrants to Seller that no broker or finder has been engaged by Buyer in connection with the transaction contemplated by this Agreement. Seller shall indemnify Buyer for, hold Buyer harmless from, and defend Buyer against any claims for commissions, fees, or other compensation asserted by any broker or finder claiming by, through, or under Seller; and Buyer shall indemnify Seller for, hold Seller harmless from, and defend Seller against any claims for commissions, fees, or other compensation asserted by any broker or finder claiming by, through, or under Buyer.

18. **Required Actions of Buyer and Seller.** Buyer and Seller agree to execute all such reasonable instruments and documents and to take all reasonable actions pursuant to the provisions of this Agreement in order to consummate the purchase and sale contemplated herein, and shall use their commercially reasonable efforts to accomplish the Closing in accordance with the provisions herein. The immediately preceding sentence shall not affect Buyer's right to terminate this Agreement pursuant to Sections 5.2, 5.3, 8.2, 8.3, and 19.1 of this Agreement.

## 19. Remedies.

19.1 **Buyer's Remedies.** If the conditions set forth in Section 7 of this Agreement are satisfied or waived by Seller and Seller fails to convey the Property to Buyer as the result of Seller's failure to perform as required by this Agreement, through no fault of Buyer, Buyer may elect (a) to terminate this Agreement by written notice to Seller of such termination, in which event the Earnest Money shall be promptly returned to Buyer, and Seller shall reimburse Buyer, within fifteen (15) days after Seller's receipt of Buyer's invoice or statement, for all of Buyer's reasonable and verifiable out-of-pocket expenses (including, without limitation, attorney fees, inspection costs and fees, and consultants' fees) incurred by Buyer in connection with this Agreement and the transaction contemplated herein, in an amount not to exceed \$25,000 (excluded from such limitation are the attorney fees that are recoverable by Buyer pursuant to Section 21.6 of this Agreement); or (b) to seek specific performance of Seller's obligations under this Agreement.

19.2 **Seller's Remedies.** If the conditions set forth in Section 8.1 of this Agreement are satisfied or waived by Buyer and the Closing of the sale of the Property fails to occur as the result of Buyer's failure to perform as required under this Agreement, through no fault of Seller, Seller's sole remedy hereunder shall be to terminate this Agreement and retain the Earnest Money. Buyer and Seller agree that it would be impractical and extremely difficult to estimate the damage that Seller may suffer in the event of such default by Buyer. Therefore, Buyer and Seller agree that a reasonable estimate of the total net detriment that Seller would suffer if Buyer defaults and fails to complete the purchase of the Property is an amount equal to the Earnest Money. This amount shall be the full, agreed, and liquidated damages for the breach of this Agreement by Buyer, and all other claims to damages or other remedies are expressly waived by Seller. The payment of this amount as liquidated damages is not intended as a forfeiture or penalty, but is intended to constitute liquidated damages to Seller. Upon such a default by Buyer, this Agreement shall be terminated and neither party shall have any further rights or obligations under it, except for the right of Seller to collect such liquidated damages from Buyer and any other rights or obligations contained in this Agreement that expressly survive termination of this Agreement. Seller and Buyer have made this provision for liquidated damages because it would be difficult to calculate, on the date hereof, the amount of actual damages for such breach, and these sums represent reasonable compensation to Seller for such breach.

20. **Assignment.** Buyer may freely assign Buyer's rights and obligations under this Agreement without the consent of Seller. Any assignee shall be deemed to have made any and all representations and warranties made by Buyer hereunder, as if the assignee were the original signatory hereto.

21. **Miscellaneous.**

21.1 **Partial Invalidity.** If any term or provision of this Agreement or the application to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

21.2 **Waivers.** No waiver of any breach of any covenant or provision contained herein shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision herein contained. No extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.

21.3 **Exhibits.** The exhibits referenced in this Agreement are a part of this Agreement as if fully set forth in this Agreement.

21.4 **Successors and Assigns.** This Agreement shall be binding on and shall inure to the benefit of the permitted successors and permitted assigns of the parties to it.

21.5 **Representation.** The initial draft of this Agreement was prepared by Schwabe, Williamson & Wyatt, P.C., which represents Buyer. Seller acknowledges that Seller had an opportunity to consult with separate legal counsel prior to executing this Agreement. Seller and

Buyer waive any claim that any term or condition of this Agreement should be construed against the drafter. This Agreement will be construed as if it had been prepared by both of the parties hereto.

**21.6 Attorney Fees.** In the event that Seller or Buyer institutes against the other a suit, action, arbitration, or other legal proceeding of any nature whatsoever, relating to this Agreement or to the rights or obligations of the parties with respect thereto, the prevailing party shall be entitled to recover from the other party the prevailing party's reasonable attorney, paralegal, accountant, expert witness (whether or not called to testify at trial or other proceeding) and other professional fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, including but not limited to deposition transcript and court reporter costs, as determined by the judge or arbitrator at trial or other proceeding, and including such fees, costs and expenses incurred in any appellate or review proceeding, or in collecting any judgment or award, or in enforcing any decree rendered with respect thereto, in addition to all other amounts provided for by law. This cost and attorney fees provision shall apply with respect to any litigation or other proceedings in bankruptcy court, including litigation or proceedings related to issues unique to bankruptcy law.

**21.7 Entire Agreement.** This Agreement (including any exhibits attached to it) is the final expression of, and contains the entire agreement between the parties with respect to the subject matter of the Agreement and supersedes all prior letters of intent and understandings with respect to the subject matter of the Agreement. This Agreement may not be modified, changed, supplemented, or terminated, nor may any obligations under it be waived, except by written instrument signed by both parties. The parties do not intend to confer any benefit on any person, firm, or corporation other than the parties hereto.

**21.8 Counterparts.** This Agreement may be executed in counterparts, each of which will be considered an original and all of which together will constitute one and the same agreement.

**21.9 Time of Essence.** Seller and Buyer hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation, and provision of this Agreement.

**21.10 Construction.** Headings at the beginning of each section and subsection of this Agreement are solely for the convenience of the parties and are not a part of this Agreement. Whenever required by the context of this Agreement, the singular shall include the plural, and the masculine shall include the feminine, and vice versa. Unless otherwise indicated, all references to sections are to this Agreement. Unless otherwise specified, in computing any period of time described in this Agreement, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless the last day is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, nor legal holiday. As used in this Agreement, "**business day**" means a day other than a Saturday, Sunday or legal holiday.

21.11 **Governing Law.** The parties expressly agree that this Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of Oregon.

21.12 **Execution Date.** The “**Execution Date**” of this Agreement is the later of the dates shown beneath the parties’ signatures below.

21.13 **Section 1031 Exchange.** If either party (the “**Exchanging Party**”) intends to have the Property used as the relinquished or replacement property for an IRC Section 1031 exchange, the other party (the “**Other Party**”) will fully cooperate in such exchange as long as (a) such cooperation is at the sole expense of the Exchanging Party, (b) the Other Party assumes no additional risk or liability or loses no remedies or rights due to the exchange transaction, (c) the Closing is not delayed as a result of the exchange, and (d) the Other Party is not obligated to take title to any additional property.

21.14 **Statutory Disclaimer.** THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON’S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

**[Signature Page Follows]**

**SELLER:**

CITY OF ASTORIA, an Oregon municipal  
corporation

**BUYER:**

By: \_\_\_\_\_

\_\_\_\_\_  
John D. Dulcich

Name: \_\_\_\_\_

Date: \_\_\_\_\_, 2019

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2019

Exhibits:

Exhibit A: Seller's Documents

Exhibit B: Statutory Warranty Deed

**EXHIBIT A  
TO  
PURCHASE AND SALE AGREEMENT  
SELLER'S DOCUMENTS**

1. Any surveys relating to the Property.
2. Property tax statements for the Property for the 2017-2018 and 2018-2019 tax years.
3. Copies of any reports, tests, and/or studies relating to the condition of the Property, including, without limitation, environmental reports, soils and geotechnical reports, and any inspection reports.
4. Copies of any maintenance contracts, service contracts, equipment leases, and other contracts affecting the Property.
5. All permits, warranties or similar documents relevant to the Property or any rights appurtenant to the Property.
6. Any written notices or claims received by Seller with respect to the Property that remain unresolved.
7. Copies of all files, records, permits, reports, and correspondence to or from any governmental agency relating to the use, storage, release, spill, leakage, or disposal of Hazardous Materials at or affecting the Property, or any other matters that would materially affect the value of the Property.
8. Copies of any restrictive covenants and CC&Rs affecting the Property, including without limitation any CC&Rs relating to an owners' association.

**EXHIBIT B  
TO  
PURCHASE AND SALE AGREEMENT  
STATUTORY WARRANTY DEED**

*After recording, return to:*

James F. Dulcich  
Schwabe, Williamson & Wyatt, P.C.  
1211 S.W. Fifth Avenue, Suite 1900  
Portland, Oregon 97204

*Until a change is requested, all tax statements  
shall be sent to the following address:*

John D. Dulcich  
14247 S.E. 83<sup>rd</sup> Street  
Newcastle, Washington 98059

**STATUTORY WARRANTY DEED**

City of Astoria, an Oregon municipal corporation, Grantor, conveys and warrants to \_\_\_\_\_, Grantee, the real property located in Clatsop County, Oregon, described on the attached Exhibit A, free of encumbrances except for those described on the attached Exhibit B.

The true consideration for this conveyance is \$35,000.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**GRANTOR:**

CITY OF ASTORIA, an Oregon municipal corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF OREGON )  
 )SS  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 2019, by \_\_\_\_\_ as \_\_\_\_\_ of City of \_\_\_\_\_, an Oregon municipal corporation, Grantor.

Notary Public for Oregon

My commission expires:\_\_\_\_\_

**EXHIBIT A  
TO  
STATUTORY WARRANTY DEED  
(Legal Description of the Land)**

**EXHIBIT B  
TO  
STATUTORY WARRANTY DEED  
(Permitted Exceptions)**






## CITY OF ASTORIA

Founded 1811 • Incorporated 1856

**MEMORANDUM • PUBLIC WORKS DEPARTMENT**

**DATE:** AUGUST 27, 2019

**TO:** MAYOR AND CITY COUNCIL

**FROM:**  BRETT ESTES, CITY MANAGER

**SUBJECT:** AMERICAN CRUISE LINES LEASE

**DISCUSSION/ANALYSIS**

The City owns the 17<sup>th</sup> Street Dock located at the foot of 17<sup>th</sup> Street. The dock was originally built in 1966 for the purposes of public viewing and moorage of the Coast Guard Cutter *Yocona* and the Lightship *Columbia*. Since that time the use of the dock has expanded to include moorage for the Coast Guard Cutters *Steadfast* and *Alert* and the east end was expanded in 2000 to accommodate river boats. The original timber structure was replaced with a concrete dock on steel piles in 2013. In addition to a lease with the United States Coast Guard, the City currently rents moorage space at \$2/foot of vessel length to multiple river boat users on an at-will basis. Our annual billing over the last four years has averaged approximately \$72,000.

Currently the City has a debt service on the dock with the Infrastructure Funding Authority for our match of the Oregon Department of Transportation (ODOT) Connect Oregon III Grant which provided funding for the dock replacement in 2013. The current balance of the debt service is \$1,043,843.38.

The City has received a request from American Cruise Lines (ACL) to lease the river boat moorage located at the east end of the 17<sup>th</sup> Street Dock. We currently rent the area on a per day basis. Staff has reviewed the lease and has discussed lease terms in depth with ACL and have determined that leasing the area could be very beneficial to the City for the following reasons:

- 1) Establishes a secure and steady revenue stream of \$80,000 per year for the City with increased revenue as visits increase over time. Visits above 140 per year would pay an additional \$400 per docking (visit). The lease term would be 12 years with an option to extend for two terms of 10 years each.
- 2) Allows private investment without the City needing to incur additional debt services and risk.
- 3) Reduces staff time required to manage the reservations and operations of the vessels currently using the facility. ACL will assume reservation responsibility for users, do their own billing, reconciliation and accounts payable for users and resolve scheduling conflicts.
- 4) Allows the users to work together on scheduling and optimize the use of the facility, especially with improvements that can be made by the private sector at their own risk.

Currently the ACL plans to make improvements at the site to expand the use for new vessels that are being put into service as their fleet grows. Expansion into Parcel 2 will require a high

level of planning, City approval and a revised lease with the Division of State Lands. The Columbia River Maritime Museum has been consulted on the potential expanded use of buses to the river boats and they are in agreement with the expanded use as it is mutually beneficial to the museum and the local businesses. The lease terms have also been reviewed against the Coast Guard lease to make sure that they are consistent with each other. The expanded use is not expected to impact the current use of the Coast Guard or Museum. The attached lease includes an exhibit map that shows the proposed lease areas.

The lease has been reviewed by City Attorney Blair Henningsgaard as to form.

### **RECOMMENDATION**

It is recommended that City Council consider the lease with American Cruise Lines for the east moorage of the 17<sup>th</sup> Street Dock.

By: Jeff Harrington  
Jeff Harrington, Public Works Director

# Astoria - 17th Street Dock

## PROPOSED LEASE PARCELS



## **Lease Agreement**

This Lease Agreement (“**Lease**”) is made between the Landlord and Tenant hereinafter identified and constitutes a Lease of the Demised Premises on the terms and subject to the agreements set forth.

### **1 Certain Basic Lease Provisions, Exhibits.**

#### **1.1 Certain Basic Lease Provisions**

- (a) Date of this Lease: \_\_\_\_\_, 2019
- (b) Landlord: City of Astoria, Oregon
- (c) Address of the Landlord: 1095 Duane Street, Astoria, Oregon 97103
- (d) Tenant: American Cruise Lines, Inc
- (e) Address of Tenant: 741 Boston Post Road, Suite 200, Guilford CT 06437
- (f) Commencement Date: \_\_\_\_\_, 2019
- (g) Lease Term: 11 years, \_\_\_\_\_months, with option to extend for two terms of 15 years each
- (h) Demised Premises: includes (i) the full time exclusive lease of Parcel 1 shown on Exhibit A (attached hereto and made a part hereof) which is leased by Landlord from the Oregon Department of State Lands and (ii) the full time exclusive lease of Parcel 2 shown on Exhibit A which is owned by the Landlord.
- (i) Rent: \$80,000.00 per year for years 1 – 3 of this Lease.
- (j) Permitted Use: Mooring and docking Tenant’s vessels and third-party vessels for loading and unloading passengers and vessel supply and maintenance activities, and related activities for the operation of a river cruise business.

#### **1.2 Exhibits to Lease**

The following Exhibit is attached to this Lease and incorporated herein by this reference: Exhibit A delineating Parcel 1 and Parcel 2 of the Demised Premises, together with the trash disposal area. In the event of any inconsistency between such Exhibit and the terms and provisions of this Lease, the terms and provisions of the Exhibit shall control.

### **2 Demise, Term and Landlord's Services.**

#### **2.1 Demised Premises**

Subject to the provisions, covenants and agreements herein contained, and in consideration of the keeping, observance and performance by Tenant of such provisions, covenants and agreements and the payment by Tenant of the rents herein reserved, Landlord does hereby demise and lease the Demised Premises to Tenant, and Tenant does hereby accept such demise and lease, to have and to hold for the Lease Term. The Landlord represents and warrants that the Landlord owns fee title to Parcel 2 of the Demised Premises and that Landlord did not acquire such title by eminent domain or condemnation; and that Landlord is the Lessee of Parcel 1 of the Demised Premises under that certain lease between the State of Oregon Department of State Lands as lessor and

referred to in said lease as "State", and Landlord as Lessee, effective December 1, 2015 and bearing reference number 20713-ML (the "DSL Lease") and that Landlord has the right under the DSL Lease to lease Parcel 1 to Tenant. Landlord further represents and warrants that Tenant, its agents, employees, and invitees shall at all times have access to the Demised Premises over the 17<sup>th</sup> Street Dock, Landlord's property, and the public right of way of 17<sup>th</sup> Street, and that the 17<sup>th</sup> Street public right of way may be used for the loading and unloading of busses carrying Tenant's passengers. Tenant acknowledges that the Lightship Columbia is docked on the shoreside of the 17<sup>th</sup> Street Dock, and is hauled out for maintenance approximately once each year. Tenant agrees to cooperate with the Museum in Tenant's use of Parcel 2 to accommodate the Museum's needs to move the Lightship Columbia in connection with such maintenance.

## **2.2 Purpose**

This lease of the Demised Premises provides Tenant with exclusive docking rights for its vessels at the Demised Premises in the areas described on Parcel 1 and Parcel 2. Subject to its obligation to make the area available to other vessels as provided in Section 4.1, Tenant shall have sole right to manage all uses of the areas described on Parcel 1 and Parcel 2 of the Demised Premises including, without limitation, docking reservations. Tenant's right to use the 17<sup>th</sup> Street Dock for ingress and egress for its passengers and crew shall at all times be subject to the needs and regulations of the United States Coast Guard to temporarily limit access from time to time.

## **3 Term**

The initial term of this Lease shall commence on the date approved and signed by both parties, and shall expire eleven years and \_\_\_\_\_ months from that date, unless sooner terminated as provided in this Lease, provided that Tenant shall have, contingent upon Landlord's successful renewal of its DSL lease, the option, exercised by written notice given to Landlord (or Landlord's assignee or designee) no sooner than two (2) years prior to the end of the initial term and no later than 90 days prior to the end of initial or immediately preceding term, to extend the term of this Lease for up to two additional terms of ten (10) years each, on the terms and conditions contained herein, except for Rent which shall be determined as provided in Section 5 below. The initial term of this Lease and any additional terms are together the "**Term**" of this Lease. Landlord covenants and agrees that Landlord will continuously and consistently apply to renew the DSL Lease so long as this Lease is in effect.

## **4 Permitted Use.**

During the Term of this Lease, Tenant shall have the right to use the areas described on Parcel 1 and Parcel 2 of the Demised Premises for the purpose of mooring and docking for loading and unloading passengers, vessel supply and maintenance activities, and related activities for the operation of a river cruise business. Tenant assumes responsibility, and releases Landlord from the acts and conduct of Tenant, and its officers, directors, employees, agents, guests and invitees in, on, and around the Demised Premises. Tenant shall be responsible for its activities in, on, and around, including but not limited to, the orderly boarding and unboarding of passengers and baggage. Tenant may temporarily cordon off the boarding area, place signs and decorations in the loading area, and otherwise use the boarding area so as to provide safe and efficient loading and unloading of passengers and baggage so long as the area is returned to its prior condition after boarding and unboarding is completed. Tenant may also use at all times the areas

described on Parcel 1 and Parcel 2 of the Demised Premises, for storage, staging, installation of signage and any lawful use related to the Tenant's permitted use.

#### **4.1 Docking Rights**

Tenant shall have the exclusive right to manage all uses of the areas described on Parcel 1 and Parcel 2 of the Demised Premises including, without limitation, docking reservations. Tenant shall reasonably accommodate vessels of other river cruise operators desiring to use the areas described on Parcel 1 and Parcel 2 of the Demised Premises for mooring and docking, for loading and unloading passengers, vessel supply and maintenance activities, and related activities for the operation of a river cruise business, and may charge such other river cruise operators a docking fee as Tenant determines in its discretion to be reasonable. Tenant will honor docking reservations existing as of the date of this Lease through December 31, 2019, and shall not withhold any dock reservation from another river cruise operator unless one of Tenant's vessels or another cruise operator's vessel are scheduled to be at the dock, except that Tenant shall have the right to modify scheduled dockings in the event of an unforeseen event to prioritize Tenant's vessels. Unforeseen events shall include acts of God, civil unrest, weather, equipment failure, river flooding, drought, and other events that may make it impossible, unsafe, or commercially impractical to maintain scheduled dockings.

### **5 Rent for Demised Premises.**

The Tenant shall pay fixed rent for the Demised Premises in arrears on or before the tenth (10<sup>th</sup>) day of each month for a period of three years from the commencement of the lease; such rent to be in the amount of \$6,666.66 per month. Thereafter, the rent will increase with increased use of the facility as follows: The rent shall allow a maximum total of 140 passenger vessel dockings per year in connection with the Permitted use. For each docking in excess of 140 total annual dockings, Tenant shall pay an additional \$400 per docking. Such additional payments shall be made in arrears annually on January 10<sup>th</sup> of each year. For clarity, a "docking" means a vessel that is scheduled to use, and actually uses, the docking area. Unauthorized use and scheduled vessels that do not actually use the docking area do not constitute a "docking".

### **6 Condition of Demised Premises, Improvements.**

By entering into this Lease, Landlord and Tenant agree to certain terms and conditions for current and future repairs and improvements to the Demised Premises and maintenance of the Demised Premises for future normal wear and tear for the Term of this Lease as follows:

**6.1 Maintenance and Repairs by Tenant.** Tenant shall maintain the condition and make all necessary repairs and improvements to the areas described on Parcel 1 and Parcel 2 of the Demised Premises, including the dolphins, provided that if repairs are necessary by reason of Landlord's negligence or breach of this Lease, Landlord shall make any necessary repairs at Landlord's expense. Any such repairs and additions shall be made in compliance with all applicable laws, city ordinances and safety standards.

(a) Notwithstanding the foregoing, if it becomes necessary to repair or replace any of the dolphins (other than due to damage directly caused by Tenant), Tenant shall have the right to repair or replace any damaged dolphin and to offset the cost of such repair or replacement against Tenant's Rent and other charges due and to become due under this Lease as provided in subparagraph (b). Landlord will assist Tenant to obtain all necessary permits and related

authorizations for the completion of the repair or replacement of any damaged dolphin. The dolphins shall be the property of Landlord at the termination of this Lease. During any period Tenant is prevented from docking one of its vessels or another cruise operator's vessel according to its then existing schedule, due to a dolphin needing to be repaired or replaced, then Tenant's Rent and all other charges due hereunder shall abate on a pro-rated basis of one (1) day for each day Tenant is prevented from such docking.

(b) If it becomes necessary to repair or replace a dolphin during the first 24 months of the Term as a direct result of increased wear and tear on such dolphin(s) from Tenant's docking ships larger than the American Empress (currently operated by American Queen Steamboat Company), Tenant shall have the right to repair or replace any damaged dolphin and to offset 50% of the cost of such replacement against Tenant's Rent and other charges due and to become due under this Lease. Except as provided in the preceding sentence, if it becomes necessary to replace any of the dolphins (other than due to damage directly caused by Tenant), Tenant shall have the right to repair or replace any damaged dolphin and to offset 100% of the cost of such repair or replacement against Tenant's Rent and other charges due and to become due under this Lease. In all events, Landlord will assist Tenant to obtain all necessary permits and related authorizations for the completion of the repair or replacement of any damaged dolphin. The dolphins shall be the property of Landlord at the termination of this Lease.

(c) If Tenant determines, in its discretion, that the cost of repairing or replacing any dolphin is uneconomical, (other than for damages directly caused by Tenant), it may instead terminate this Lease by notice to Landlord.

**6.2 Maintenance and Repairs by Landlord.** Landlord shall maintain the condition and make all necessary repairs and improvements to the 17<sup>th</sup> Street Dock and the 17<sup>th</sup> Street public right of way such that access to the Demised Premises over and across the 17<sup>th</sup> Street Dock and the 17<sup>th</sup> Street public right of way is not obstructed, diminished, or restricted. Landlord shall also dredge and take all other necessary and appropriate action to maintain the water depth within Parcel 1 at not less than twelve (12) feet at mean low water.

**6.3 Improvements.** Landlord agrees that Tenant may make capital and non-capital improvements (including alterations, furnishings, and fixtures) to the areas described on Parcel 1 (subject to the approval, if required, of the Department of State Lands pursuant to the DSL Lease and the approval, if required, of the City of Astoria pursuant to any applicable ordinances) and Parcel 2 of the Demised Premises necessary and appropriate for it to operate its business on the Demised Premises and otherwise for purposes of the Permitted Use, provided however that Tenant shall make no such improvements to the Demised Premises without Landlord's prior written consent, which shall not be unreasonably withheld, conditioned, or delayed. Landlord specifically agrees that it will not unreasonably withhold, condition, or delay its consent to Tenant's request to modify or replace the dolphins, or to connect additional docking apparatus to the east face of the 17<sup>th</sup> Street Dock. Any such improvements installed by Tenant shall be made in accordance with all applicable laws, city ordinances and safety standards. All such improvements to the Demised Premises shall be the property of Landlord at the termination of this Lease except trade fixtures Tenant elects to remove. Landlord will make good faith efforts to enter into a lease with the Department of State Lands for Parcel 2, and will assist Tenant to obtain all necessary permits and related

authorizations for the completion of the improvements installed by Tenant in or on the Demised Premises.

**6.4 Water and Utility Service.** Landlord, at no additional cost to Tenant, shall provide and maintain fresh water services in good working order for Tenant's use at the areas described on Parcel 1 and Parcel 2 of the Demised Premises. Landlord may charge Tenant for Tenant's actual water use at a commercially reasonable rate. Landlord shall provide the area described on Exhibit A for use by Tenant to keep a garbage dumpster.

**7 Right of First Refusal**

Landlord may not sell or transfer all or any part of the Demised Premises without first granting Tenant the right of first refusal to purchase the Property. Landlord shall, if Landlord wishes to sell or transfer all or any part of the Demised Premises, negotiate a bona fide arm's length sale contract fully with the intended purchaser/transferee, and prior to full execution thereof, deliver a copy of such sale contract to Tenant in writing and Tenant shall have 30 days to elect to exercise its right of first refusal in which event Landlord and Tenant shall execute a sale contract substantially in the form of, and with the economic and business terms of the proposed sale contract, and proceed to close thereunder. If Tenant waives this right of first refusal, Landlord shall be free to enter into the proposed sale contract with the proposed transferee (and complete the sale/transfer of the Demised Premises, subject to this Lease). Landlord may not alter the proposed deal or change any terms of the proposed transaction in any way from those in the sale contract delivered to Tenant and proceed to sell or transfer the Property without again offering such revised deal to Tenant in accordance with the foregoing and repeating the same process.

**8 Further Tenant Obligations.**

It is the policy of the City of Astoria that no person shall be denied the benefits of or be subject to unlawful discrimination in any City program, service, or activity on the grounds of age, disability, race, religion, color, national origin, sex, sexual orientation, gender identity/expression. Tenant shall comply with this policy.

**9 Limitation of Liabilities.**

**9.1 Limitation of Landlord's Liabilities.**

Landlord shall not be liable, responsible, or accountable in any manner whatsoever to Tenant for any damages or business loss, to Tenant's vessels, goods, wares, merchandise, equipment, property, or effects in or upon the Demised Premises or any part thereof occasioned directly or indirectly by water, gas fluid, steam, electricity or the elements, or by burglary, robbery theft, vandals, or from any source or cause whatsoever of the same or different nature. Such damage or loss shall exclusively be at the risk and expense of Tenant.

**9.2 Limitation of Tenant's Liabilities.**

Except as provided in Section 6 with respect to maintenance and repair of damages directly caused by Tenant, Tenant shall not be liable, responsible, or accountable in any manner whatsoever to Landlord for any damages, injury, death, loss, or business loss, to Landlord, the Demised Premises, or the fixtures, furniture, goods, wares, merchandise, equipment, property, or any part thereof occasioned directly or indirectly by or from any source or cause whatsoever, except such caused directly by Tenant's gross negligence or willful misconduct.

**10 Force Majeure/Casualty.**

If either party hereto is prevented in the performance of any act required hereunder by reason of act of God, fire, flood, or other natural disaster, casualty, malicious injury, strikes, lock-outs, or other labor troubles, riots, insurrection, war or other reason of like nature not the fault of the party in performing under this Lease, then performance of such act shall be excused for the period of the delay and the period of the performance of any such act shall be extended for a period equivalent to the period of such delay except that if any Force Majeure, casualty, or any governmental action, including any exercise of rights to the 17th Street Dock by the United States Coast Guard, prevents Tenant from using the Demised Premises as referenced hereunder for a period of time which exceeds six (6) months, Tenant shall have the option to terminate this Lease upon written notice to Landlord.

**11 Business Operation.**

**11.1 Use of the Landlord Name.**

Tenant agrees that it is not an agent for Landlord and will at no time represent itself to own the Demised Premises or any part thereof.

**11.2 Advertising.**

Tenant may install temporary signage during its dockings, and may display other signs, placards, or printed material in and about the Demised Premises, provided that such signs, placards or printed materials are displayed in compliance with City ordinances and that no signs, placards, or other advertising matter of any kind shall be displayed in or about the Demised Premises that shall be inconsistent with Tenant's permitted use hereunder and detrimental to Landlord's interests. Any Tenant signage not located on the areas described on Parcel 1 and Parcel 2 of the Demised Premises must be removed at the conclusion of the scheduled docking. All signage of any other commercial businesses using the Demised Premises must be removed at the conclusion of its scheduled docking.

**11.3 Compliance with Laws and Ordinances.**

Tenant agrees to fully and faithfully observe and comply with all present and future applicable laws and ordinances of the United States, and the state, county and city in which the Demised Premises is located (including the DSL Lease) as they pertain to Tenant's use of the Demised Premises permitted under this Lease (but not the condition of the Demised Premises), including applicable environmental and safety laws (collectively, the "**Laws**"); provided that Landlord shall cause the condition of the Demised Premises and Facility itself to comply with all applicable laws. Tenant agrees to pay all fees and costs associated with Tenant's compliance with the Laws and to indemnify Landlord against and hold Landlord harmless from all claims, fines, penalties, damages, costs and expenses arising out of or resulting from violations or claims, fines, penalties, damages, costs, and expenses arising out of or resulting from violations or claims of violations of the Laws by Tenant or any person for which Tenant is responsible.

**11.4 "AS-IS.** Tenant acknowledges that it has accepted and executed this agreement on the basis of Tenant's own examination and knowledge of the Demised Premises; that Landlord and Landlord's agents have made no representations, warranties, or other agreements concerning to

matters relating to the Demised Premises, except as provided herein; that Landlord and Landlord's agents have made no agreement or promise to alter, repair, or improve the Demised Premises, except as provided herein; and that Tenant takes the Demised Premises in its present condition "AS-IS." Notwithstanding the foregoing, to the extent of municipal tort liability described in ORS 30.260 et. seq. and as limited by the provisions of the Oregon Constitution, Landlord shall indemnify and hold harmless Tenant from and against any and all damages, liabilities, claims and costs, including reasonable attorneys' fees, sustained or incurred by Tenant arising out of, or in connection with, the presence of any hazardous waste as defined by the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984, or as otherwise amended from time to time, or any regulations promulgated thereunder, and/or any hazardous substance as defined by the Comprehensive Environmental Resource, Conservation and Liability Act of 1980, as amended from time to time, or any regulations promulgated thereunder, present in, on, or under the Demised Premises, unless such hazardous waste or hazardous substance was placed in, on, or under the Demised Premises by Tenant or any person using the Demised Premises pursuant to Tenant's rights under this Lease. Further, in the event that any hazardous waste or hazardous substances are found or exist in, on, or under the Demised Premises not caused by Tenant (including without limitation hazardous waste or hazardous substances discovered by Tenant in the course of making improvements to the Demised Premises, and, as a result thereof, Tenant is prevented from making improvements to the Demised Premises or from operating its business from the Demised Premise as a result thereof, then, Tenant's Rent and all other charges due hereunder shall abate one (1) day for each day Tenant is prevented from conducting its work or operating its business from the Demised Premises and shall continue until the date Tenant is able to resume conducting its work or the operation of its business from the Demised Premises. If Rent and other charges are so abated for six (6) months (the "Maximum Abatement Period"), then, at any time within ten (10) days thereafter until such delay or abatement, as the case may be, shall cease, Tenant may terminate this Lease upon fifteen (15) days' prior notice to Landlord, provided such notice shall be null and void and of no force or effect if Landlord shall complete remediation of the hazardous waste or hazardous substances during said fifteen (15) day period. If, after the expiration of the Maximum Abatement Period, Tenant fails to timely give notice terminating this Lease, then the Tenant shall resume paying Rent. Provided, however, that in the event such hazardous waste and/or such hazardous substance as defined above was not present as of the date of this Lease, and the release or other event resulting in the presence of such hazardous waste and/or such hazardous substance was not the fault of Landlord, then Landlord shall have no indemnification obligation under this Section 11.4.

## **12 Insurance.**

**12.1 Casualty Insurance.** Tenant shall at its expense maintain the standard Marine Hull and Machinery Insurance along with Protection and Indemnity coverage described below to insure the Demised Premises against any damage to the Demised Premises by any Vessel and agree to name Landlord as additional insured. At Tenant's expense, Tenant's marine coverage also may insure Tenant's personal property and trade fixtures located at or around the Demised Premises.

**12.2 Worker's Compensation.** Tenant is either a subject employer under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires it to provide workers'

compensation coverage for all its subject workers, or is an employer that is exempt under ORS 656.126.

**12.3 Other Insurance.** Tenant shall maintain at Tenant's expense standard Marine Protection and Indemnity (P&I) liability insurance with respect to Tenant's business and use of Demised Premises by its passengers and crew in the amount of no less than five million dollars (\$5,000,000.00). Such insurance will cover all claims for property damage or injury to persons including death arising out of or related to Tenant's, or its agents', employees', guests' and invitees' use and occupancy of the Demised Premises and any other obligation arising under this Lease. Such Protection and Indemnity Insurance shall provide coverage at least as broad as Form SP-23 or equivalent. Tenant shall endorse such policy with a so-called "misdirected arrow clause" to afford protection to Landlord as additional insured.

**12.4 Form.** All policies of insurance maintained by Tenant shall be issued by an insurer having a rating of at least "A-: VII" or better as set forth in the most current issue of Best's Insurance Reports and licensed to do business in the State of Oregon. Tenant shall notify Landlord of any termination or material alteration of such policies. Prior to the use of the Demised Premises, Tenant must provide a Certificate of Insurance, naming Landlord as additional insured, and evidencing the coverage required hereunder.

**12.5 Failure to Obtain.** If Tenant fails to secure or maintain any insurance coverage required hereunder or should the insurance secured fail to be approved by Landlord, acting reasonably, and such failure or approval not be corrected within forty-eight (48) hours after written notice from Landlord, Landlord may, at its sole discretion, purchase such insurance coverage required at Tenant's reasonable expense. Tenant shall reimburse Landlord on demand for any reasonable monies expended to secure such coverage plus interest at the rate of 6% per year from the date of the expenditure.

**12.6 Injury, Loss, Indemnity by Tenant.** Tenant assumes all risk of injury, loss, or damage to Tenant and to Tenant's employees, customers, goods, materials, or other property occurring in or around the Demised Premises including improvements, caused by negligence or willful misconduct of Tenant, excluding those claims arising out of Landlord's gross negligence or willful misconduct. Tenant shall indemnify, defend, and hold harmless Landlord, Landlord's, agents, employees, members, and officials from all loss, claim, demand, damage, liability, or expense, including attorney's fees (collectively "**Claims**"), arising out of or in any way related to Tenant's negligence or willful misconduct in connection with Tenant's use of the Demised Premises excluding those Claims arising solely out of Landlord's gross negligence or willful misconduct. Tenant's agreement to indemnify and hold harmless Landlord shall extend to all Claims by reason of improper or negligent erection or construction of facilities, trade fixtures, or equipment installed on or in the Demised Premises by Tenant.

**12.7 Injury, Loss, Indemnity by Landlord.** Landlord assumes all risk of injury, loss, or damage to Landlord and to any persons, goods, materials, or other property, occurring in or around the Demised Premises in connection with Tenant's use of the Demised Premises, or occurring in or on any Landlord property other than the Demised Premises, excluding those claims arising out of Tenant's negligence or willful misconduct. To the extent of municipal tort

liability described in ORS 30.260 *et. seq.* and as limited by the provisions of the Oregon Constitution, Landlord shall indemnify, defend, and hold harmless Tenant, its officers, directors, captains, vessels, parents, subsidiaries, affiliates, agents, employees, and shareholders from all Claims arising out of or in any way related to any acts or omissions of Landlord, its employees or agents, occurring in or around the Demised Premises, or occurring in or on all Landlord property excluding the Demised Premises, excluding any Claims arising out of the gross negligence or willful misconduct of Tenant. Landlord's agreement to indemnify and hold harmless

**12.8 Landlord's Insurance.** Landlord shall maintain (i) general liability insurance in its usual and customary amounts to protect against personal injuries, property damage, or death arising out of use of the property by the public and others besides Tenant's passengers, or Tenant's sublessees or assignees. and (ii) property insurance insuring all improvements and fixtures located adjacent to the Demised Premises, including the 17<sup>th</sup> Street Dock, for full replacement value thereof (such policy to cover all risks covered under an All Risk or Special Causes of Loss policy) and Landlord releases Tenant (notwithstanding anything herein to the contrary) from all liability for loss or damage to such improvements and fixtures, except to the extent of Tenant's negligence for damage to such property.

**13 Assignment and Sublease.**

Tenant may assign, transfer its rights hereunder or sublet the premises only with consent of Landlord which consent will not be unreasonable refused, conditioned or delayed. Any such assignment, transfer or sublease shall not relieve Tenant from its obligations under this lease. Tenant has the right to permit third parties to use the Demised Premises pursuant to paragraph 4.1 of this agreement without the need for obtaining Landlords permission or consent.

**14 Termination**

**14.1 Termination for Breach.** The event either party breaches any of the covenants and conditions of this Lease, and such breach continues for or is not cured within thirty (30) days after the non-breaching party has notified the breaching party in writing of such breach (or such longer period of time as is reasonably necessary to cure such breach), the non-breaching party may, without further notice or demand, declare this Lease terminated and revoked, without prejudice to or waiver of any other rights the non-breaching party may have under this Lease or applicable law.

**14.2 Permitted Termination.** This Lease may not be terminated by either party except as expressly allowed herein.

**14.3 Regulations.** Landlord shall not impose new regulations that would materially interfere with the Permitted Use or Tenant's use and enjoyment of the Demised Premises.

**15 Surrender at Expiration**

**15.1 Condition of Property.** Upon expiration of this Lease or earlier termination, Tenant shall surrender the Demised Premises in its then current condition free of damage caused by

Tenant and, subject to the terms and conditions of this Lease as to improvements installed by Tenant. Any repairs for which Tenant is responsible shall be complete to the latest practical date prior to such surrender.

**15.2 Fixtures.** Upon expiration of this Lease or earlier termination, Tenant shall remove all of its furnishings, furniture, and trade fixtures that remain the property of Tenant and restore all damage caused by such removal. If Tenant fails to do so for more than 20 days after written notice thereof, this shall be an abandonment of the property and Landlord may retain the property and all rights of Tenant with respect to it shall cease or, by notice in writing given to Tenant within 20 days after removal was required, Landlord may elect to hold Tenant to its obligation of removal. If Landlord elects to require Tenant to remove and Tenant fails to do so within twenty (20) days after receiving notice from Landlord, then, Landlord may effect a removal and dispose of such property in Landlord's sole discretion. Tenant shall be liable to Landlord for the reasonable cost of removal, restoration, transportation to storage, and storage, with interest on all such expenses. Any dolphins or docking apparatus fixed directly to the earth shall not be removed by Tenant and shall become the property of Landlord at the termination of this lease.

**15.3 Docking Equipment.** Upon expiration or termination of this Lease, Tenant will have the right to remove the docking equipment not fixed directly to the earth and installed by Tenant. In the event Tenant elects not to remove such equipment within thirty (30) days of written notice from Landlord after the expiration or termination of this Lease, then it shall remain at the Demised Premises and become the property of the Landlord. Any and all expense of removal shall be borne by Tenant.

## **16 General Provisions.**

**16.1 Time of Essence.** Time is of the essence of the performance of each of the parties' obligations under this Lease.

**16.2 Estoppel Certificates.** Within 30 days after Landlord's written request, Tenant shall deliver a written statement stating the date to which the rent and other charges have been paid, whether this Lease is unmodified and in full force and effect, and any other matter that may be reasonably requested by Landlord.

**16.3 Notices.** Any notices or communication required or permitted hereunder shall be deemed given and made, if in writing, on the date of actual delivery in person or on the date of mailing if deposited in the United States mail, postage prepaid, certified or registered mail return receipt requested, addressed as follows:

If to Tenant:

American Cruise Lines, Inc.  
Vice President  
741 Boston Post Road,  
Suite 200  
Guilford, CT 06437

If to Landlord:

Astoria City Manager  
1095 Duane Street  
Astoria, OR 97103

Or at such other address as either party may from time to time designate in writing in the manner set forth herein for the giving of notice.

**16.4 Attorney's Fees.** In the event suit or action is instituted to enforce any of the terms of this Lease, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorney's fees at trial or upon appeal of such suit or action, in addition to all other sums provided by law.

**16.5 Subordination.** Landlord represents and warrants that no deed of trust, mortgage financing or other lien of any sort encumbers the Demised Premises. Upon the request of Landlord, Tenant shall subordinate its rights hereunder to the lien of any deed or deeds of trust or mortgage or mortgages to any bank, insurance company or other lending institution now or hereafter in force against the land and building of which the Demised Premises is a part, and to all advances made or hereafter to be made upon the security thereof, provided the trustee or trustees or the mortgagee or mortgagees named in said deed of trust or mortgage shall agree in writing to recognize this Lease and Tenant's rights hereunder in the event of foreclosure by judicial proceeding or otherwise, if Tenant is not then in default. Tenant, upon the request of any party in interest shall execute such instrument or instruments to carry out the intent of this section as shall be required by Landlord.

**16.6 Liens.** Tenant shall not suffer or permit any mechanics' lien to be filed against the building or land or portions of the Demised Premises by reason of work, labor, services or materials supplied or claimed to have been supplied to Tenant. Landlord does not consent to any contractor, subcontractor, laborer or materialman for any specific improvement, alteration, or repair of or to the Demised Premises of any part thereof, nor as giving Tenant any right, power, or authority to contract for or permit the filing of any mechanics' lien against the Demised Premises. If any such mechanic's lien caused by Tenant shall at any time be filed against the Demised Premises or Landlord, then Landlord shall give Tenant written notice of the same and, Tenant shall cause the same to be discharged of record within thirty (30) days after the date of notice of the filing of the same.

**16.7 Applicable Law.** This agreement shall be construed in accordance with and governed by the laws of the State of Oregon.

**16.8 Entire Lease.** This Lease, together with the Exhibits and other writings signed by the parties expressly stated to be supplemental hereto and together with any instruments to be executed and delivered pursuant to this Lease, constitutes the entire agreement between the parties and supersedes all prior understandings and writings, and may be changed only by a writing signed by the parties hereto.

**16.9 Severability.** If any provision of this Lease or the application thereof to any persons or circumstances is invalid or unenforceable in any respect for any reason, the validity and enforceability of the other provisions of this Lease as a whole shall not be affected thereby and shall be enforced to the fullest extent permitted by law, and the parties agree upon request of either party, to reasonably amend this Lease as necessary to make it enforceable to the fullest extent possible.

**16.10 Waiver.** The parties agree that any failure by either party at any time to require performance by the other party of any provision of this Lease shall in no way affect such party's right hereunder to enforce the same, nor shall any waiver by either party of any breach by the other party of any provision hereof be held to be a waiver of any succeeding breach of any such provision, or as a waiver of the provision itself.

**16.11 Joint and Several Liability.** In the event Tenant now or hereafter consists of more than one person, firm, or corporation, then all such persons, firms or corporations shall be jointly and severally liable under this Lease.

**16.12 Memorandum of Lease.** Upon Tenant's request, Landlord shall sign and cause to be notarized a memorandum of this Lease requested by Tenant in recordable form which Tenant may record in the public records.

**16.13 Authority.** Landlord represents and warrants that Landlord has full right and authority to enter into this Lease, perform all obligations hereunder and grant Tenant all rights hereunder and that this Lease and such rights are not in conflict with any applicable law.

**SIGNATURE PAGE TO FOLLOW**

IN WITNESS WHEREOF, the parties hereto have hereunto executed this Lease, in duplicate, as of the day and year first written above, under Seal and intending it to be a specialty, each party by its officer thereunto duly authorized.

LANDLORD

ATTEST:

City of Astoria, Oregon

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_(SEAL)

\_\_\_\_\_  
Its: \_\_\_\_\_

Approved as to legal sufficiency

ATTEST:

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_(SEAL)

\_\_\_\_\_  
Its: \_\_\_\_\_

TENANT

ATTEST:

AMERICAN CRUISE LINES, INC.

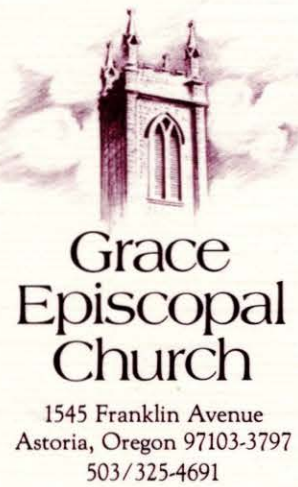
\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_(SEAL)

\_\_\_\_\_  
Its: \_\_\_\_\_

EXHIBIT A

Demised Premises



August 21, 2019

Dear Mayor Jones and Brett Estes,

Grace Episcopal Church would like to formally request that the city modify the code allowing Grace Church to construct a Columbarium for the respectful internment of ashes on church grounds. This has long been a desire of many current and former parishioners and their families at Grace and a project that was near and dear to our late, Father Lance Peeler. In addition, it is the desire of the Peeler Family to have his ashes interned here, at "his church", the church he was called to serve. Many Episcopal Churches in Oregon have a variety of Columbarium styles on their grounds.

While not yet designed, our vision for the columbarium, is for a "Wall of Niches" to be built into the entrance side of the existing external stairway in such a way as to appear as though it was always there. The existing garden would be incorporated into the design, with a pathway constructed for easy and beautiful access. This is similar to columbariums installed at Good Samaritan, Corvallis, St. Francis, Wilsonville, and St. John Milwaukie. Other installations include indoor niches such as those at St. Mary's, Eugene and St. Paul, Salem, niches incorporated into a garden or Labyrinth like those in St. James, Tigard and St Matthew, Eugene, and gardens in which the ashes are placed directly into the earth like at Good Samaritan, Corvallis, St. Francis, Wilsonville, St. Martin, Lebanon and Resurrection, Eugene. It is the hope and desire of Grace Church to accomplish this long-time goal, while simultaneously honoring our Father Lance. Donations that Grace Church has received in his honor have been set aside for this project.

If you have any questions, or would like to visit, please feel free to contact Jenny in the office via phone or email, 503.325.4691 or [graceastoria4691@gmail.com](mailto:graceastoria4691@gmail.com).

Thank you for your thoughtful consideration,

*Nancy Hakata* *Dea Sorenson*  
*Linda Medland* *Jo Someroy*  
*Judy Atkinson* *Janice Kells*  
*Brett Estes*

The Vestry Members of Grace Episcopal Church



## CITY OF ASTORIA

Founded 1811 • Incorporated 1856

### MEMORANDUM • COMMUNITY DEVELOPMENT

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**DATE:** AUGUST 29, 2019  
**TO:** MAYOR AND ASTORIA CITY COUNCIL  
**FROM:** BRETT ESTES, CITY MANAGER  
**SUBJECT:** AMENDMENT REQUEST (A19-01B) FOR BRIDGE VISTA OVERLAY ZONE CODES

#### BACKGROUND

In 2008-2009, the City of Astoria developed the Riverfront Vision Plan (RVP) to address issues dealing with open space, land use, and transportation along the Columbia River. The City's north Riverfront (Columbia River to West Marine / Marine Drive / Lief Erikson Drive) was divided into four Plan areas of development: Bridge Vista BVO (Portway to 2nd Street), Urban Core UCO (2nd to 16th Street), Civic Greenway CGO (16th to 41st Street), and Neighborhood Greenway NGO (41st Street to east end of Alderbrook Lagoon). On December 7, 2009, after many public meetings and holding a final public hearing, the City Council accepted the Riverfront Vision Plan. Bridge Vista Overlay Zone was adopted on June 15, 2015; Civic Greenway Overlay Zone was adopted on October 6, 2014; and Neighborhood Greenway Overlay Zone was adopted on December 7, 2015. The City is currently conducting work sessions with the APC and City Council on proposed amendments to adopt codes for the proposed Urban Core Overlay Zone.

In 2018, the first large project within the Bridge Vista Overlay area was reviewed by the Historic Landmarks Commission and Design Review Committee. Both bodies denied the requests which were appealed to the City Council. The City Council approved the appeals but noted that the Code was not clear on what was intended for various design aspects. The Council expressed interest in amending the code to clarify various sections of the BVO to reduce confusion and clarify the design review process. Some of the issues included: statement that certain sections of the code control over other sections when there is a conflict between requirements; clarify which design standards apply to new construction and which apply to alterations to existing structures; clarify how the setbacks are applied to the structure; clarify that mass and scale review applies to the entire structure and not just the street facade; and identify what structures and/or area is included when reviewing compatibility with the proposed structure. In addition, staff identified other areas in the Code for the Riverfront Vision area that needed to be updated including adding clear and objective design standards for residential development in BVO; clarifying which codes apply to the Mill Pond area;

allowed exceptions to window percentage for building elevation with an elevator shaft; clarified limitations on building height exceptions for elevators, etc.; added reference to the overlay zones in each of the applicable base zones; and some other minor clarifications.

At a work session on February 19, 2019, the City Council reviewed the initial draft ordinance and requested that staff also include a reduction in the allowable height within the BVO from 35' (with variance possible to 45') to 28'. It was also concerned how this would impact the 30,000 square foot maximum for buildings. During the Planning Commission meetings, these two issues became the focus of public input and APC discussion. Therefore, in an attempt to proceed with the majority of the amendments that were not controversial, the APC split the amendment draft into two sections. One section would be just the height and gross square footage issue (A19-01B) allowing the rest of the amendment to proceed. A19-01B portion of the request was continued to the May 28, 2019 APC meeting. A19-01A portion of the request was adopted by the City Council at its July 1, 2019 meeting.

The Planning Commission (APC) considered a 28' height with 30,000 square foot maximum for buildings but determined that it did not achieve the intended goal of preserving views as well as reducing mass. The APC suggested that a maximum floor to area ratio (FAR) of 0.75 along with a maximum height of 35' would allow for slightly taller buildings that were compatible with the existing development in the Bridge Vista Area but that would be narrower to allow for some view corridors. The FAR would allow a single-story building to cover 75% of the lot and a two-story building could cover half of that (37.5%). The higher a building is constructed adding square footage on upper floors, the less footprint it may have. The development of the area prevents full view corridors from West Marine Drive to the River as there are very few north-south rights-of-way in this area. It was determined that to limit the overwater development to top of bank with only water-dependent uses allowed to 35' would protect the views from the River Trail. The APC expressed concern that "water-dependent recreation" could be misinterpreted to include a hotel that provided "passive recreation" such as view of the River. Therefore, the Code section on water-dependent recreation was clarified to note that association with a water-dependent use such as boating, or river viewing does not change the classification of the primary use (i.e. a hotel would still be a non-water-dependent use).

The Planning Commission held a public hearing on June 25, 2019 and July 23, 2019. The APC recommends that the City Council adopt the proposed amendments on the second part of the request (A19-01B).

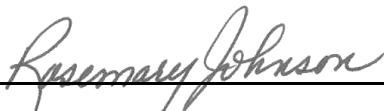
The City Council held a public hearing on the request at their August 19, 2019 meeting. The public hearing was closed and Council deliberation was continued to the September 3, 2019 Council meeting. At that meeting, the City Council discussed several options for the proposed amendments. Staff has prepared a comparison of the results of some of those options. Three scenarios were examined: 1) 35' height, 0.75

FAR, with 30,000 square foot maximum per building; 2) 28' height, 0.5 FAR, with 20,000 square foot maximum per site; and 3) 28' height, with exception if provide public access with 20,000 per site with exception for sites over one acre, 0.5 FAR, with 30,000 square foot maximum per building. A chart comparing the scenarios is attached. Also attached is an example of these scenarios applied to the Astoria Warehousing site and the Port parcel on Bay Street. Staff will have a PowerPoint presentation to explain these scenarios.

A copy of the annotated proposed amendments, the proposed ordinance in code numerical order, and the Findings of Fact are attached for Council consideration.

### **RECOMMENDATION**

It would be in order for Council to continue deliberations and if the draft code meets expectations conduct a first reading of the ordinance for Bridge Vista Overlay Zone Code amendments. If the Council holds a first reading of the ordinance, the proposed amendment would be scheduled for consideration of a second reading and adoption at the September 30, 2019 Council meeting.

By:  \_\_\_\_\_  
Rosemary Johnson, Planning Consultant



## CITY OF ASTORIA

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### COMMUNITY DEVELOPMENT

July 23, 2019

TO: ASTORIA PLANNING COMMISSION

FROM: ROSEMARY JOHNSON, PLANNING CONSULTANT

SUBJECT: AMENDMENT REQUEST (A19-01B) FOR BRIDGE VISTA OVERLAY

#### I. BACKGROUND SUMMARY

- A. Applicant: Community Development Department  
City of Astoria  
1095 Duane Street  
Astoria OR 97103
- B. Request: Amend the Development Code concerning waterfront development in the Bridge Vista Overlay Area concerning height, mass, location of buildings; and establish a process for potential future planning districts for Astoria Warehouse and Port of Astoria West Mooring Basin.
- C. Location: Bridge Vista Overlay Area (BVO - Portway to 2nd Streets, West Marine / Marine Drive to the Columbia River Pierhead Line)

#### II. BACKGROUND

In 2008-2009, the City of Astoria developed the Riverfront Vision Plan (RVP) to address issues dealing with open space, land use, and transportation along the Columbia River. Significant public involvement opportunities were designed to gain public input. This process was initiated to plan for these issues in a comprehensive manner and to set a framework for the future of the study area. The City's north Riverfront (Columbia River to West Marine / Marine Drive / Lief Erikson Drive) was divided into four Plan areas of development: Bridge Vista BVO (Portway to 2nd Street), Urban Core UCO (2nd to 16th Street), Civic Greenway CGO (16th to 41st Street), and Neighborhood Greenway NGO (41st Street to east end of Alderbrook Lagoon). On December 7, 2009, after many public meetings and holding a final public hearing, the City Council accepted the Riverfront Vision Plan. Bridge Vista Overlay Zone was adopted on June 15, 2015; Civic Greenway Overlay Zone was adopted on October 6, 2014; and Neighborhood Greenway Overlay Zone was adopted on December 7, 2015. The City is currently conducting work sessions with the APC and City Council on proposed amendments to adopt codes for the proposed Urban Core Overlay Zone.

Over the last year while working on the Urban Core proposed codes, the City Council has received numerous public comments including a petition requesting that the Council

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consider reducing the height of buildings and limit development on the Riverfront. The first major project for the area to be reviewed under the new standards was Design Review Request (DR18-01) by Fairfield Hotel for a hotel to be located on the land area at the 1 2nd Street.

On July 10, 2018 the Historic Landmarks Commission (HLC) and the Design Review Committee (DRC) denied the requests (NC18-01 and DR18-01) which were subsequently appealed by the applicant. A combined public hearing on the HLC Appeal (AP18-04) and DRC Appeal (AP18-03) was held at the August 23, 2018 City Council meeting. At that Council public hearing, the applicants submitted revised proposed plans. The Council tentatively approved the HLC Appeal and reversed the HLC denial, thereby tentatively approving the New Construction Request (NC18-01) pending adoption of Findings of Fact. The Council remanded the Design Review Request (DR18-01) back to the Design Review Committee for additional consideration.

The applicants submitted revised plans (DR18-01R) for consideration on remand and the Design Review Committee held a public hearing on October 9, 2018. At that meeting, the DRC found that the revised application met all design guidelines except for two and denied the request with a split 2 to 2 vote. The two guidelines in question were *Design Guideline* ADC 14.115(B)(2)(a) which provides: "Buildings should retain significant original characteristics of scale, massing, and building material along street facades" and *Design Guideline* ADC 14.115(B)(2)(f) which provides: "Building forms should be simple single geometric shapes, e.g. square, rectangular, triangular." The decision was appealed by Hollander Hospitality (AP18-05) on November 13, 2018. The City Council elected to hear the appeal on the record and restricted its consideration of the application of design guidelines ADC 14.115(B)(2)(a) and ADC 14.115(B)(2)(f). At the December 20, 2018 meeting, the City Council considered the appeal. This was the first major project reviewed under the newly adopted BVO codes. During the public hearing, the Council noted concerns with specific language in the BVO codes that were not clear and did not reflect the intent of the code as it was written in 2015. The appeal decision was required to be based on the code language as adopted and the appeals were approved reversing the DRC denial.

The Council expressed interest in amending the code to clarify various sections of the BVO to reduce confusion and clarify the design review process. During the development meetings with the hotel applicant, there were differences in interpretation of other sections of the BVO that staff resolved with the applicant. Staff identified minor language amendments that would make the code clearer and/or consistent with other sections of the code. At a work session on February 19, 2019 with the City Council concerning the proposed amendments, the Council recommended that the building height on both the land and over-water areas be limited to a maximum height of 28' (two stories) to keep development at a pedestrian scale. They noted that the mass of even a two-story building could be a concern, and that the 30,000 square foot maximum for buildings may still be a concern. At that time, it was unclear if a solution was feasible to consider with the City Council intent to adopt the proposed amendments in a timely manner.

At its April 23, 2019 meeting, these two issues became the focus of public input and APC discussion. Therefore, in an attempt to proceed with the majority of the amendments that were not controversial, the APC split the amendment draft into two sections. One section would be just the height and gross square footage issue (A19-01B) allowing the rest of

the amendment to proceed. A19-01B portion of the request was continued to the May 28, 2019 APC meeting for further discussion. The APC recommended that the City Council adopt the proposed amendments on the first part of the request (A19-01A).

At the May 28, 2019 meeting, the APC took public comments and discussed the issues of height, mass, and the proposed Plan Districts. The APC provided staff with direction on how to draft proposed code amendments that would address these issues. While there was not a unanimous direction, some consensus direction was provided. While the City Council had suggested a 28' maximum height, their concern with building massing was not directly addressed. The APC has suggested an alternative that would allow buildings to 35' but with a north/ south orientation, maximum width of 60% of the lot, maximum individual building width of 90', and a required 60' view corridor between buildings. The APC considered this alternative to address building mass as a 28' high building the full width of the lot would virtually block all view of the River except at the street ends. When applying this concept to actual properties, it was determined that it would not give the results intended due to the existing lot configuration and development.

At the 6-24-19 APC meeting, the APC agreed that further delay in adoption of a code to address building height could result in unwanted development. The APC directed staff to draft a code to limit height on the land to 28' with no variances, and to limit height over water to top of bank except for water-dependent uses (not including water-related uses) which would be limited to 35'. During the APC public hearing on July 23, 2019, the APC determined that the 28' height with no setbacks between buildings would not achieve the view protection intended. A list of Development Code and Comprehensive Plan definitions of "water-dependent" and other use classifications is attached. Any proposed use within the BVO would need to comply with the allowed outright or conditional uses, and with the prohibited uses of the BVO. In addition, the use would need to meet the requirements of the Code to be considered as "water-dependent" use for the allowed extra height. Issues concerning mass, view corridors, and additional limitations or change in allowable uses would be considered under a new amendment request after additional work sessions could be held, possibly with the City Council. However, with the proposed height of 35' the APC determined that a Floor to Area Ratio (FAR) and 60' wide view corridor between buildings on the same lot would be included in this amendment.

The APC agreed to proceed with the codes for the Plan Districts as they were large areas and any changes based on a Plan District would require additional public review before being adopted and applied.

### III. PUBLIC REVIEW AND COMMENT

#### A. Astoria Planning Commission

A public notice was mailed to all property owners with the Bridge Vista Overlay Area, Neighborhood Associations, various agencies, and interested parties on March 5, 2019. In accordance with Section 9.020, a notice of public hearing was published in the Daily Astorian on March 19, 2019. State required Measure 56 mailing was mailed to all property owners within the Bridge Vista Overlay Area. The proposed amendment is legislative as it applies City-wide in the specific zones. As required per Article 9, on site notice was posted on March 12, 2019 in

the affected overlay areas as follows: one near 2nd street at the previous appeal site (BVO); one on the corner of 30th and Marine Drive (CGO); and one near 43rd and Lief Erikson Drive (CGO).

The Astoria Planning Commission opened the public hearing at the March 26, 2019 meeting and continued the public hearing to the April 23, 2019 meeting. While additional public notice was not required, additional public notice was provided. Amendment Request (A19-01A) proceeded to City Council on June 3, 2019 and Amendment Request (A19-01B) was continued to the May 28, 2019 APC meeting and subsequently continued to the June 25, 2019 APC meeting. No additional public notice is required for the APC meetings.

B. State Agencies

Although concurrence or approval by State agencies is not required for adoption of the proposed amendments, the City has provided a copy of the draft amendments to representatives of the Oregon Departments of Transportation (ODOT) and Land Conservation and Development (DLCD) as part of the planning process.

IV. FINDINGS OF FACT

- A. Development Code Section 10.020.A states that *“an amendment to the text of the Development Code or the Comprehensive Plan may be initiated by the City Council, Planning Commission, the Community Development Director, a person owning property in the City, or a City resident.”*

Finding: The proposed amendments to the Development Code is being initiated by the Community Development Director on behalf of the City Council.

- B. Section 10.050(A) states that *“The following amendment actions are considered legislative under this Code:*

1. *An amendment to the text of the Development Code or Comprehensive Plan.”*

Finding: The proposed amendment is to amend the text of the Astoria Development Code Article 14 concerning Riverfront Overlay Zones. The amendment would amend existing and create new overlay zone standards.

The proposed amendments are applicable to a large area of the City. Processing as a legislative action is appropriate.

- C. Section 10.070(A)(1) concerning Text Amendments, requires that *“The amendment is consistent with the Comprehensive Plan.”*

1. CP.005(5), General Plan Philosophy and Policy Statement states that local comprehensive plans *“Shall be regularly reviewed, and, if necessary, revised to keep them consistent with the changing needs and desires of the public they are designed to serve.”*

Finding: The City accepted the Riverfront Vision Plan in 2009 as a long-range planning framework to address the changing needs and desires of the citizens concerning Riverfront development and the need to protect the environment. Codes to implement the Vision Plan concepts were adopted by the Council. The City Council directed staff to initiate Development Code amendments to reduce the maximum building height in the BVO and add additional standards to address the concerns with clarity of the code and the desires of the public.

2. CP.010(2), Natural Features states that *“The City will cooperate to foster a high quality of development through the use of flexible development standards, cluster or open space subdivisions, the sale or use of public lands, and other techniques. Site design which conforms with the natural topography and protects natural vegetation will be encouraged. Protection of scenic views and vistas will be encouraged.”*

Finding: The proposed amendments will amend the BVO codes that implemented the Riverfront Vision Plan. The amendments include changes to existing design standards for development, protection of scenic views and vistas such as with the lower maximum height of buildings.

3. CP.015(1), General Land & Water Goals states that *“It is the primary goal of the Comprehensive Plan to maintain Astoria's existing character by encouraging a compact urban form, by strengthening the downtown core and waterfront areas, and by protecting the residential and historic character of the City's neighborhoods. It is the intent of the Plan to promote Astoria as the commercial, industrial, tourist, and cultural center of the area.”*

CP.015(1), General Land & Water Goals states that *“Because of the City's strong water orientation, the Plan supports continuing regional efforts to manage the Columbia River estuary and shorelands. The City's land use controls, within this regional context, will be aimed at protecting the estuary environment and at promoting the best use of the City's shorelands.”*

Finding: The proposed amendments will strengthen the existing Riverfront Vision Plan area overlay zones development standards. The design concerning building height protects the historic character of the City and waterfront areas. The reduction in allowable height and development along the shoreland in this area and on parcels extending over the water will help protect the estuary environment. The proposed ordinance is intended to provide the guidance to help achieve these goals.

4. CP.020(2), Community Growth, Plan Strategy, states that *“The Columbia River waterfront is considered a multiple use area. The development of this area is to be encouraged in a flexible manner, under the shorelands and estuary section.”*

CP.203, Economic Development Goal 4 and Goal 4 Policies, goal states *“Continue to encourage water-dependent industries to locate where there is*

*deep water, adequate back-up space, and adequate public facilities.” Policies states “1. Maintain areas of the City in order to provide sufficient land for water dependent as well as non-water dependent industries.”*

Finding: While the proposed amendments amend existing criteria and limit development height within the Bridge Vista Area, it does not prohibit development and continues to support development of water-related and water-dependent uses in the shoreland and aquatic zones in the Bridge Vista area. It would allow flexibility for some limited other development with the creation of a process for potential future adoption of the Astoria Warehousing Plan District and the Port of Astoria West Mooring Basin Plan District. These two areas are larger land areas and redevelopment could be restricted with the proposed development standards. Allowing for future Plan District adoption with some code flexibility would allow for a process to review site specific needs in these two areas in the future. Specific standards and limitations are addressed in the proposed amendments include periodic review of the need for potential plan districts. The ability for water-dependent uses to have a height limitation of 35’ supports water-dependent industries.

Structure height, width, and size would be regulated so there would not be large amounts of over water development near the Maritime Memorial / Astoria Megler Bridge and near the former cannery site near 2nd Street which is limited to uses such as moorage, and other piers and dock activities. These areas would remain as protected areas even with the proposed Plan Districts. The orientation standards and reduction in building height would allow some development in this area where some over-water and in-water activity has occurred in the past while preserving the broad vistas as viewed from the River Trail and adjacent and hillside properties.

The APC determined that only water-dependent uses should be allowed over water to a height greater than top of bank.

No change to allowable uses is proposed with this amendment. The existing uses would continue to be allowed within these zones and in other portions of the City.

The requirements for shoreland and estuary development in Development Codes Articles 4 and 5 would remain applicable to any development in this area.

5. CP.020.2 states that *“The Columbia River waterfront is considered a multiple use area. The development of this area is to be encouraged in a flexible manner, under the shorelands and estuary section.”*

Finding: The Riverfront Vision Plan recognizes the need for development but balances that with the need to protect the vistas and views of the Columbia River, the Astoria-Megler Bridge, and the surrounding landscape. By establishing four Plan areas with different focus for development, the various sections of the Riverfront could be developed in a flexible manner.

Bridge Vista Area is envisioned as more of a marine related area for overwater and shoreland development while allowing flexibility of development south of the River Trail. However, the City Council has found that the BVO code as written provided for too much flexibility and was not clear on some of the requirements such as how to review mass and scale of new buildings. The proposed amendments would still allow for some flexibility but would reduce the height and scale of buildings both on land and over water. Overall, the objectives for this area are met with the proposed allowable type and level of development on land and elsewhere along the Riverfront.

The proposed amendment would allow flexibility for some limited other development with the creation of a process for potential future adoption of the Astoria Warehousing Plan District and the Port of Astoria West Mooring Basin Plan District. These two areas are larger land areas and redevelopment could be restricted with the proposed development standards. Allowing for future Plan District adoption with some code flexibility would allow for a process to review site specific needs in these two areas in the future. Specific standards and limitations are addressed in the proposed amendments.

6. CP.210(1), Economic Element, Economic Development Recommendations, states that *"In the City's waterfront areas, the City will continue to promote a combination of tourist-oriented development, industrial development associated with the City's working waterfront, and water-related and dependent industries, and distribution and sales of goods and services for Astoria residents and businesses. These efforts will be guided by and consistent with the Astoria Riverfront Vision Plan."*

Finding: The proposed amendments would not change the allowable uses in the Bridge Vista Overlay zone. It would reduce the height from potential 45' in some areas to 35' maximum on land with the possibility of up to 35' for water-dependent uses over water. A two-story and possible three-story water-dependent building would continue to allow some development along the waterfront while reducing the mass and scale of the buildings.

7. CP.204, Economic Development Goal 5 and Goal 5 Policies, Goal states *"Encourage the preservation of Astoria's historic buildings, neighborhoods and sites and unique waterfront location in order to attract visitors and new industry."*

Finding: The proposed amendments create increased visual and physical linkages along the Columbia River with limitation on development and special siting standards for buildings and landscaping. The proposed amendments include building height limitations that are consistent and reflective of the Uniontown historic area. The proposed amendments are intended to protect the views of the River which is one of the main tourist attractions to Astoria. Major loss of these views would be a detrimental impact to Astoria's economy and livability. Protection of some views would be achieved by creating a FAR of 0.75 to keep open space on lots which

would increase as the building gets taller. In addition, if more than one building is constructed on a lot, there would be a required 60' view corridor between buildings. This would generally be for the larger lots as smaller lots would not have the area to build more than one structure.

8. CP.038.1, Port-Uniontown Overlay Area Policies, states that *"The City will use the vision established in the Port/Uniontown Transportation Refinement Plan (2007) to direct future development in the Port- Uniontown Overlay Area. The overall Comprehensive Plan Policies are to:*
- a. Promote development that complements the surrounding areas of Downtown and the West End.*
  - b. Enhance existing primary uses, such as Port of Astoria facilities, the marina, visitor services, open space, trails, and small businesses and neighborhoods.*
  - c. Support redevelopment of former industrial sites and vacant and underutilized lots*
  - d. Stimulate development interest by establishing complementary surrounding land uses and quality development and design, and by improving transportation conditions through road construction and connections, circulation plans, and access management plans.*
  - e. Establish visual and physical linkages within and around the Port-Uniontown Overlay Area, with emphasis on the Columbia River waterfront.*
  - f. Create a pedestrian-friendly environment through the District by increasing connectivity throughout the Port-Uniontown Overlay Area, orienting buildings toward adjacent streets and pathways, extending the River Trail, adding and improving sidewalks, and enhancing the streetscape with landscaping, human-scale lighting, seating, and other amenities.*

Finding: The proposed amendments would retain the existing zoning which allows a range of allowed land uses in these areas. The revisions and/or clarifications of the building size and siting standards would preserve and/or create view corridors and preserve portions of the waterfront for vistas and views. The proposal balances the need for development and the need for public access to the waterfront by recognizing the visual connection to the river from the hillsides, the River, the River Trail, and from the highway by allowing the mixed uses but at a smaller, pedestrian scale.

The majority of the Port-owned property (Piers 1, 2, 3) are not within the BVO and not subject to the Riverfront Vision requirements. The east area of Port property including the existing former Astoria Riverwalk Inn and the area between the Inn and the Maritime Memorial are included in the BVO area. These areas are intended to be pedestrian-friendly and are partially within the Pedestrian-Oriented District. Even with the proposed potential for the Astoria Warehousing Plan District and Port of Astoria West Mooring Basin Plan District, it is proposed that Limitation Areas and Pedestrian-Oriented District standards would still apply and would not be subject to change with a Plan District.

9. CP.038, Port-Uniontown Overlay Area Policies, states that

- “2. *The City will implement the Port-Uniontown Overlay Area element of the Comprehensive Plan through its Design Review process and amendments to the Development Code that provide design and development standards.*
3. *The City, through the Development Code, will develop a set of design standards for the Port-Uniontown Overlay Area that address building massing and orientation, architecture, access and parking, streetscape, landscaping, and other elements. These standards will apply to development projects in the District as defined in the Development Code.*
4. *To the extent possible, the design and development standards are intended to be clear and objective so that most proposed development can be evaluated administratively. The Design Review Committee, created and enabled by the Development Code, will review appeals of administrative decisions and proposals that vary from the standards and yet may still embody the spirit of the Port-Uniontown Overlay Area.”*

Finding: The proposed amendments would revise building height based on the existing historic and waterfront development design of the Uniontown and Port area other than the former larger cannery buildings.

10. CP.068, Astoria Riverfront Vision Overlay Area Policies, states that

- “1. *Promote physical and visual access to the river. The overall Comprehensive Plan objectives are to:*
  - a. *Maintain current areas of open space and create new open space areas.*
  - b. *Provide for public access to the river within private developments.*
  - c. *Retain public ownership of key sites along the riverfront.*
  - d. *Protect view sheds along the river, including corridors and panoramas from key viewpoints.*
  - e. *Use alternative development forms (e.g., clustered development, narrower, taller profiles, setbacks, stepbacks, and gaps in building frontages) to preserve views.”*

Finding: The proposed amendments would further preserve visual access to the Riverfront with the reduced height, mass, and scale and the FAR and required 60’ view corridor between multiple buildings on the same lot. They also create siting standards to limit the size and height of buildings to reduce the mass and scale on the entire development site.

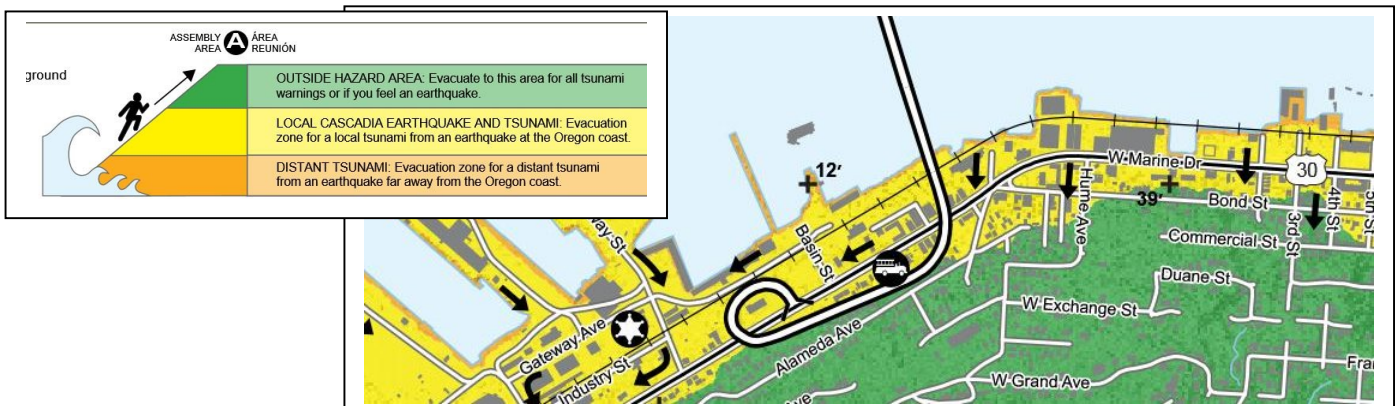
The reduction in height limits the use of alternative development forms relative to narrower/taller profiles, however, with a height

exception for water-dependent uses, additional height can be designed for these needed uses.

- “2. *Encourage a mix of uses that supports Astoria's "working waterfront" and the City's economy. The overall Comprehensive Plan objectives are to:*
- Maintain the authentic feel of the riverfront.*
  - Prioritize siting of water-related businesses along the river.*
  - Allow for some residential development along the riverfront, emphasizing smaller-scale work force (moderate income) housing.*
  - Allow for development that supports downtown and other commercial areas.*
  - Limit development in areas with most significant impacts on open space, view, or other resources.*
  - Promote uses that provide jobs and support the local economy.”*

Finding: The proposed amendments would not change the allowable uses but would reduce the height to help preserve views and allow for development that is more in scale with the existing riverfront. A proposed height exception to 35' for water-dependent uses would allow additional height without a variance to encourage this use.

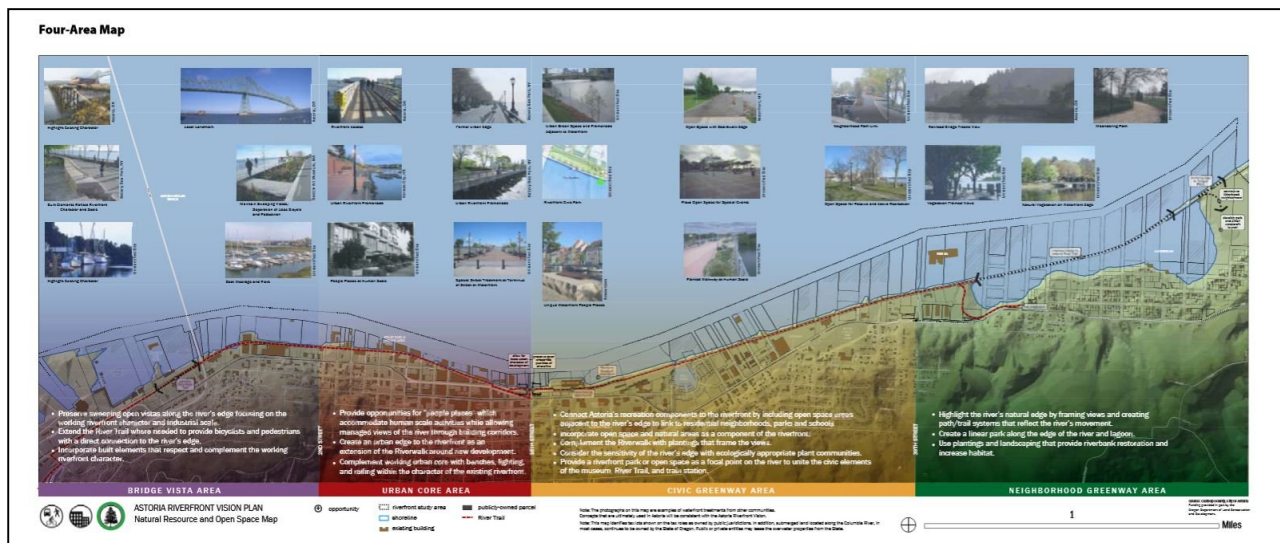
Special exceptions for affordable housing were considered but are not included with this proposal due to the APC's concern with location of housing in a tsunami zone in this area. The entire BVO area is within the “Local Cascadia Earthquake and Tsunami” Area. This is a required evacuation zone. The City of Astoria addendum to the Clatsop County Multi-jurisdictional Natural Hazards Mitigation Plan, dated 6-17-2013, on Page 1-36 states *“Astoria's location along the Oregon Coast makes it susceptible to tsunamis from both near shore (following a Cascadia Subduction Zone earthquake) and distant tsunamis. The extent of the tsunami hazard is limited to those areas adjacent to either the Columbia River or Young's Bay.”* Page 1-38 states *“The City's tourist-based economy and population density are significant issues related to the tsunami hazard.”*



- “3. Support new development that respects Astoria's historic character. The overall Comprehensive Plan objectives are to:
- Enhance or refine Development Code to achieve vision principles.
  - Implement design review, design standards, or other tools to guide the appearance of new development.
  - Devote resources to rehabilitating old structures.”

**Finding:** The proposed amendments would create new and amend existing height and building orientation standards that reflect the historic character of the Uniontown area for both commercial and industrial waterfront buildings and uses. The proposal would still allow for repair, restoration, and reconstruction of existing historic buildings.

**Findings:** The *Astoria Riverfront Vision Plan* was accepted by the City Council on December 7, 2009. The *Astoria Riverfront Vision Plan* was developed to address a series of land use, transportation, and scenic, natural, and historic resource issues along the Columbia riverfront in the City. The area spans from Pier 3 in the west to Tongue Point in the east along the Columbia River, and is divided into four sub-areas.



The subsequent Comprehensive Plan amendments were adopted on April 21, 2014. The subarea Development Code implementation sections were adopted as follows: Bridge Vista Overlay Zone (BVO) was adopted on June 15, 2015; Civic Greenway Overlay Zone was adopted on October 6, 2014; and Neighborhood Greenway Overlay Zone was adopted on December 7, 2015. Over the last year while working on the Urban Core proposed codes, the City Council has received numerous public comments including a petition requesting that the Council consider reducing the height of buildings and limit development on the Riverfront. The first major project for the area to be reviewed under the new standards was Design Review Request (DR18-01) by Fairfield Hotel for a hotel to be located on the land area at the 1 2nd Street. During the public hearing on an appeal of that issue as noted in the Background information in this document, the Council noted concerns with specific language in the BVO codes that were not clear and did not

reflect the intent of the code as it was written in 2015. The appeal decision was required to be based on the code language as adopted and the appeals were approved reversing the DRC denial.

The Council expressed interest in amending the code to clarify various sections of the BVO to reduce confusion and clarify the design review process. There were several other issues that staff identified as needing clarification. These issues were addressed in Amendment Request (A19-01A) by the APC with the building height and mass separated out as Amendment Request (A19-01B).

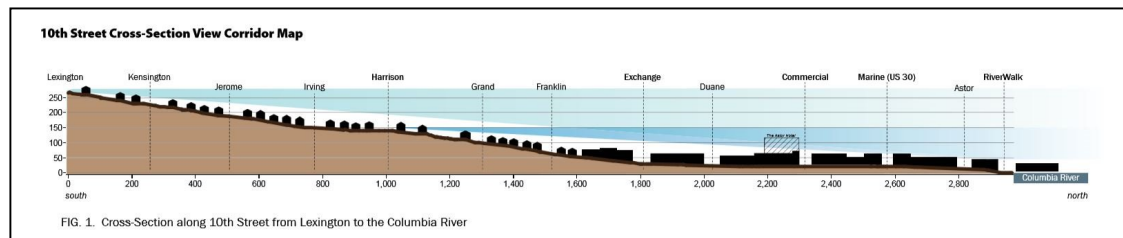
Based on public input, the City Council requested that the BVO area height be reduced to 28' from the current 35' height allowance. The current code would allow a variance up to 45' high. The APC addressed the City Council desire for a 28' height but also looked at their concern with the mass of buildings. The APC proposed amendments that would allow a 35' building with a north/south orientation for a maximum of 60% of the lot width, maximum building width of 90', and a required view corridor of 60'. The APC considered this alternative to address building mass as a 28' high building the full width of the lot would virtually block all view of the River except at the street ends. When applying this concept to actual properties, it was determined that it would not give the results intended due to the existing lot configuration and development.

An exception without the need for a variance for water-dependent uses over water or on land would be allowed up to 35'; no other variances would be allowed. The Riverfront Vision Plan for BVO on Page 37 states *"Trading building height for width (mass) may be desirable in some instances, but a maximum height should be established and enforced. That maximum height likely would be on the order of one story above the base height."* The base height is not specified in the Plan. A desire for a 28' height has been expressed by the public and City Council. However, without other massing restrictions, a 28' height would not protect views. With a "base height" of 35' and a required view corridor of 60' between buildings on the same lot, and the maximum FAR of 0.75, the proposed amendment would be consistent with the Plan.

Comprehensive Plan Section CP.068.1.e states *"Use alternative development forms (e.g., clustered development, narrower, taller profiles, setbacks, stepbacks, and gaps in building frontages) to preserve views."* The Comprehensive Plan does not specify a height but notes that a narrower/taller profile is an alternative. The APC recommended addressing the view with the narrower building orientation while allowing the 35' height. However, in the BVO area, the orientation of the lots and the existing development prevent this concept from being successfully applied. At the June 25, 2019 meeting, the APC determined that a 28' height would help preserve views while additional work could be completed to address the mass of buildings. However, after additional review, the APC agreed that to increase the height to 35' with no variances and the addition of a 60' view corridor setback between buildings on the same lot, views would be

protected more than full width 28' tall buildings. The Pedestrian-Oriented Overlay Zone is intended to be more compact, so the setback would not apply in that area. A FAR of 0.75 was also added to require some open space on all development that would increase as the building increased in height. The proposed amendment does allow for the additional height exception for water-dependent uses and therefore is consistent with the Comprehensive Plan.

The Riverfront Vision Plan (Page 21) addresses the view from the “hillside” and the impact of buildings up to 45' high. The Plan states *“The photographs to the right and left were taken from the top of the 11th Street stairs at Jerome Avenue. These photos help illustrate that if new or existing development was built to the maximum height allowable in the downtown district (45'), the resulting development would not substantially impact the region-wide views from the hillside.”*



This section is background information for all four of the Riverfront Plan areas. During the visioning process, there was public concern not only for the height of the building as viewed at grade level but also how it would be viewed from the hillsides. This illustration was intended to address that concern and does not state that 45' height should be permitted in all areas. The specific height for each Plan area would be determined during the code “implementation” process. When the BVO codes were adopted, the 35' height with allowance to 45' high was considered as appropriate for this area. However, when applied to the first new development proposed for this area, the public and City Council determined that the 45' height did not meet the intent of the Riverfront Vision Plan for development that was compatible with the existing development of the area. The Plan (Page 37) for BVO states *“The Bridge Vista area is adjacent to the Uniontown Neighborhood and design should be consistent with the character of the Uniontown-Alameda Historic District.”* The character of this area is generally two or three stories high and 45' is the exception. Therefore, a reduction to 35' on land and top of bank over water with allowance to 35' only for water-dependent uses would be consistent with the Uniontown area and would be consistent with the Riverfront Vision Plan. The City has followed a land use process that identified a vision for the area, implemented code language, and then through the application of the code found that the “interpretation” of how to apply the codes was problematic and did not follow the intent of the Vision Plan. The proposed amendments are being considered through the public review process and are intended as refinement and clarification of the interpretation of the Vision Plan relative to height.

The adopted Vision Plan and Comprehensive Plan do not address specific issues such as height, setbacks, uses, etc. They give guidelines for how to implement the goals of the Vision Plan such as *Promote physical and visual access to the river; Encourage a mix of uses that supports Astoria's "working waterfront" and the City's economy; Support new development that respects Astoria's historic character; Protect the health of the river and adjacent natural areas; and Enhance the River Trail*. These goals can conflict at times and the implementation of the Plan has been controversial in interpretation. The proposed amendments would not change the allowable uses within the Overlay Zone areas but would address the mass and scale of buildings and their compatibility with the character of Astoria. The working waterfront once had multiple buildings that were between one and three stories tall. Most of the existing buildings in Astoria are one and two stories tall with a few taller buildings along the waterfront and in other areas. There has been a lot of discussion on what a "working waterfront" should be and whether large hotels are what was envisioned. Section CP.068.2 refers to encouraging water-related business and maintaining an authentic feel of the riverfront. The proposed amendments would reduce the height of buildings keeping them in scale with most other buildings in the area and would allow for the protection of the River Trail environment.

While possibly limiting the feasibility of some new development due to the economics of construction, the proposed amendments do not prohibit development or uses beyond what the Code allows now. The amendments are in direct response to citizen concerns and the City Council desire to clarify how to interpret the existing Code based on how they interpret the Riverfront Vision Plan and the intended results of the Code as originally adopted. The proposed amendments would be consistent with the goals of this Comprehensive Plan section.

11. CP.140.C, Columbia River Estuary Aquatic and Shoreland Designations, Development Aquatic, states "*Development Aquatic areas are designated to provide for navigation and other identified needs for public, commercial, and industrial water-dependent uses. The objective of the Development Aquatic designation is to ensure optimum utilization of appropriate aquatic areas by providing for intensive development. Such areas include deepwater adjacent to or near the shoreline, navigation channels, sub-tidal areas for in-water disposal of dredged material, areas of minimal biological significance needed for uses requiring alteration of the estuary, and areas that are not in Conservation or Natural designation. These areas are in the Aquatic One Development Zone (A-1), the Aquatic Two Development Zone (A-2), the Aquatic Two-A Development Zone (A-2A).*"

CP.140.E, Columbia River Estuary Aquatic and Shoreland Designations, Development Shoreland, states "*Development Shoreland areas are designated to provide for water-related and water-dependent development along the estuary's shoreline. These areas may present opportunities to develop uses that complement uses in Downtown Astoria, consistent with the City's Riverfront Vision Plan. Development Shoreland areas include urban or developed shorelands with little or no natural resource value, and*

*shorelands with existing water-dependent or water-related uses. Development Shoreland areas may include scenic vistas of the Columbia River that may be an important planning objective to protect, consistent with the City's Riverfront Vision Plan. These areas are in the General Development Shorelands Zone (S-2), or the Tourist-Oriented Shorelands Zone (S-2A). Some of these areas are in residential or commercial zones with a Shorelands Overlay Zone."*

Finding: The Aquatic and Shoreland designations are not proposed to be changed, but the height in the Bridge Vista Area is proposed to be reduced from 45' to 35' on land and top of bank over water with an exception to 35' for water-dependent uses. The height limitations would be for all uses and activities. The objective of the Riverfront Vision Plan is to protect some vistas of the Columbia River which is the intent of the proposed height reduction and FAR. The proposed amendments are consistent with the intent of this CP section.

12. CP.186.C, Cumulative Impacts, Cumulative Impact Analysis, states that

1. *Public Access.*

*Activities generating cumulative impacts on public access can both enhance and reduce opportunities for public access to the waters and shorelines of the Columbia River Estuary. Public access is treated broadly here to include both physical and visual access. . .*

*Boat ramps and marinas have a strongly beneficial cumulative impact on public access for the boating public. Private individual moorages on the other hand can have negative cumulative impacts with respect to public access if allowed to overcrowd particular waterways. Continuous development of individual moorages along a reach of the Columbia River Estuary or a tributary can block public shoreline access and inhibit small boat navigation, having a strongly negative cumulative impact. The regional estuarine construction policies and standards encourage community docks and piers and discourage individual moorages. . .*

*Port development is often not fully compatible with public access; however, the cumulative impact of port development on public access is expected to be minor. Port development is limited to only a few sites in the estuary. Full development of all existing designated Development and Water Dependent Development shorelands would not significantly reduce public access opportunities in the Columbia River Estuary, but may have locally significant effects. . .*

5. *Recreation/Tourism.*

*Discussion of cumulative impacts on recreation and tourism includes estuary-oriented recreation undertaken by both local residents and*

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*by visitors from outside the region. Many impacts may be largely aesthetic in nature. . .*

*Boat ramps, marinas, and moorages have a generally positive impact on recreation and tourism, though there may also be a negative aesthetic component. The net cumulative impact is probably positive, however, because the estuary is large relative to the extent of existing recreational boat facilities. . .*

*Port development may generate both positive and negative impacts with respect to tourism and recreation. The passage of deep draft vessels up and down the Columbia River Estuary, together with associated tug, barge, and wharf activities, are significant elements of the Columbia River Estuary's attractiveness for visitors. Port development may also, however, generate negative impacts on recreational fishing and public access (see "Columbia River Estuary Regional Management Plan" Subsections 5.3.3. and 5.3.1.). Net cumulative impacts are believed to be positive. . .*

Finding: The existing code limits some Riverfront areas to water-related and water-dependent uses consistent with the fishing industry and Port activities. It also limits some important public view areas to development at shoreland height maximum. This supports boat ramps, marinas, moorages, etc. that are considered to be a positive impact on recreation and tourism. The proposed amendments are intended to minimize the cumulative negative impacts along the Riverfront by preserving some areas for marine development and protecting some vistas and views. The proposed amendments would reduce any future over-water development to top of bank, or on-land development to 35', where allowed, with a 35' high exception for water-dependent uses over water. The intent is to provide more visual access to the river from the River Trail and from the River and lessen the cumulative negative impacts of larger developments.

13. CP.185(M), Regional Estuary and Shoreland Policies, Public Access Policies, states that *"Public access" is used broadly here to include direct physical access to estuary aquatic areas (boat ramps, for example), aesthetic access (viewing opportunities, for example), and other facilities that provide some degree of public access to Columbia River Estuary shorelands and aquatic areas."*

CP.185(M.2 to 5), Regional Estuary and Shoreland Policies, Public Access Policies, states that

- "2. Public access in urban areas shall be preserved and enhanced through waterfront restoration and public facilities construction, and other actions consistent with Astoria's public access plan.*
- 3. Proposed major shoreline developments shall not, individually or cumulatively, exclude the public from shoreline access to areas traditionally used for fishing, hunting or other shoreline activities. . .*

5. *Astoria will develop and implement programs for increasing public access.*"

CP.185(N.2), Regional Estuary and Shoreland Policies, Recreation and Tourism Policies, states that *"Recreation uses in waterfront areas shall take maximum advantage of their proximity to the water by: providing water access points or waterfront viewing areas; and building designs that are visually u {typo from original ordinance} with the waterfront."*

CP.204, Economic Development Goal 5 and Goal 5 Policies, Goal states *"Encourage the preservation of Astoria's historic buildings, neighborhoods and sites and unique waterfront location in order to attract visitors and new industry."* The Policy 1 states *"Provide public access to the waterfront wherever feasible and protect existing access. The importance of the downtown waterfront in terms of aesthetics, public access and business improvement cannot be overemphasized. The City supports the concept of the "People Places Plan," and encourages local organizations in the construction and maintenance of waterfront parks and viewing areas."*

Finding: One of the reasons the Riverfront Vision Plan was developed was to enhance public access to the estuary and allow for preservation of public open space and park areas along the Columbia River. Public access includes both physical and visual access. The River Trail along the Columbia River is used by locals as well as visitors and is maintained for its aesthetic values as well as for its transportation values. The Bridge Vista Area was identified as an area to allow some development while preserving visual and public access. The Urban Core Area was identified for more intense development and the Civic Greenway Area was identified for more open space. The existing on-land building and landscaping setback and stepbacks create wider view corridors from West Marine / Marine Drive. However, the design, mass, and scale of the proposed new development of the hotel at 2nd Street did not achieve the expectations of the adopted guidelines and standards. The City Council found them to be too flexible in their interpretation, and somewhat confusing as to how to apply mass and scale review to the proposal. It also found that 45' high buildings were not in character with the area. Therefore, the Council has requested a height reduction for the BVO.

The submerged lands (over-water) areas are owned by the State and leases are managed by Division of State Lands (DSL). Much of the waterfront area is not currently leased and therefore still in public use. The upland property owner has the first right of refusal for use of the submerged land area. However, anyone can lease from DSL. While there are tax lots platted out into the River, the tax lot owner does not pay taxes on the lot other than for improvements that are located on the lot. By State law, the public has rights to both physical and visual access to the water.

The proposed amendments would protect public visual and physical access to the River. The existing code limits the size and height of buildings on land, and height and orientation of development over the water to minimize

the impact on public access. The original standards were based on the visual impacts of the dimensions and site location of the existing Cannery Pier Hotel (10 Basin Street) located on the west end of the River Trail, and two other over-water structures at 100 31st Street (Big Red) and 100 39th Street (Pier 39). The proposed height reduction is based on the visual impact of the proposed 45' hotel with an east/west orientation which was approved with the existing guidelines and standards and the public concern that the size of the structure is not compatible with the desired development of the BVO area and Riverfront.

14. CP.460(3), Natural Resource Policies states that *"The City recognizes the importance of "trade offs" that must occur in the planning process. Although certain estuary areas have been designated for intensive development, other areas will be left in their natural condition in order to balance environmental and economic concerns."*

Finding: The proposed amendment allows for some over-water development while reducing the height. The standards maintain open areas for protection of the estuary habitat and to maintain vistas and views. The APC did not believe non-water-dependent uses needed to be constructed over the water to a height greater than top of bank.

15. CP.204(3 & 4), Economic Development Goal 5 and Goal 5 Policies, Goal states *"Encourage the preservation of Astoria's historic buildings, neighborhoods and sites and unique waterfront location in order to attract visitors and new industry."* The Policies state
  3. *Encourage the growth of tourism as a part of the economy.*
    - a. *Consider zoning standards that improve the attractiveness of the City, including designation of historic districts, stronger landscaping requirements for new construction, and Design Review requirements.*
  4. *Protect historic resources such as downtown buildings to maintain local character and attract visitors."*

CP.250(1), Historic Preservation Goals states that *"The City will Promote and encourage, by voluntary means whenever possible, the preservation, restoration and adaptive use of sites, areas, buildings, structures, appurtenances, places and elements that are indicative of Astoria's historical heritage."*

CP.250(3), Historic Preservation Goals states that *"The City will Encourage the application of historical considerations in the beautification of Astoria's Columbia River waterfront."*

CP.200(6), Economic Development Goals states that the City will *"Encourage the preservation of Astoria's historic buildings, neighborhoods and sites and unique waterfront location in order to attract visitors and new industry."*

CP.205(5), Economic Development Policies states that *“The City encourages the growth of tourism as a part of the economy. Zoning standards which improve the attractiveness of the city shall be considered including designation of historic districts, stronger landscaping requirements for new construction, and Design Review requirements.”*

Finding: The existing code includes height and building orientation standards to allow for development that is consistent with the development of the historic Uniontown area and that is compatible with the existing development within the entire area.

The River and River Trail are important tourism/economic assets for the City and would be protected from incompatible development with the proposed amendments. The proposed amendments clarify some height exemptions and reduce the height of structures in the BVO. The proposed code amendments would also protect more of the scenic views of the Columbia River waterfront with other standards for height and mass/scale of development. The area west of 2nd Street was the site of a former fish processing facility. This site contains a good example of the former pile field, a portion of the facility (a boiler), and historic ballast rock piles. The site and remaining structures/ features are designated historic. The City Council found it difficult to review a 45' tall hotel for compatibility with a non-habitable boiler and ballast rock piles. The proposed amendment would reduce the building height to protect views and historic sites.

16. CP.270, Parks, Recreation, and Open Space Element, Goals states that *“The City of Astoria will work:*
1. *To develop a balanced park system.*
  2. *To reflect Astoria's special qualities and characteristics. . .*
  5. *To provide or encourage waterfront parks. . .*
  7. *To promote general beautification. . .*
  12. *The City will continue its efforts to improve public access to the shoreline through:*
    - a. *The construction of public access points, pathways, and street ends;*
    - b. *The encouragement of public access projects in conjunction with private waterfront development actions, possibly through the use of local improvement districts and/or grant funds; and*
    - c. *The protection of street ends and other public lands from vacation or sale where there is the potential for public access to the water. The City will work with the Division of State Lands (DSL) to determine the status of submerged and submersible lands adjacent to the City street ends.”*

Finding: The City has established a River Trail along the Columbia River as a City park. The Riverfront Vision Plan (RVP) identifies this as a public area and encourages protection of a portion of the public views and vistas in the Bridge Vista Area. The RVP for the Bridge Vista Planning Area identified Land Use Assumptions and Objectives which state that *“This area is an appropriate location for new overwater development, should it occur.*

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*However, specific areas should remain open to preserve broad view of the river...*

As noted above, the submerged lands (over-water) areas are owned by the State and leases are managed by Division of State Lands. Much of the waterfront area is not currently leased. By State law, the public has rights to both physical and visual access to the water.

The proposed amendments address the building size and height for development on both the water and land side of the River Trail with the reduction in height for BVO from 45' to 35' and with reduction over water to top of bank except for water-dependent uses which could be 35'. The proposed amendments would protect the waterfront park from incompatible intrusions.

17. CP.470(1), Citizen Involvement states that *"Citizens, including residents and property owners, shall have the opportunity to be involved in all phases of the planning efforts of the City, including collection of data and the development of policies."*

Finding: Throughout the process of drafting the original Riverfront overlay areas ordinances, the City provided extensive public outreach. With the review of the recent HLC and DRC permits for the hotel and the subsequent appeal hearing, the public were provided many opportunities to be involved in the process. Invitations and notices were sent to interested parties, neighborhood associations, property owners, stakeholders, email lists, web site, notices in the *Daily Astorian*, etc. to advise them of the opportunity to provide suggestions and comments. The Council considered the public input but recognized that the hotel proposal at 2nd Street would need to be evaluated against the existing code, and that the code was unclear on several issues. Due to the lack of clarity and the extensive public comments, the City Council initiated the process to amend the code to better address the needs of the reviewing bodies and the desires of the general public. A work session with public input was held by the City Council at their February 19, 2019 meeting. A code amendment was processed through additional public hearings before the Planning Commission on March 26, 2019 and April 23, 2019, and before the City Council on June 3, 2019 to address these concerns. Due to the complexity of the height and mass of buildings, those two issues were separated from the original application and are being processed through separate additional public hearings before the Planning Commission on May 28, 2019, June 25, 2019, July 23, 2019, and the City Council to address these concerns.

The City was very conscious of the interest in protection of the Riverfront and the need to have an ordinance that would meet the needs of the citizens, property owners, protect the environment and historic resources, be in compliance with State regulations, and would be a permit process that was easy for both citizens and staff.

18. CP.185.N, Regional Estuary and Shoreland Policies, Recreation and Tourism Policies, states *“Policies in this subsection are applicable to recreational and tourist-oriented facilities in Columbia River estuary shoreland and aquatic areas.*

1. *New non-water-dependent uses in aquatic areas or in areas zoned Marine Industrial Shorelands shall not preclude or pose any significant conflicts with existing, proposed or probable future water-dependent uses on the site or in the vicinity.”*

CP.185.O, Regional Estuary and Shoreland Policies; Residential, Commercial and Industrial Development Policies, states *“Policies in this subsection are applicable to construction or expansion of residential, commercial or industrial facilities in Columbia River Estuary shoreland and aquatic areas. Within the context of this subsection, residential uses include single and multifamily structures, mobile homes, and floating residences (subject to an exception to Oregon Statewide Planning Goal 16). Duck shacks, recreational vehicles, hotels, motels and bed-and-breakfast facilities are not considered residential structures for purposes of this subsection. Commercial structures and uses include all retail or wholesale storage, service or sales facilities and uses, whether water-dependent, water-related, or non-dependent, non-related. Industrial uses and activities include facilities for fabrication, assembly, and processing, whether water-dependent, water-related or non-dependent, non-related.*

1. *New non-water-dependent uses in aquatic areas and in Marine Industrial Shorelands shall not preclude or pose any significant conflicts with existing, proposed or probable future water-dependent uses on the site or in the vicinity.*
2. *Residential, commercial or industrial development requiring new dredging or filling of aquatic areas may be permitted only if all of the following criteria are met:*
  - a. *The proposed use is required for navigation or other water-dependent use requiring an estuarine location, or if specifically allowed in the applicable aquatic designation; and*
  - b. *A substantial public benefit is demonstrated; and*
  - c. *The proposed use does not unreasonably interfere with public trust rights; and*
  - d. *Feasible alternative upland locations do not exist; and*
  - e. *Potential adverse impacts are minimized.”*

Finding: The APC expressed a desire to limit over-water development to top of bank except for water-dependent uses which could be constructed to a height of 35'. This would support water-dependent development which is the primary purpose of the aquatic and shoreland zones. Development of non-water-dependent uses would preclude future use of these areas by the more appropriate water-dependent uses. The proposed height limitation would be consistent with this section of the Comprehensive Plan. The APC

expressed concern that Development Code Section 4.220, Water-Dependent and Water-Related Use Criteria, that identifies how to determine if a use is “water-dependent” could be misinterpreted. Section 4.220 includes “Recreation” as a water-dependent use and states “*Recreation (active recreation such as swimming, boating and fishing, or passive recreation such as viewing and walking;*”. The concern was that a hotel could state that view of the River by its guests is “recreation” and therefore a water-dependent use. The APC requested that this Section be amended to clarify that “viewing and walking” are intended as uses separate from a primary associated use such as a hotel and actually mean facilities such as the public River Trail. The association of a hotel to a boat dock should not change the classification of the hotel to water-dependent. Only that portion of the use that is truly water-dependent would have that classification.

Finding: The request is consistent with the Comprehensive Plan.

- D. Section 10.070(A)(2) concerning Text Amendments requires that “*The amendment will not adversely affect the ability of the City to satisfy land and water use needs.*”

Finding: The proposed amendment will satisfy land use needs in that it will allow for the development of private properties while protecting the vistas and views along the Bridge Vista Area of the River Trail. The proposed amendment further limits the allowable development height in this area thereby reducing some of the impacts associated with a more intensive development.

Change in allowable uses is not being proposed and will not change the Buildable Lands Inventory statistics. The reduction in allowable building height may reduce the financial feasibility of some forms of development in this area. However, the proposed amendment will not adversely affect the ability of the City to satisfy land and water use needs.

- E. Oregon Administrative Rules Section 660-012-0060 (Plan and Land Use Regulation Amendments) states that:

- “(1) *If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:*
- (a) *Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*
  - (b) *Change standards implementing a functional classification system; or*
  - (c) *Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected*

*to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.*

- (A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
- (B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or*
- (C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.”*

Finding: No map amendment is proposed. No change in use is proposed. The proposed amendments would impact the height of buildings. The proposed amendments will not impact transportation facilities. The proposed amendments comply with the Oregon Administrative Rules Section 660-012-0060 (Plan and Land Use Regulation Amendments) requirements. At the time of adoption of either the Astoria Warehousing Plan District or the Port of Astoria West Mooring Basin Plan District, and application of any map amendment designating these areas, the OAR should be addressed.

- F. ORS 197.303 and ORS 197.307 relate to State required standards for certain housing in urban growth areas. The ORS state the following:

*“ORS 197.303, Needed Housing Defined.*

- (1) As used in ORS 197.307 (Effect of need for certain housing in urban growth areas), “needed housing” means all housing on land zoned for residential use or mixed residential and commercial use that is determined to meet the need shown for housing within an urban growth boundary at price ranges and rent levels that are affordable to households within the county with a variety of incomes, including but not limited to households with low incomes, very low incomes and extremely low incomes, as those terms are defined by the United States Department of Housing and Urban Development under 42 U.S.C. 1437a. “Needed housing” includes the following housing types:*
  - (a) Attached and detached single-family housing and multiple family housing for both owner and renter occupancy;*
  - (b) Government assisted housing;*
  - (c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 (Policy) to 197.490 (Restriction on establishment of park);*

- (d) *Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions; and*
- (e) *Housing for farmworkers.”*

*“ORS 197.307, Effect of need for certain housing in urban growth areas*

- *approval standards for residential development*
  - *placement standards for approval of manufactured dwellings*
- (1) *The availability of affordable, decent, safe and sanitary housing opportunities for persons of lower, middle and fixed income, including housing for farmworkers, is a matter of statewide concern.*
  - (2) *Many persons of lower, middle and fixed income depend on government assisted housing as a source of affordable, decent, safe and sanitary housing.*
  - (3) *When a need has been shown for housing within an urban growth boundary at particular price ranges and rent levels, needed housing shall be permitted in one or more zoning districts or in zones described by some comprehensive plans as overlay zones with sufficient buildable land to satisfy that need.*
  - (4) *Except as provided in subsection (6) of this section, a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of housing, including needed housing. The standards, conditions and procedures:*
    - (a) *May include, but are not limited to, one or more provisions regulating the density or height of a development.*
    - (b) *May not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.*
  - (5) *The provisions of subsection (4) of this section do not apply to:*
    - (a) *An application or permit for residential development in an area identified in a formally adopted central city plan, or a regional center as defined by Metro, in a city with a population of 500,000 or more.*
    - (b) *An application or permit for residential development in historic areas designated for protection under a land use planning goal protecting historic areas.*
  - (6) *In addition to an approval process for needed housing based on clear and objective standards, conditions and procedures as provided in subsection (4) of this section, a local government may adopt and apply an alternative approval process for applications and permits for residential development based on approval criteria regulating, in whole or in part, appearance or aesthetics that are not clear and objective if:*
    - (a) *The applicant retains the option of proceeding under the approval process that meets the requirements of subsection (4) of this section;*
    - (b) *The approval criteria for the alternative approval process comply with applicable statewide land use planning goals and rules; and*
    - (c) *The approval criteria for the alternative approval process authorize a density at or above the density level authorized in the zone under the approval process provided in subsection (4) of this section.*
  - (7) *Subject to subsection (4) of this section, this section does not infringe on a local government’s prerogative to:*

- (a) *Set approval standards under which a particular housing type is permitted outright;*
- (b) *Impose special conditions upon approval of a specific development proposal; or*
- (c) *Establish approval procedures.”*

Finding: State regulations require cities and counties to zone for all types of housing. The ORS defines “needed housing” to include affordable, low income, and very low-income housing types. ORS 197.307 addresses the determination of needed housing, allowable standards, and a clear process for design review. The City of Astoria conducted a Buildable Lands Inventory which was adopted in 2011. The report noted that there was surplus land zoned for medium and high-density residential development but a deficit of low-density residential land for an overall deficit of land zoned for residential use. There have been minor zone amendments since 2011 but the overall surplus and deficit is about the same. Multi-family residential use is also allowed in some non-residential zones allowing for more high-density residential development. The proposed amendments would still allow for multi-family dwellings in the commercial zone and would not reduce the “residentially zoned” land supply.

**Estimated Net Land Surplus/(Deficit) by Zoning Designation, Astoria UGB, 2027**

Type of Use	R1	R2	R3	AH-MP	Total
Land Need	115.4	51.2	67.0	2.7	236.3*
Land Supply	25.20	74.99	119.18	1.49	220.86
Surplus/(Deficit)	(90.20)	23.79	52.18	(1.21)	(15.44)*

Source: Wingard Planning & Development Services

\* Note: Scrivener's Error in actual figure. BLI shows 236.4 and (15.54) but should be 236.3 and (15.44).

Estimated Net Land Surplus/(Deficit) by Zoning Designation, Astoria UGB, 2027				
Growth Scenario	Type of Use	Commercial (Office/Retail)	Industrial/Other	Total
Medium	Land Need	38.2	11.5	49.7
	Land Supply	17.1	39.3	56.4
Surplus/(Deficit)	Surplus/(Deficit)	(21.1)	27.8	6.7

Source: Cogan Owens Cogan

The APC originally considered a proposed amendment that would allow a height exception to 45' for affordable housing with specified number of units, income level, and length of time the housing must be available as affordable housing. However, the APC had concerns with locating this type of housing, or any residential development, in a Tsunami Zone. The entire BVO area is within the “Local Cascadia Earthquake and Tsunami” Area. This is a required evacuation zone. The City of Astoria addendum to the Clatsop County Multi-jurisdictional Natural Hazards Mitigation Plan, dated 6-17-2013, on Page 1-36 states “Astoria’s location along the Oregon Coast makes it susceptible to tsunamis from both near shore (following a Cascadia Subduction Zone earthquake) and distant tsunamis. The extent of the tsunami hazard is limited to those areas adjacent to either the Columbia River or Young’s Bay.” Page 1-38 states “The City’s tourist-based economy and population density are significant issues related to the tsunami hazard.” Therefore, the APC agreed that while housing was an allowable use in

the area, that they would not encourage location in a tsunami zone by allowing an exception to the building height.

The proposed amendments would be in compliance with the above noted ORS requirements relative to housing.

G. The Clatsop County Housing Strategies Report (January 2019 Draft) addresses housing issues in the County and the five jurisdictions within the County including Astoria. The Report has not yet been adopted by the communities.

1. The Draft (Page 3, Introduction and Overview) states that *“The strategies presented in this report reflect the following overarching findings that have come to light during this process. These findings apply on a county-wide basis, and apply to the individual cities to different degrees:*

*1) Sufficient Supply, but Not the Right Types of Housing*

- ☐ *Technically, there seems to be a sufficient supply of land and number of housing units to meet both current and future needs. However, much of this supply serves the second home and short-term rental market, leaving insufficient supply for year-round residents to both purchase or rent. In addition, some of the supply of future residential land suffers from a variety of constraints related to natural features and hazards, infrastructure challenges, or other issues.*

*2) Add the Right Types of Supply*

- ☐ *Strategies should focus on adding the right type of supply, meaning home-buying opportunities at affordable price points, and more multi-family rental housing.*
- ☐ *Adding “missing middle” housing types such as townhomes, cottage clusters, and medium density housing can help to meeting the needs of first-time homebuyers. This housing, if not located in the most sought- after beach locations, should be less attractive to second home buyers.*
- ☐ *Increased multi-family rental housing development should be encouraged to serve the local service, tourism, and other working-class sectors.”*

Finding: Astoria has addressed part of the first issue “Sufficient Supply, but Not the Right Types of Housing” as described in this section by regulating transient lodging that could otherwise be utilized for year-round residents. Vacation homes and other short-term rentals that are not occupied by owners at the same time as guests are prohibited in residential zones in Astoria. There is a large portion of the available “residential” property in Astoria that has constraints such as natural features and infrastructure challenges. These properties are available

for development but are more challenging. The second issue of “Add the Right Types of Supply” addresses the need for affordable housing not just high-end housing and even suggests that it not be located “. . . in the most sought-after beach locations. . .” which for Astoria is the Riverfront locations. The City has adopted standards for a Compact Residential Zone to allow for cottage clusters and more affordable housing development. These standards could be applied to any area with a zone change to implement it. The City also has a Planned Development Overlay Zone that allows for development flexibility which could accommodate more affordable housing. The Riverfront area is generally not the area that would be developed for affordable housing as it would be considered more desirable for high-end housing especially due to the higher costs to develop along the waterfront. The proposed amendments to the Bridge Vista area would reduce the height of buildings to 35’ which would still allow housing above the first floor. The proposed amendments would not allow a height exception for affordable housing due to the concerns with encouraging housing in a tsunami zone.

2. The Housing Study (Page 4, Section 2, Housing Trends, Key Findings) states *“The overall findings of our technical analysis of current housing conditions (Appendix A) include: . . .*
  - *Newly-built housing supply will tend to be more expensive housing, as it is up-to-date and in better condition than older housing. However, adding new supply for higher-income households is necessary to allow the older housing supply to “filter” to those with more modest income.*
  - *Denser forms of housing, such as townhomes and condos rather than single family homes, may help create some smaller and lower-priced housing stock that can serve first-time and lower-income buyers. In addition, housing in areas less attractive to tourists (for instance, further from the beach or the town center) may be less likely to be consumed by second home seekers or investors. . .”*

Finding: Housing for first-time and lower-income buyers could be provided through the Compact Residential Zone, Planned Development Overlay Zone, and in existing medium and high-density zoned areas which are currently noted as being in surplus in the Buildable Lands Inventory. As noted above, some of these areas may be more challenging to develop. However, the proposed amendments would allow for housing to be developed along the Riverfront but as noted in the Study, these may not likely be developed as affordable housing.

3. The Housing Study, Land Supply Strategy 3 (Page 8, Refine BLI Data and Results - for Warrenton and Astoria) states *“The City of Astoria noted major constraints associated with federally owned land within the UGB. This land is shown as potentially buildable in the current BLI results but may not in fact be available for development during the planning period, based on constraints associated with federal ownership*

*and management of this area. The City should work with other government agencies to clarify the status of this land and remove it from the BLI as appropriate. . .”*

Finding: As noted in the Report, the City has other strategies available for addressing the availability of land for residential development. The reduction in height for the small area along the Riverfront in Bridge Vista would reduce one floor of housing (45’ to 35’ reduction) in a more high-end development area and would not eliminate the possibility of some housing in this area.

4. The Housing Study, Policy and Development Code Strategy 4 (Page 14, Support High Density Housing in Commercial Zones) identifies the following as possible code amendment strategies:  
*“Allow multi-family housing outright.  
Consider allowing single-family attached housing.  
Allow vertical mixed-use development outright.  
Adopt a minimum density standard.  
Tailor development and density standards.”*

Finding: The proposed code amendments would not change the allowable uses in the Bridge Vista area. Multi-family residential development in the C-3 General Commercial Zone in this area would be allowed outright. As noted above the Compact Residential Zone is a possibility for potential rezoning. The proposed amendments would continue to allow housing above commercial uses in mixed-use development projects.

Finding: While not an adopted Report, this Report was referenced by the attorney for Astoria Warehousing in a letter dated April 9, 2019 which was provided to the APC at an earlier meeting. The above Findings address some of the issues raised in this letter and other issues in the Draft Report. Overall, the proposed amendments would not be in conflict with the strategies identified in the Report as there are multiple suggested strategies and the proposed amendments would not prohibit residential development in some areas of the Bridge Vista Overlay area.

## V. CONCLUSION AND RECOMMENDATION

The request is consistent with the Comprehensive Plan and Development Code. The Planning Commission recommends that the City Council adopt the proposed amendments.

AMENDMENT REQUEST A19-01B  
8-29-19

DRAFT ORDINANCE



AN ORDINANCE AMENDING THE ASTORIA DEVELOPMENT CODE CONCERNING  
BRIDGE VISTA OVERLAY ZONE.

THE CITY OF ASTORIA DOES ORDAIN AS FOLLOWS:

Section 1. Section 14.001, Definitions, is added to read as follows:

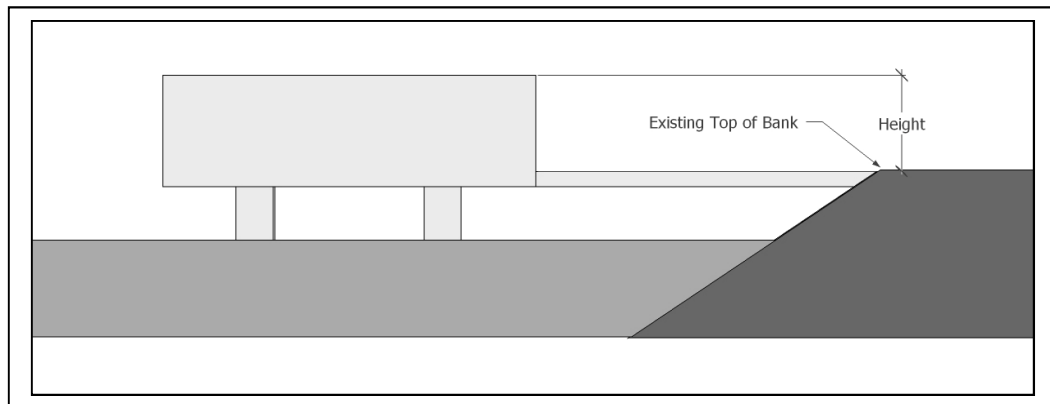
“HEIGHT, TOP OF BANK: For over-water / shoreline construction, top of bank shall be measured from the existing lowest point along the top of the shoreline adjacent to the subject property prior to any grading and/or fill. Features such as railings, balustrades, dolphins, bumper pilings, mooring pilings, and water navigational fixtures are exempt from the maximum “top of bank” height restriction as “water-dependent” features.”

“VIEW CORRIDOR: The unobstructed line of site of an observer looking toward an object of significance to the community such as the River, historic site, ridgeline, etc. A view corridor shall be free of structural encroachments. Parking within a view corridor is allowed unless otherwise specified in the Code.”

Section 2. Section 14.100.C.2, Standards for Overwater Development, Distance from Shore and Height for the Bridge Vista Overlay Area, is deleted in its entirety and replaced to read as follows:

2. Structures ~~Outside~~ Within Overwater Development Non-Limitation Areas (Figure -14.090-1). The maximum height shall be ~~35 feet from~~ the top of the existing adjacent riverbank. No variance may be granted for an exception to this height limitation except as follows:
  - a. Water-dependent uses over water may construct water-dependent facilities up to 35' without a variance. The added feature is subject to all other design and/or location standards of the Code.

**Figure 14.100-2: Maximum Building Height ~~Outside of~~ Within Overwater Development Non-Limitation Areas**



Section 3. Section 14.100.D.2, Standards for Overwater Development, Building Size, for the Bridge Vista Overlay Area, is deleted in its entirety and replaced to read as follows:

2. Structures ~~outside of~~ within the overwater development Non-Limitation Areas (Figure 14.090-1). There shall be no maximum gross floor area for buildings located in these areas.”

Section 4. Section 14.113.A, Standards for On-Land Development, Height, for the Bridge Vista Overlay Area, is deleted in its entirety and replaced to read as follows:

“14.113.     STANDARDS FOR ON-LAND DEVELOPMENT.

The following development standards apply to on-land development in the Bridge Vista Overlay Zone south of the River Trail. The Overwater Development standards shall apply to on-land development north of the River Trail.

A.     Height.

1. Maximum building height is 35 feet except as noted in subsection (2) of this section. No variance may be granted for an exception to this height limitation.”
2. Building height up to ~~45~~ 35 feet, is permitted when building stories above ~~24~~ 15 feet or one story are stepped back at least 10 feet in accordance with Section 14.113.C.”

Section 5. Section 14.113.B.3, Standards for On-land Development, Setbacks, is added to read as follows:

- “3. There shall be a minimum 60-foot-wide, north-south orientation, unobstructed view corridor separation between individual buildings on the same lot, except within the Pedestrian-Oriented Overlay Zone. No structures or portions of structures shall encroach into the view corridor. Vehicle parking may be allowed in a view corridor area.”

Section 6. Section 14.113.C, Standards for On-Land Development, Stepbacks, for the Bridge Vista Overlay Area, is deleted in its entirety and replaced to read as follows:

“C.     Stepbacks.

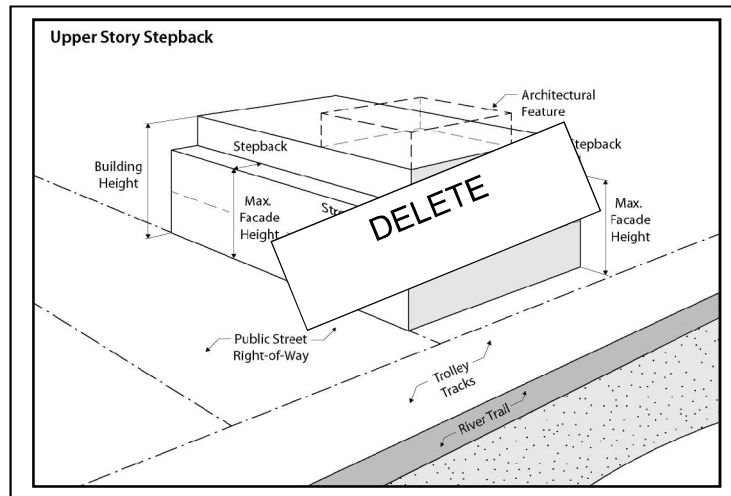
1. Purpose.

The purpose of a stepback is to allow for less obstructed views from above the building and to create a less imposing building scale as viewed from the street or parallel/adjacent trail. A stepback is also designed to allow more light down to the adjacent or fronting street, sidewalk, or trail.

2. ~~Additional Building Height.~~

~~Where the height of a building or building addition is proposed to exceed 24 feet, at least that portion of the building exceeding 24 feet, shall provide a stepback of at least 10 feet from the front plane of the proposed building or building addition that faces the street or the River Trail.~~

~~Figure 14.113 1: Building Stepbacks~~

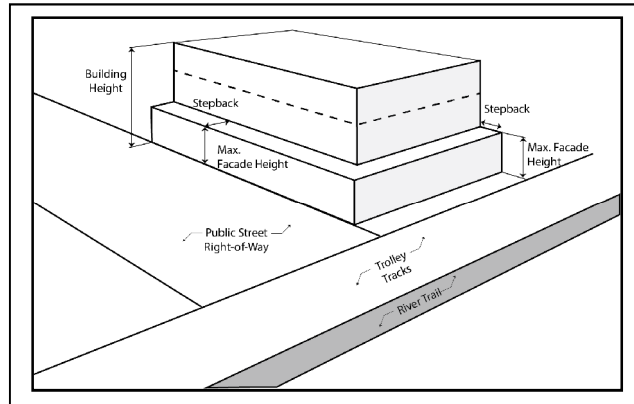


2. Additional Building Height.

Where the height of a building or building addition is proposed to exceed 15 feet, at least that portion of the building exceeding 15 feet or one story, whichever is less, shall provide a stepback of at least 10 feet from the plane of the proposed building or building addition that faces the right-of-way and/or the River Trail.

- a. Balconies and fixed awnings shall not encroach into the required 10-foot stepback area; buildings must be stepped back further in order to accommodate balconies and/or fixed awnings.
- b. Balcony railings constructed to a maximum height of 15' are not encroachments when the building facade above the top of rail is stepped back 10'.

**Figure 14.113-1: Building Stepbacks”**



Section 7. Section 14.113.D, Standards for On-Land Development, Size, for the Bridge Vista Overlay Area, is deleted in its entirety and replaced to read as follows:

**“D.    Size.**

**1.       Gross Floor Area**

The gross floor area of on-land development ~~commercial uses~~ in the Bridge Vista Overlay Zone shall be a maximum of 30,000 square feet for each building (See definition of “Gross Floor Area”) except as noted below:

- a.       See Astoria Warehousing Plan District Section 14.127 to 14.129.
- b.       See Port of Astoria West Mooring Basing Plan District Section 14.124 to 14.126.

**2.       Floor Area Ratio.**

Buildings shall have a maximum floor area ratio (FAR) of 0.75 on the lot (0.75 square foot of building area for one square foot of lot area), in order to reduce the mass and scale of the building and to allow for potential view corridors on individual lots.”

Section 8. Section 14.113.E, Standards for On-Land Development, Building Orientation, for the Bridge Vista Overlay Area, is added to read as follows:

**“14.113.E.    Building Orientation.**

Buildings shall have a north-south orientation (i.e. the width of the building parallel to West Marine Drive shall be narrower than the depth of the building) to allow for more unobstructed north-south view corridors between buildings.”

Section 9. Section 14.125, Parking, is Renumbered as 14.122.

Section 10. Sections 14.124 to 14.126, Port of Astoria West Mooring Basin Plan District, is added to read as follows:

14.124. PORT OF ASTORIA WEST MOORING BASIN PLAN DISTRICT.

The property situated approximately between Portway Avenue to the west, Bay Street to the east, the top of bank to the north, and West Marine Drive to the south, shall constitute a subarea within the Bridge Vista Overlay Zone. The purpose of this subarea is to permit adoption of development standards, known as a Plan District, not applicable to other properties in the Bridge Vista Overlay Zone. If approved under the criteria of Section 14.124.A, the Plan District shall be known as the Port of Astoria West Mooring Basin Plan District.

A. Plan District Adoption Criteria.

A Plan District may be established if all the following adoption criteria are met:

1. The area proposed for the Plan District has special characteristics or problems of a natural, economic, historic, public facility, or transitional land use or development nature which are not common to other areas of the Bridge Vista Area. Economic viability of a project alone shall not be deemed as justification for the proposed modifications;
2. Existing base and overlay zone provisions limited to those identified in Section 14.124.D are inadequate to achieve a desired public benefit as identified by the City Council, and/or to address identified needs or problems in the area;
3. The proposed Plan District and regulations result from a Plan documenting the special characteristics or problems of the area and explain how a Plan District will best address relevant issues; and
4. The regulations of the Plan District conform with the Comprehensive Plan and do not prohibit, or limit uses or development allowed by the base zone without clear justification.

B. Review.

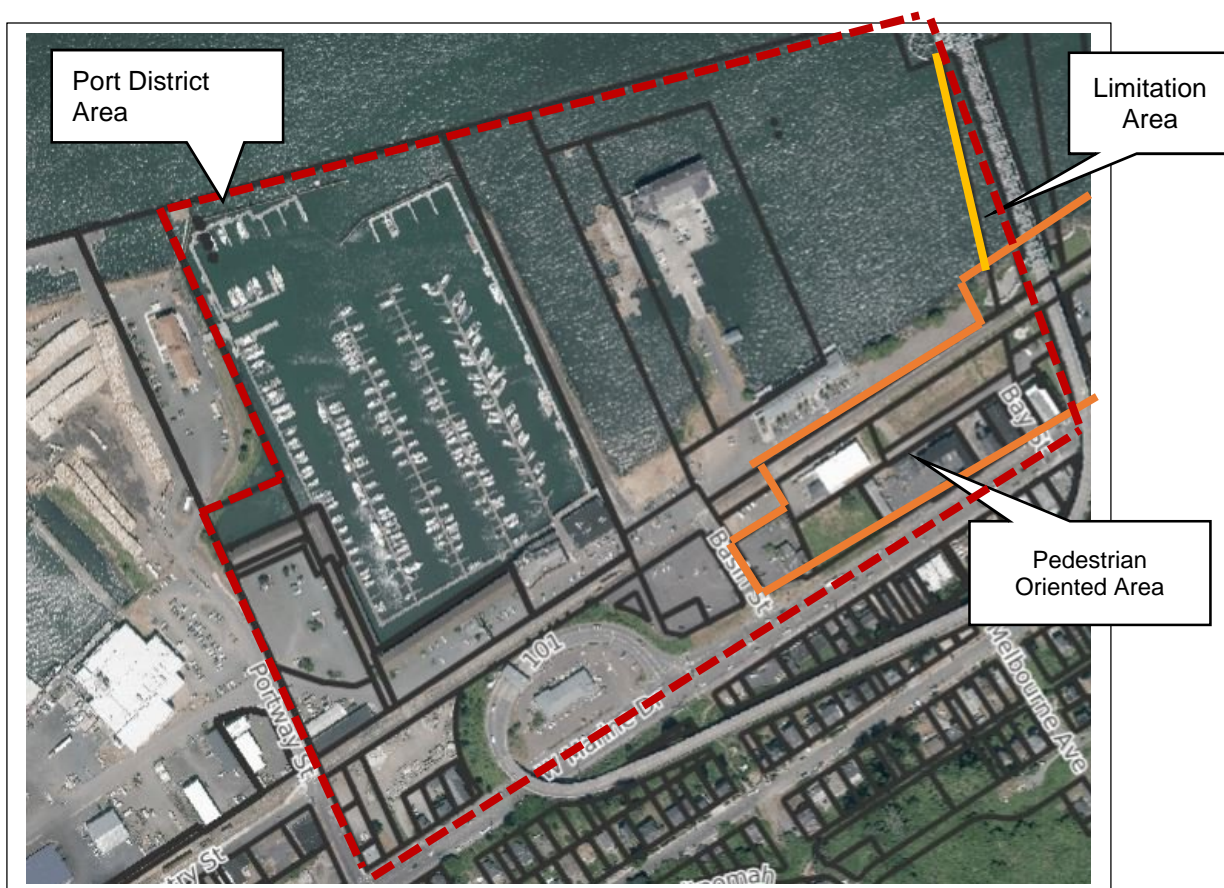
After adoption of Port of Astoria West Mooring Basin Plan District regulations, the Planning Commission shall ~~periodically~~ review the Port of Astoria West Mooring Basin Plan District and its regulations every five years to determine the impacts on development, the usefulness and usability of the regulations, and the public need for any amendments to the regulations.

1. Sunset Clause.

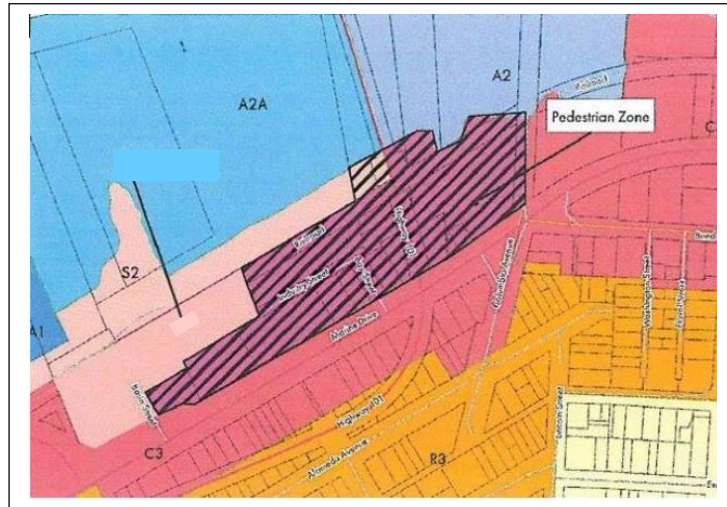
Application to establish the Port of Astoria West Mooring Basin Plan District shall occur no later than January 1, 2025. If an application is not received by that date, the Planning Commission shall re-evaluate the appropriateness and/or need for a Plan District as noted in Sections 14.124 to 14.126. Any changes and/or the elimination of these sections shall be processed as a legislative text amendment in accordance with Development Code Articles 9 and 10.

C. Mapping.

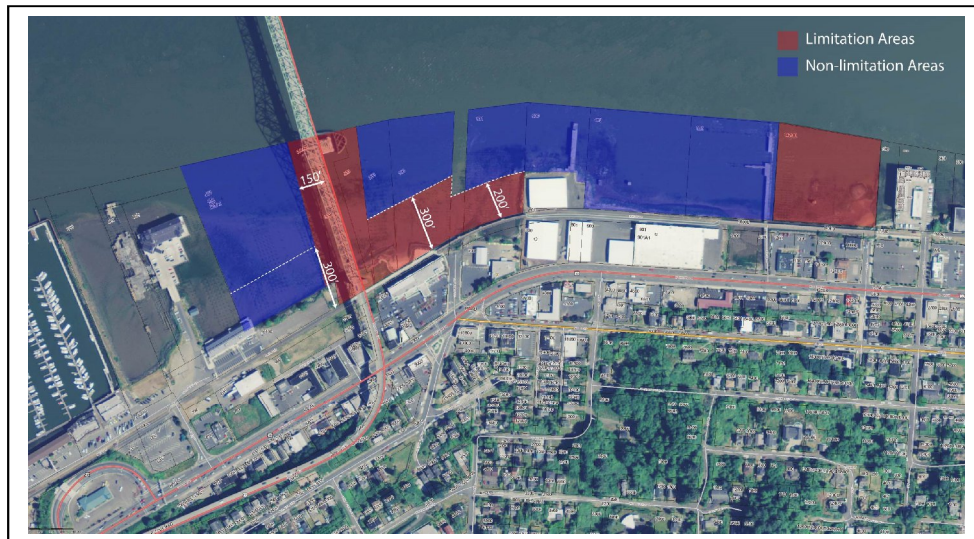
The boundaries of the Port of Astoria West Mooring Basin Plan District are illustrated on a map referenced below and generally are described as the land area north of West Marine Drive between Portway Avenue and Bay Street. The over-water area within the Plan District shall not be subject to changes from the approved Bridge Vista Overlay uses, standards, and/or requirements. The boundaries may be refined as part of the Plan District adoption or amendment.



**Figure 14.090-2, Pedestrian-Oriented District**



**Figure 14.090-1: Limitation Area**



**D. Standards.**

The standards for the on-land area within the Port of Astoria West Mooring Basin Plan District may expressly change and vary from those applicable under the Bridge Vista Overlay Zone and those of the base zone. The over-water area within the Plan District shall not be subject to changes from the approved Bridge Vista Overlay uses, standards, and/or requirements. Such on-land changes may include:

1. Changes to building height limits / stepback areas up to a maximum of 35' high;
2. Setback or view corridor modifications. No reduction in view corridors shall be allowed;

3. Building size and permissible footprint.
4. “Limitation Areas” shall remain as “Limitation Areas” with the existing standards.
5. “Pedestrian Oriented Area” shall remain as “Pedestrian Oriented Area” with the existing standards.

E. Application Procedure.

1. An application to establish the Port of Astoria West Mooring Basin Plan District shall be processed through the following procedures:
  - a. The City or Port of Astoria may apply to establish development regulations that affect one or more properties within the Port of Astoria West Mooring Basin Plan District.
  - b. An application to establish regulations that would govern development within the Port of Astoria West Mooring Basin Plan District is a legislative text amendment processed in accordance with the procedures established in Section 14.124 and in Development Code Articles 9 and 10.
  - c. An application to establish the boundaries of the Port of Astoria West Mooring Basin Plan District Overlay area is a legislative map amendment processed in accordance with the procedures established in Section 14.124 and in Development Code Articles 9 and 10 and may be processed concurrently with applications under subsection E.1.a.
  - d. The application shall include a master plan for the site along with written justification for the need to establish the Plan District and the specific proposed code modifications. Economic viability of a project alone shall not be deemed as justification for the proposed modifications.
2. An application to apply the Port of Astoria West Mooring Basin Plan District regulations to a specific project shall be processed through the following procedures:
  - a. The Port of Astoria shall be the applicant or co-applicant on all applications.
    - b. An application shall be processed as a quasi-judicial permit in accordance with the procedures established with the Plan

District adoption and in accordance with the Development Code as applicable.  
14.125 to 14.126. PORT OF ASTORIA WEST MOORING BASIN PLAN DISTRICT REGULATIONS.

(Reserved for codifying future Plan District regulations.)”

Section 11. Section 14.127 to 14.129, Astoria Warehousing Plan District, are added to read as follows:

“14.127. ASTORIA WAREHOUSING PLAN DISTRICT.

The property situated approximately between Columbia Avenue to the west, 1st Street to the east, the top of bank to the north, and West Marine Drive to the south, shall constitute a subarea within the Bridge Vista Overlay Zone. The purpose of this subarea is to permit adoption of development standards, known as a Plan District, not applicable to other properties in the Bridge Vista Overlay Zone. If approved under the criteria of Section 14.127.A the Plan District shall be known as the Astoria Warehouse Plan District.

A. Plan District Adoption Criteria.

A Plan District may be established if all the following adoption criteria are met:

1. The area proposed for the Plan District has special characteristics or problems of a natural, economic, historic, public facility, or transitional land use or development nature which are not common to other areas of the Bridge Vista Area. Economic viability of a project alone shall not be deemed as justification for the proposed modifications;
2. Existing base and overlay zone provisions limited to those identified in Section 14.127.D are inadequate to achieve a desired public benefit as identified by the City Council, and/or to address identified needs or problems in the area;
3. The proposed Plan District and regulations result from a Plan documenting the special characteristics or problems of the area and explain how a Plan District will best address relevant issues; and
4. The regulations of the Plan District conform with the Comprehensive Plan and do not prohibit, or limit uses or development allowed by the base zone without clear justification.

B. Review.

After adoption of Astoria Warehousing Plan District regulations, the Planning Commission shall ~~periodically~~ review the Astoria Warehousing Plan District and

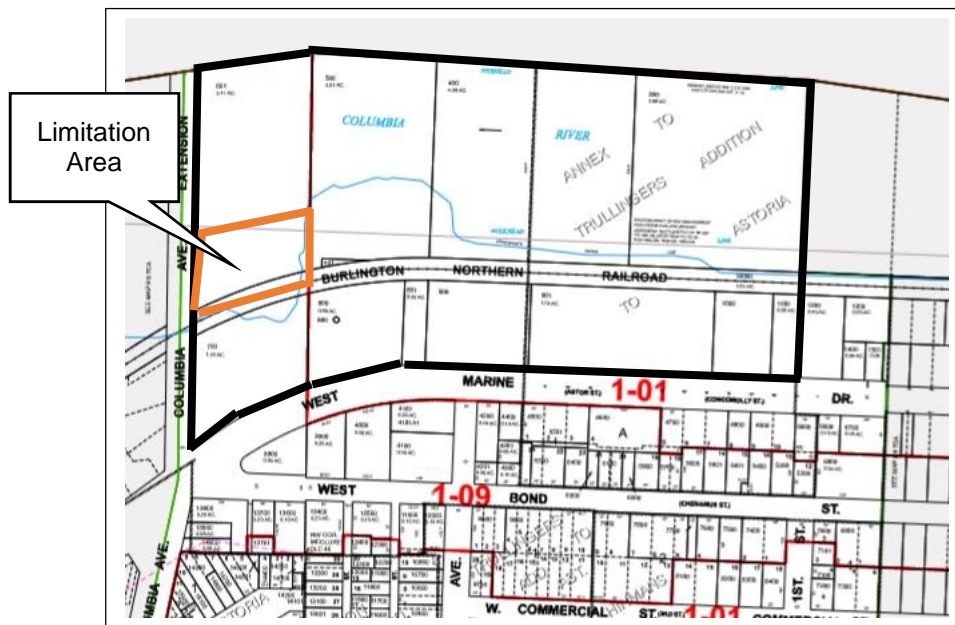
its regulations every five years to determine the impacts on development, the usefulness and usability of the regulations, and the public need for any amendments to the regulations.

1. Sunset Clause.

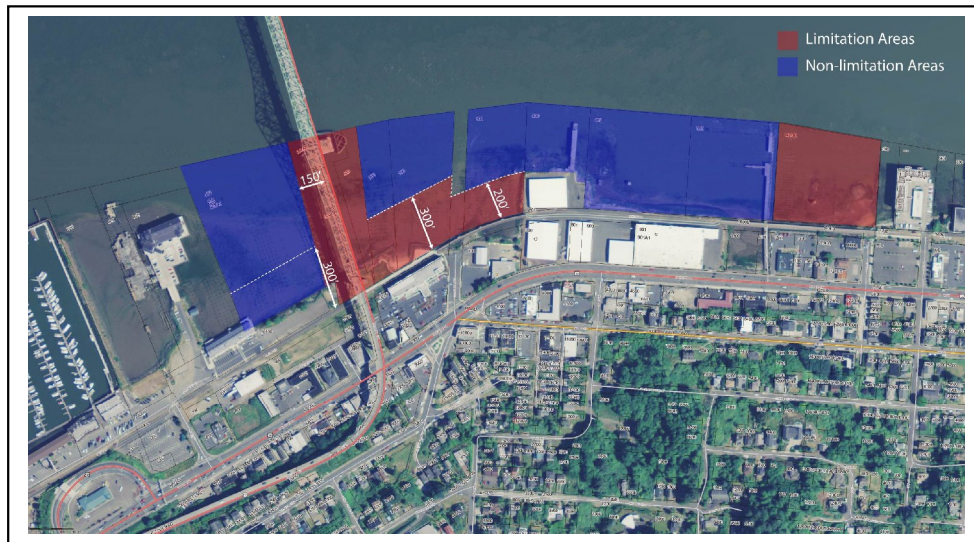
Application to establish the Astoria Warehousing Plan District shall occur no later than January 1, 2025. If an application is not received by that date, the Planning Commission shall re-evaluate the appropriateness and/or need for a Plan District as noted in Sections 14.127 to 14.129. Any changes and/or the elimination of these sections shall be processed as a legislative text amendment in accordance with Development Code Articles 9 and 10.

C. Mapping.

The boundaries of the Astoria Warehousing Plan District are illustrated on a map referenced below and generally are described as the land area north of West Marine Drive between Columbia Avenue and 1st Street. The over-water area within the Plan District shall not be subject to changes from the approved Bridge Vista Overlay uses, standards, and/or requirements. The boundaries may be refined as part of the Plan District adoption or amendment.



**Figure 14.090-1: Limitation Area**



**D. Standards.**

The standards for the on-land area within the Astoria Warehousing Plan District may expressly change and vary from those applicable under the Bridge Vista Overlay Zone and those of the base zone. The over-water area within the Plan District shall not be subject to changes from the approved Bridge Vista Overlay uses, standards, and/or requirements. Such on-land changes may include:

1. Adding uses;
2. Changes to building height limits / stepback areas up to a maximum of 35' high;
3. Setback or view corridor modifications. No reduction in view corridors shall be allowed;
4. Building size and permissible footprint.
5. "Limitation Areas" shall remain as "Limitation Areas" with the existing standards.

**E. Application Procedure.**

1. An application to establish the Astoria Warehousing Plan District shall be processed through the following procedures:
  - a. The City or property owner/owners within the Plan District may apply to establish development regulations that affect one or more properties within the Astoria Warehousing Plan District.

- b. An application to establish regulations that would govern development within the Astoria Warehousing Plan District is a legislative text amendment processed in accordance with the procedures established in Section 14.127 and in Development Code Articles 9 and 10.
  - c. An application to establish the boundaries of the Astoria Warehousing Plan District Overlay area is a legislative map amendment processed in accordance with the procedures established in Section 14.127 and in Development Code Articles 9 and 10 and may be processed concurrently with applications under subsection E.1.a.
  - d. The application shall include a master plan for the site along with written justification for the need to establish the Plan District and the specific proposed code modifications. Economic viability of a project alone shall not be deemed as justification for the proposed modifications.
2. An application to apply the Astoria Warehousing Plan District regulations to a specific project shall be processed through the following procedures:
- a. The property owner shall be the applicant or co-applicant on all applications.
  - b. An application shall be processed as a quasi-judicial permit in accordance with the procedures established with the Plan District adoption and in accordance with the Development Code as applicable.

14.128 to 14.129. ASTORIA WAREHOUSING PLAN DISTRICT REGULATIONS.

(Reserved for codifying future Plan District regulations.)”

Section 12. Section 4.220.A.2, Water-Dependent and Water-Related Use Criteria, Water-Dependent Use, is deleted in its entirety and replaced to read as follows:

“Recreation (active recreation such as swimming, boating and fishing, or passive recreation such as viewing and walking. Passive recreation associated with another use such as a hotel, is classified the same as the associated use, and not classified as a water-dependent use. Active recreation associated with another use such as a hotel may be separately classified as water-dependent but is separate from the primary use and does not change the classification of the primary use.); or”

Section 13. Effective Date. This ordinance and its amendment will be effective 30 days following its adoption and enactment by the City Council.

ADOPTED BY THE COMMON COUNCIL THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2019.

APPROVED BY THE MAYOR THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Brett Estes, City Manager

ROLL CALL ON ADOPTION:                      YEA                      NAY                      ABSENT

Commissioner      Rocka  
                            Brownson  
                            Herman  
                            West

Mayor Jones

AMENDMENT REQUEST A19-01B  
8-29-19

ANNOTATED DRAFT AMENDMENTS

DEVELOPMENT CODE FOR BRIDGE VISTA OVERLAY  
ASTORIA WAREHOUSING PLAN DISTRICT  
PORT WEST MOORING BASIN PLAN DISTRICT

## ASTORIA WAREHOUSING PLAN DISTRICT

Annotated Draft

8-29-19

*(Annotate: The following is language from the East Basin Plan District in CGO that could be applied to the area currently occupied by Astoria Warehousing and NW Natural Gas. This is a large area over five acres and proposed and existing limitation within the BVO could limit redevelopment of this area.)*

### 14.127. ASTORIA WAREHOUSING PLAN DISTRICT.

The property situated approximately between Columbia Avenue to the west, 1st Street to the east, the top of bank to the north, and West Marine Drive to the south, shall constitute a subarea within the Bridge Vista Overlay Zone. The purpose of this subarea is to permit adoption of development standards, known as a Plan District, not applicable to other properties in the Bridge Vista Overlay Zone. If approved under the criteria of Section 14.127.A the Plan District shall be known as the Astoria Warehouse Plan District.

#### A. Plan District Adoption Criteria.

A Plan District may be established if all the following adoption criteria are met:

1. The area proposed for the Plan District has special characteristics or problems of a natural, economic, historic, public facility, or transitional land use or development nature which are not common to other areas of the Bridge Vista Area. Economic viability of a project alone shall not be deemed as justification for the proposed modifications;

*(Annotated: by adding economic viability alone as not justification, it should address the issue of "public" benefit rather than "developer" benefit.)*

2. Existing base and overlay zone provisions limited to those identified in Section 14.127.D are inadequate to achieve a desired public benefit as identified by the City Council, and/or to address identified needs or problems in the area;
3. The proposed Plan District and regulations result from a Plan documenting the special characteristics or problems of the area and explain how a Plan District will best address relevant issues; and
4. The regulations of the Plan District conform with the Comprehensive Plan and do not prohibit, or limit uses or development allowed by the base zone without clear justification.

#### B. Review.

After adoption of Astoria Warehousing Plan District regulations, the Planning Commission shall periodically review the Astoria Warehousing Plan District and its regulations every five years to determine the impacts on development, the usefulness and usability of the regulations, and the public need for any amendments to the regulations.

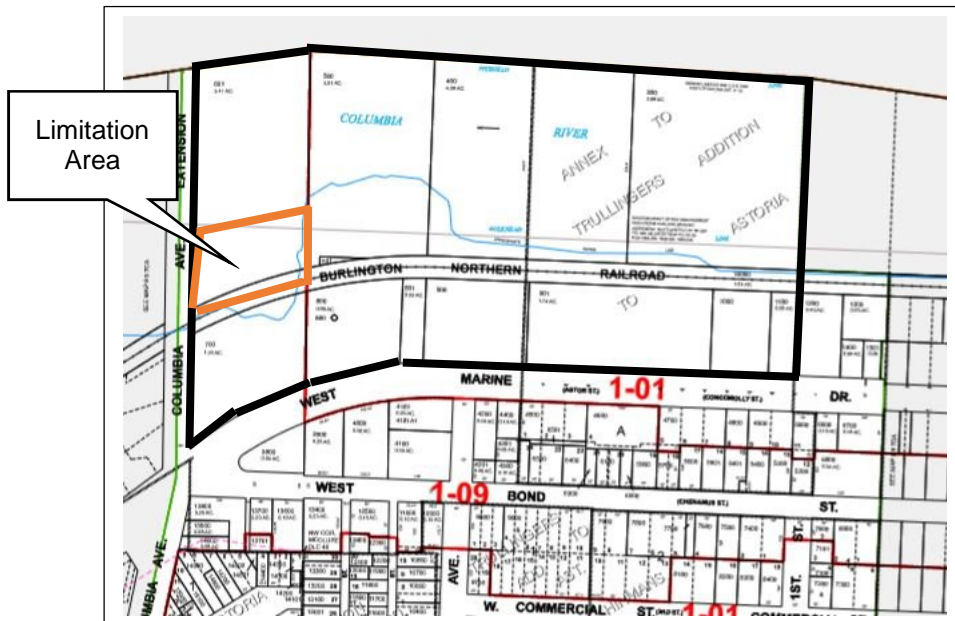
1. Sunset Clause.

Application to establish the Astoria Warehousing Plan District shall occur no later than January 1, 2025. If an application is not received by that date, the Planning Commission shall re-evaluate the appropriateness and/or need for a Plan District as noted in Sections 14.127 to 14.129. Any changes and/or the elimination of these sections shall be processed as a legislative text amendment in accordance with Development Code Articles 9 and 10.

*(Annotated: APC indicated a desire for a sunset clause. The intro paragraph addresses periodic reviews once a Plan District is adopted. Section 1 would be applicable if the District is not adopted by a certain date. Five years was selected as it can take two to three years to identify a need and develop a Master Plan to be reviewed by the City.)*

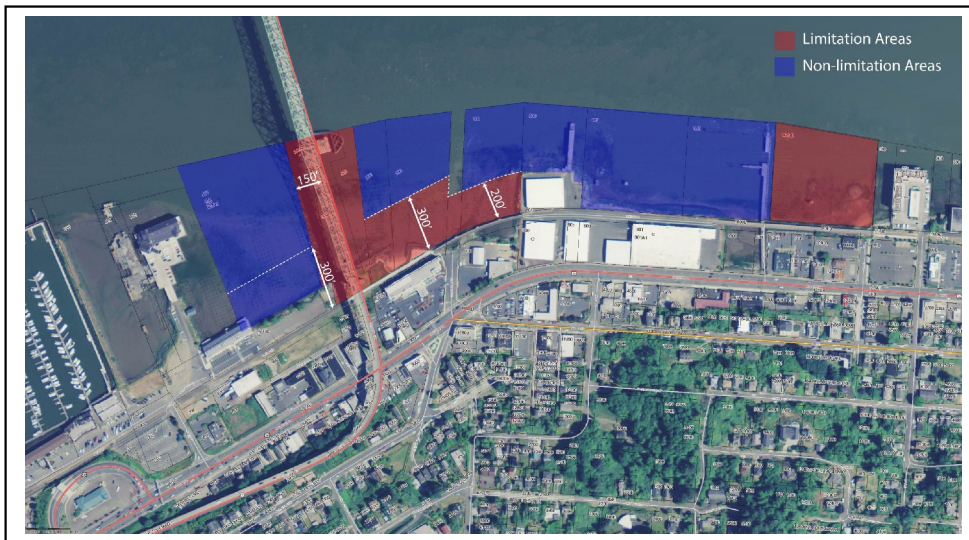
C. Mapping.

The boundaries of the Astoria Warehousing Plan District are illustrated on a map referenced below and generally are described as the land area north of West Marine Drive between Columbia Avenue and 1st Street. The over-water area within the Plan District shall not be subject to changes from the approved Bridge Vista Overlay uses, standards, and/or requirements. The boundaries may be refined as part of the Plan District adoption or amendment.



*(Annotated: The District includes the Astoria Warehousing and NW Natural Gas properties as both of these are large adjacent sites that could be developed as a larger project.)*

**Figure 14.090-1: Limitation Area**



**D. Standards.**

The standards for the on-land area within the Astoria Warehousing Plan District may expressly change and vary from those applicable under the Bridge Vista Overlay Zone and those of the base zone. The over-water area within the Plan District shall not be subject to changes from the approved Bridge Vista Overlay uses, standards, and/or requirements. Such on-land changes may include:

1. Adding uses;
2. Changes to building height limits / stepback areas up to a maximum of 35' high;

*(Annotated: While 35' is the maximum height, the stepback requirement could be reduced to allow a full 35' high building.)*

3. ~~Setback or view corridor~~ modifications. No reduction in view corridors shall be allowed;

*(Annotated: eliminated the view corridor modification to maintain the views of the River as intended by the BVO. Building size and footprint in Section 4 would allow a wider building. The requirement for on-land view corridors as proposed in an earlier draft has been eliminated, but the prohibition to reduce any required view corridors would include the right-of-way corridors and any others proposed in the future.)*

4. Building size and permissible footprint.
5. "Limitation Areas" shall remain as "Limitation Areas" with the existing standards.

*(Annotated: Excluded the "limitation" water area to continue with the intent of the BVO to protect some views in this area and prevent possible intensive over-water development contrary to Riverfront Vision Plan.)*

**E. Application Procedure.**

1. An application to establish the Astoria Warehousing Plan District shall be processed through the following procedures:
  - a. The City or property owner/owners within the Plan District may apply to establish development regulations that affect one or more properties within the Astoria Warehousing Plan District.
  - b. An application to establish regulations that would govern development within the Astoria Warehousing Plan District is a legislative text amendment processed in accordance with the procedures established in Section 14.127 and in Development Code Articles 9 and 10.
  - c. An application to establish the boundaries of the Astoria Warehousing Plan District Overlay area is a legislative map amendment processed in accordance with the procedures established in Section 14.127 and in Development Code Articles 9 and 10 and may be processed concurrently with applications under subsection E.1.a.
  - d. The application shall include a master plan for the site along with written justification for the need to establish the Plan District and the specific proposed code modifications. Economic viability of a project alone shall not be deemed as justification for the proposed modifications.

*(Annotated: added to clarify that the application must be based on a master plan for the area and include written justification, not just a desire to have the exceptions.)*

2. An application to apply the Astoria Warehousing Plan District regulations to a specific project shall be processed through the following procedures:
  - a. The property owner shall be the applicant or co-applicant on all applications.
  - b. An application shall be processed as a quasi-judicial permit in accordance with the procedures established with the Plan District adoption and in accordance with the Development Code as applicable.

14.128 to 14.129. ASTORIA WAREHOUSING PLAN DISTRICT REGULATIONS.

(Reserved for codifying future Plan District regulations.)

PORT OF ASTORIA WEST MOORING BASIN PLAN DISTRICT  
Annotated Draft  
8-29-19

Section 14.125, Parking” is Renumbered as 14.122.

*(Annotate: The following is language from the East Basin Plan District in CGO that could be applied to the area currently occupied by Port of Astoria. This is a large area over five acres and proposed and existing limitation within the BVO could limit redevelopment of this area.)*

14.124. PORT OF ASTORIA WEST MOORING BASIN PLAN DISTRICT.

The property situated approximately between Portway Avenue to the west, Bay Street to the east, the top of bank to the north, and West Marine Drive to the south, shall constitute a subarea within the Bridge Vista Overlay Zone. The purpose of this subarea is to permit adoption of development standards, known as a Plan District, not applicable to other properties in the Bridge Vista Overlay Zone. If approved under the criteria of Section 14.124.A, the Plan District shall be known as the Port of Astoria West Mooring Basin Plan District.

A. Plan District Adoption Criteria.

A Plan District may be established if all the following adoption criteria are met:

1. The area proposed for the Plan District has special characteristics or problems of a natural, economic, historic, public facility, or transitional land use or development nature which are not common to other areas of the Bridge Vista Area. Economic viability of a project alone shall not be deemed as justification for the proposed modifications;

*(Annotated: by adding economic viability alone as not justification, it should address the issue of “public” benefit rather than “developer” benefit.)*

2. Existing base and overlay zone provisions limited to those identified in Section 14.124.D are inadequate to achieve a desired public benefit as identified by the City Council, and/or to address identified needs or problems in the area;
3. The proposed Plan District and regulations result from a Plan documenting the special characteristics or problems of the area and explain how a Plan District will best address relevant issues; and
4. The regulations of the Plan District conform with the Comprehensive Plan and do not prohibit, or limit uses or development allowed by the base zone without clear justification.

B. Review.

After adoption of Port of Astoria West Mooring Basin Plan District regulations, the Planning Commission shall ~~periodically~~ review the Port of Astoria West Mooring Basin Plan District and its regulations every five years to determine the impacts on development, the usefulness and usability of the regulations, and the public need for any amendments to the regulations.

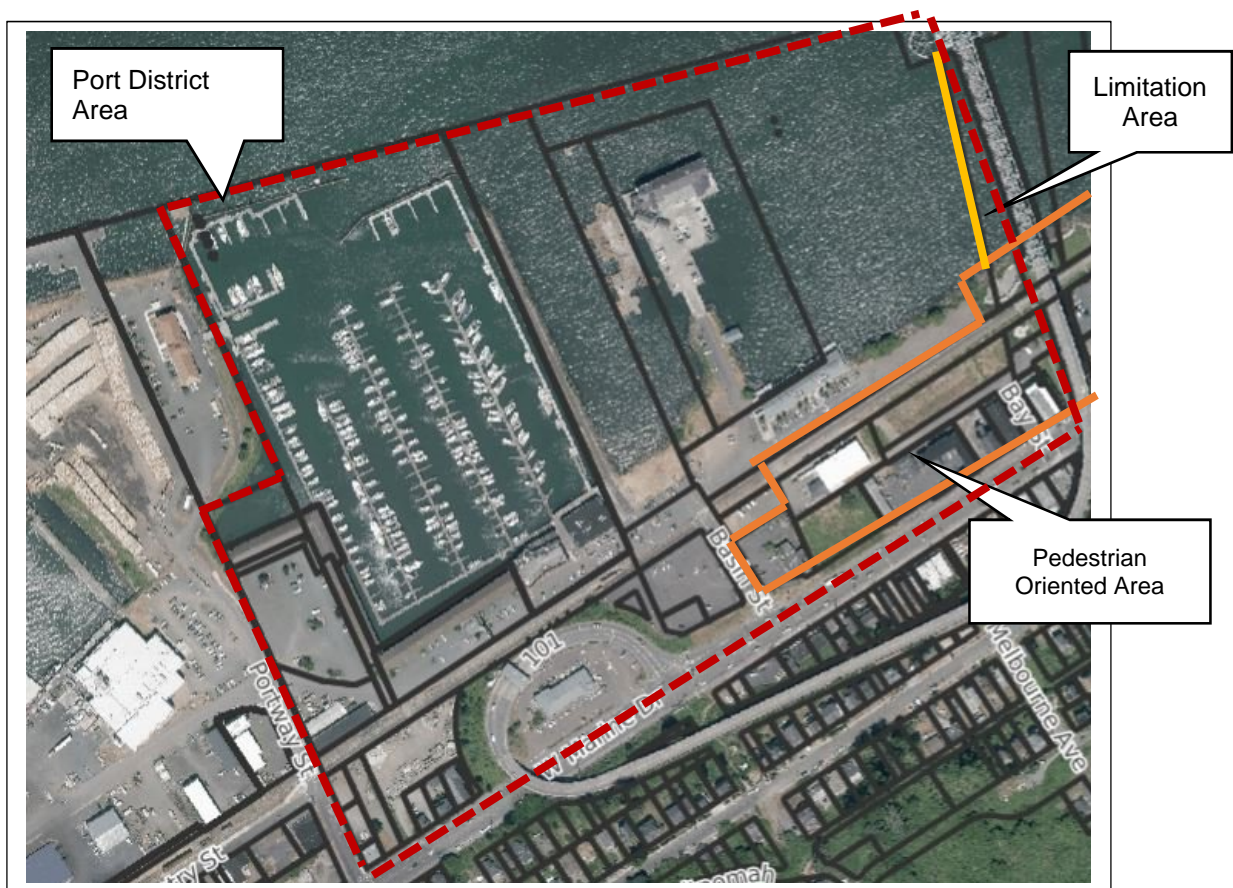
1. Sunset Clause.

Application to establish the Port of Astoria West Mooring Basin Plan District shall occur no later than January 1, 2025. If an application is not received by that date, the Planning Commission shall re-evaluate the appropriateness and/or need for a Plan District as noted in Sections 14.124 to 14.126. Any changes and/or the elimination of these sections shall be processed as a legislative text amendment in accordance with Development Code Articles 9 and 10.

*(Annotated: APC indicated a desire for a sunset clause. The intro paragraph addresses periodic reviews once a Plan District is adopted. Section 1 would be applicable if the District is not adopted by a certain date. Five years was selected as it can take two to three years to identify a need and develop a Master Plan to be reviewed by the City.)*

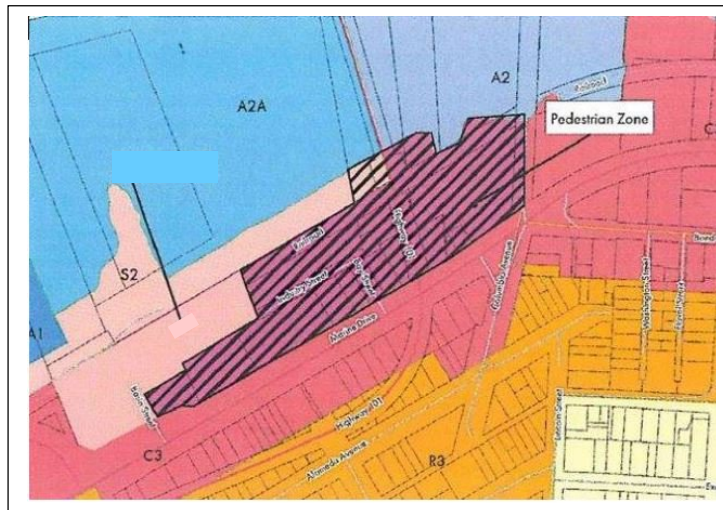
C. Mapping.

The boundaries of the Port of Astoria West Mooring Basin Plan District are illustrated on a map referenced below and generally are described as the land area north of West Marine Drive between Portway Avenue and Bay Street. The over-water area within the Plan District shall not be subject to changes from the approved Bridge Vista Overlay uses, standards, and/or requirements. The boundaries may be refined as part of the Plan District adoption or amendment.

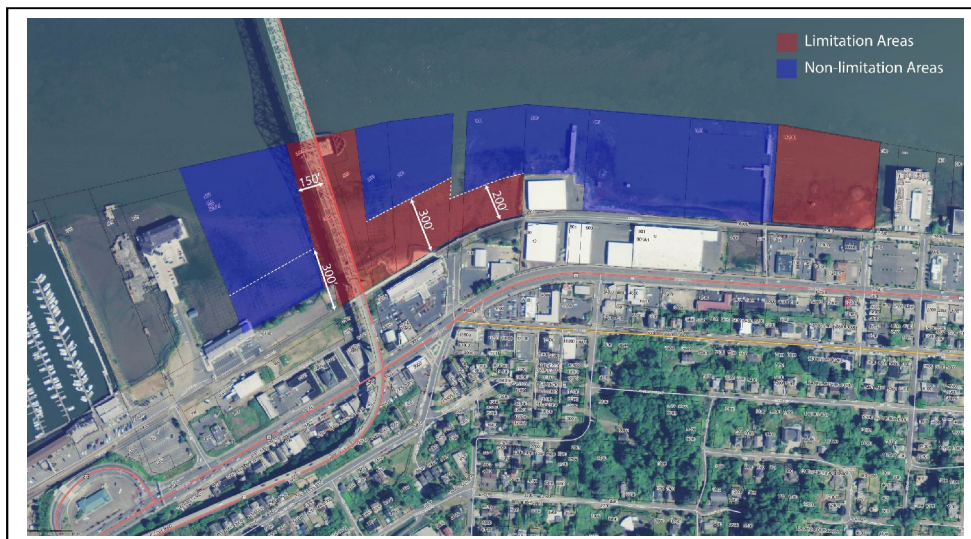


*(Annotated: The District could include the Port of Astoria area near the Maritime Memorial and Riverwalk Inn as well as the ODOT and Ocean Beauty properties these are large adjacent sites that could be developed as a larger project. The project boundary was reduced from what the Port requested as the parcel on the NW corner at Pier 1 is not within the BVO and governed by the base zoning and therefore does not need exceptions to the BVO standards for development.)*

**Figure 14.090-2, Pedestrian-Oriented District**



**Figure 14.090-1: Limitation Area**



**D. Standards.**

The standards for the on-land area within the Port of Astoria West Mooring Basin Plan District may expressly change and vary from those applicable under the Bridge Vista Overlay Zone and those of the base zone. The over-water area within the Plan District shall not be subject to changes from the approved Bridge Vista Overlay uses, standards, and/or requirements. Such on-land changes may include:

1. ~~Adding uses;~~ (BVO already has added uses beyond the base zone)
1. Changes to building height limits / stepback areas up to a maximum of 35' high;

*(Annotated: While 35' is the maximum height, the setback requirement could be reduced to allow a full 35' high building.)*

2. ~~Setback or view corridor~~ modifications. No reduction in view corridors shall be allowed;

*(Annotated: eliminated the view corridor modification to maintain the views of the River as intended by the BVO. Building size and footprint in Section 4 would allow a wider building. The requirement for on-land view corridors as proposed in an earlier draft has been eliminated, but the prohibition to reduce any required view corridors would include the right-of-way corridors and any others proposed in the future.)*

3. Building size and permissible footprint.
4. "Limitation Areas" shall remain as "Limitation Areas" with the existing standards.
5. "Pedestrian Oriented Area" shall remain as "Pedestrian Oriented Area" with the existing standards.

*(Annotated: Excluded the "Limitation Area" water area to continue with the intent of the BVO to protect some views in this area and prevent possible intensive over-water development contrary to Riverfront Vision Plan. Keep the "Pedestrian Oriented Area" designation to keep some limitations based on the original BVO.)*

E. Application Procedure.

1. An application to establish the Port of Astoria West Mooring Basin Plan District shall be processed through the following procedures:
  - a. The City or Port of Astoria may apply to establish development regulations that affect one or more properties within the Port of Astoria West Mooring Basin Plan District.
  - b. An application to establish regulations that would govern development within the Port of Astoria West Mooring Basin Plan District is a legislative text amendment processed in accordance with the procedures established in Section 14.124 and in Development Code Articles 9 and 10.
  - c. An application to establish the boundaries of the Port of Astoria West Mooring Basin Plan District Overlay area is a legislative map amendment processed in accordance with the procedures established in Section 14.124 and in Development Code Articles 9 and 10 and may be processed concurrently with applications under subsection E.1.a.
  - d. The application shall include a master plan for the site along with written justification for the need to establish the Plan District and the specific

proposed code modifications. Economic viability of a project alone shall not be deemed as justification for the proposed modifications.

*(Annotated: added to clarify that the application must be based on a master plan for the area and include written justification, not just a desire to have the exceptions.)*

2. An application to apply the Port of Astoria West Mooring Basin Plan District regulations to a specific project shall be processed through the following procedures:
  - a. The Port of Astoria shall be the applicant or co-applicant on all applications.
  - b. An application shall be processed as a quasi-judicial permit in accordance with the procedures established with the Plan District adoption and in accordance with the Development Code as applicable.

14.125 to 14.126. PORT OF ASTORIA WEST MOORING BASIN PLAN DISTRICT REGULATIONS.

(Reserved for codifying future Plan District regulations.)

AMENDMENT REQUEST A19-01B  
8-29-19

DRAFT SCENARIOS

DEVELOPMENT CODE UPDATES  
(Scenario 1; 35' with 30,000 sqft)  
**Annotated**  
August 29, 2019

**ARTICLE 14 - RIVERFRONT VISION PLAN**  
**PART B - HEIGHT, GROSS SQUARE FOOTAGE, PLAN DISTRICTS**

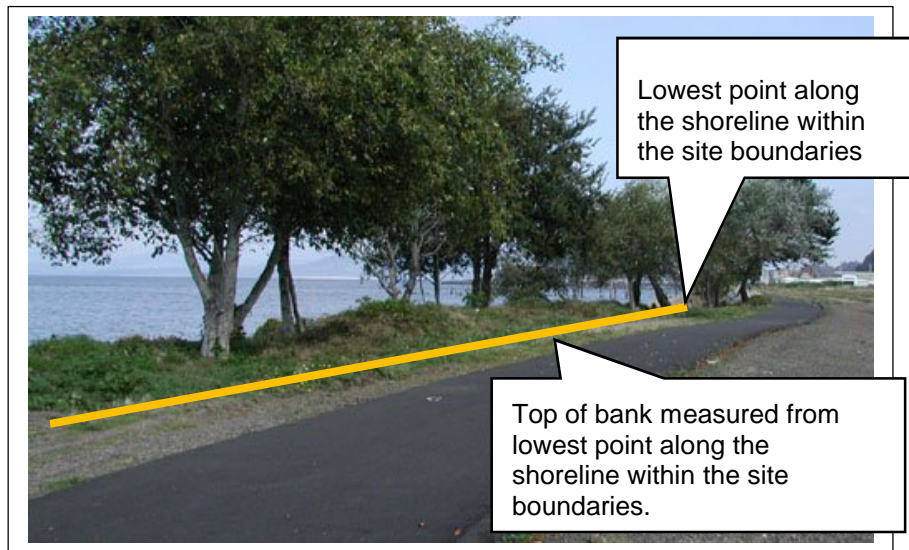
**Legend:**

**Annotated** - staff notes for intent and/or explanation of amendment  
Changes already sent to DLCD Notice  
Changes not sent to DLCD

Section 14.001, Definitions, is added to read as follows:

**HEIGHT, TOP OF BANK:** For over-water / shoreline construction, top of bank shall be measured from the existing lowest point along the top of the shoreline adjacent to the subject property prior to any grading and/or fill. Features such as railings, balustrades, dolphins, bumper pilings, mooring pilings, and water navigational fixtures are exempt from the maximum “top of bank” height restriction as “water-dependent” features.

*(Annotated: this definition was added to clarify that water-dependent features such as pilings were exempt from the top of bank height limitation and to clarify where the top of bank is located. The intent is that it be measured from existing grade and not an altered grade, and that it be from the lowest area at the top of the bank if there is a difference in bank height.)*



**VIEW CORRIDOR:** The unobstructed line of sight of an observer looking toward an object of significance to the community such as the River, historic site, ridgeline, etc. A view corridor shall be free of structural encroachments. Parking within a view corridor is allowed unless otherwise specified in the Code.

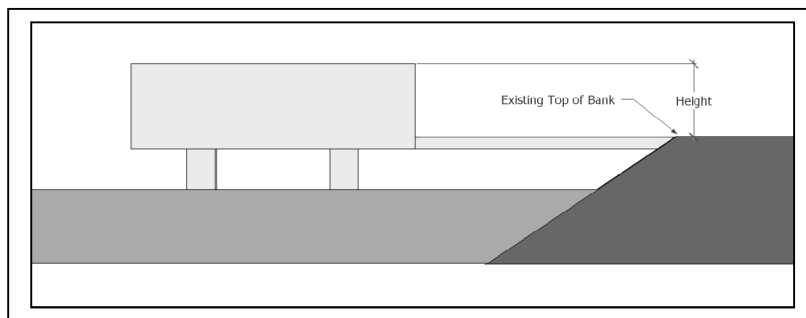
*(Annotated: this definition was added to clarify what a view corridor is intended to be and that the area shall not be obstructed by structures but can allow parking.)*

Section 14.100.C.2, Standards for Overwater Development, Distance from Shore and Height for the Bridge Vista Overlay Area, is deleted in its entirety and replaced to read as follows:

2. Structures ~~Outside~~ Within Overwater Development Non-Limitation Areas (Figure -14.090-1). The maximum height shall be ~~35 feet from~~ the top of the existing adjacent riverbank. No variance may be granted for an exception to this height limitation except as follows:
  - a. Water-dependent uses over water may construct water-dependent facilities up to 35' without a variance. The added feature of a structure is subject to all other design and/or location standards of the Code.

*(Annotated: Reference to “non-limitation” areas is to be consistent with the Code maps identifying areas for development versus “limitation areas” where development is limited to top of bank height. The APC determined that overwater development in this area should be limited to top of bank except for water-dependent uses which would have historically been in this area. They did not want to extend this exception to water-related uses. This allows water uses to have additional height rather than other commercial development that does not require water location.)*

**Figure 14.100-2: Maximum Building Height ~~Outside of~~ Within Overwater Development Non-Limitation Areas**



Section 14.100.D.2, Standards for Overwater Development, Building Size, for the Bridge Vista Overlay Area, is deleted in its entirety and replaced to read as follows:

2. Structures ~~outside of~~ within the overwater development Non-Limitation Areas (Figure 14.090-1). There shall be no maximum gross floor area for buildings located in these areas.

*(Annotated: Buildings over water are limited by percentage of width in 14.100.E)*

Section 14.113.A, Standards for On-Land Development, Height, for the Bridge Vista Overlay Area, is deleted in its entirety and replaced to read as follows:

**“14.113. STANDARDS FOR ON-LAND DEVELOPMENT.**

The following development standards apply to on-land development in the Bridge Vista Overlay Zone south of the River Trail. The Overwater Development standards shall apply to on-land development north of the River Trail.

A. Height.

1. Maximum building height is 35 feet except as noted in subsection (2) of this section. No variance may be granted for an exception to this height limitation.

2. Building height up to 45 35 feet, is permitted when building stories above 24 15 feet or one story are stepped back at least 10 feet in accordance with Section 14.113.C and in accordance with Article 12 for Variances.

*(Annotated: The APC has indicated a possible desire to limit all buildings to 35' height and not allow variances and not require setbacks but with some view corridor between buildings. The issue of building mass will be addressed in a future amendment.)*

*(Annotated: The APC discussed the issue of needed affordable housing. APC determined that exceptions for affordable needed housing would not be included in this area due to the concern with encouraging housing in a tsunami zone.)*

Section 14.113.C, Standards for On-Land Development, Setbacks, for the Bridge Vista Overlay Area, is deleted in its entirety and replaced to read as follows:

C. Setbacks.

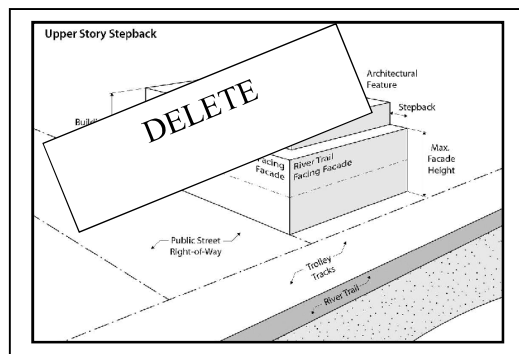
1. Purpose.

The purpose of a setback is to allow for less obstructed views from above the building and to create a less imposing building scale as viewed from the street or parallel/adjacent trail. A setback is also designed to allow more light down to the adjacent or fronting street, sidewalk, or trail.

2. ~~Additional Building Height.~~

~~Where the height of a building or building addition is proposed to exceed 24 feet, at least that portion of the building exceeding 24 feet, shall provide a setback of at least 10 feet from the front plane of the proposed building or building addition that faces the street or the River Trail.~~

**Figure 14.113-1: Building Setbacks**

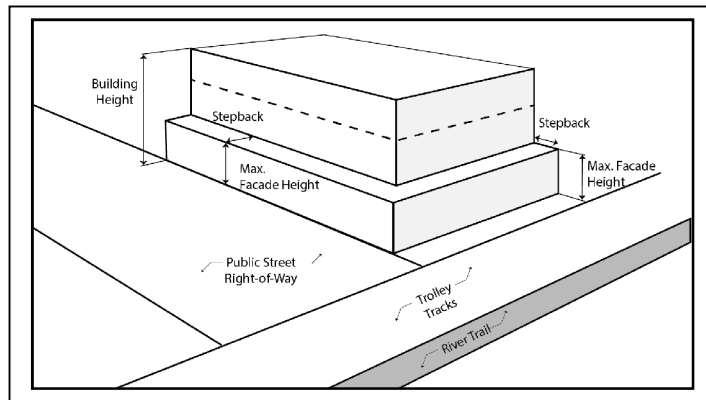


2. Additional Building Height.

Where the height of a building or building addition is proposed to exceed 15 feet, at least that portion of the building exceeding 15 feet or one story, whichever is less, shall provide a stepback of at least 10 feet from the front plane of the proposed building or building addition that faces the right-of-way street and/or the River Trail.

- a. Balconies and fixed awnings shall not encroach into the required 10-foot stepback area; buildings must be stepped back further in order to accommodate balconies and/or fixed awnings.
- b. Balcony railings constructed to a maximum height of 15' are not encroachments when the building facade above the top of rail is stepped back 10'.

**Figure 14.113-1: Building Stepbacks**



*(Annotated: APC first considered to limit building height to 28' with no variances and therefore stepback requirements would not be necessary. With the increase to 35', stepbacks may be appropriate and the stepback language was proposed to be consistent with the language proposed for the Urban Core Area.)*

Section 14.113.D, Standards for On-Land Development, Size, for the Bridge Vista Overlay Area, is deleted in its entirety and replaced to read as follows:

**"D. Size.**

**1. Gross Floor Area**

The gross floor area of on-land development ~~commercial uses~~ in the Bridge Vista Overlay Zone shall be a maximum of 30,000 square feet for each building ~~for all buildings which are part of a single development regardless of tax lot lines and/or phased construction~~ (See definition of "Gross Floor Area") except as noted below:

- a. See Astoria Warehousing Plan District Section 14.127 to 14.129.

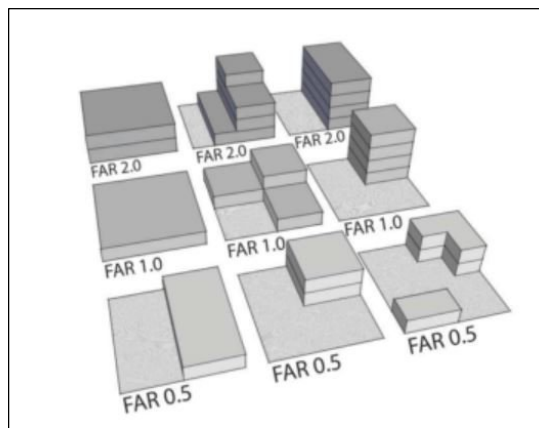
- b. See Port of Astoria West Mooring Basing Plan District Section 14.124 to 14.126.

2. Floor Area Ratio.

Buildings shall have a maximum floor area ratio (FAR) of 0.75 on the lot (0.75 square foot of building area for one square foot of lot area), in order to reduce the mass and scale of the building and to allow for potential view corridors on individual lots."

*(Annotated: The APC agreed to delay additional discussion and/or changes to the size and mass of buildings, potential limitations on uses to a future code amendment, and limit the height of buildings to 35' for now while retaining the existing 30,000 sqft gross floor area limit for all buildings on a site. With the increase to 35' and the addition of a view corridor, the 30,000 square foot limitation would be for individual buildings. They also agreed to add the two plan districts. The proposed amendment on gross floor area would be different than language in the other overlay zones which limits the size for all buildings on the site. The FAR would further limit the amount of a lot that can be covered with buildings especially on the smaller lots that do not have view corridor requirements. A diagram of FAR examples is included. A FAR of 1.0 means that the developer is allowed to build the equivalent of a one-story building over the entire lot, or a 2-story over half the lot. A FAR of 2.0 means the developer is allowed to build the equivalent of a two-story building over her entire lot, or a 4-story over half the lot. The proposed 0.75 FAR would mean that 75% of the lot could have a one-story building and only about 37.5% of the lot could have a two-story building. Each number increase up to a 1.0 FAR would increase the building footprint and reduce the open area/view corridor such as a 0.8 FAR would allow a one-story building on 80% of the lot.*

*The APC determined that the FAR should apply to the entire BVO area including the Pedestrian-Oriented Area.)*



Section 14.113.E, Standards for On-Land Development, Building Orientation, for the Bridge Vista Overlay Area, is added to read as follows:

14.113.E. Building Orientation.

Buildings shall have a north-south orientation (i.e. the width of the building parallel to West Marine Drive shall be narrower than the depth of the building) to allow for more unobstructed north-south view corridors between buildings.

*(Annotated: this was added to address the concern that even with the FAR, that a building could be constructed the full width of the lot.)*

Section 14.113.B.3, Standards for On-land Development, Setbacks, is added to read as follows:

- “3. There shall be a minimum 60-foot-wide, north-south orientation, unobstructed view corridor separation between individual buildings on the same lot, except within the Pedestrian-Oriented Overlay Zone. No structures or portions of structures shall encroach into the view corridor. Vehicle parking may be allowed in a view corridor area.”

*(Annotated: The APC noted that with the lot configuration and existing development within the BVO, that actual view corridors cannot be achieved except at rights-of-way. This 60' wide separation is intended to prevent larger buildings from developing with a large wall of buildings and no separation. This concept would allow some redevelopment of the Astoria Warehousing and Port Plan Districts without the need for the Plan District overlays until a master plan can be adopted. The Pedestrian-Oriented Overlay Zone is intended for more compact development conducive to pedestrian traffic.)*

Section 4.220.A.2, Water-Dependent and Water-Related Use Criteria, Water-Dependent Use, is deleted in its entirety and replaced to read as follows:

“Recreation (active recreation such as swimming, boating and fishing, or passive recreation such as viewing and walking. Passive recreation associated with another use such as a hotel, is classified the same as the associated use, and not classified as a water-dependent use. Active recreation associated with another use such as a hotel may be separately classified as water-dependent but is separate from the primary use and does not change the classification of the primary use.); or”

*(Annotated: There was concern that “water-dependent” use for recreation such as viewing and walking could be misinterpreted to include that a hotel was water-dependent if it had a view/walk area on the River or that the hotel provided the passive recreation by its location on the River. This language would clarify that only the all “water-dependent” recreation is included.)*

# DEVELOPMENT CODE UPDATES

## Scenario Comparisons

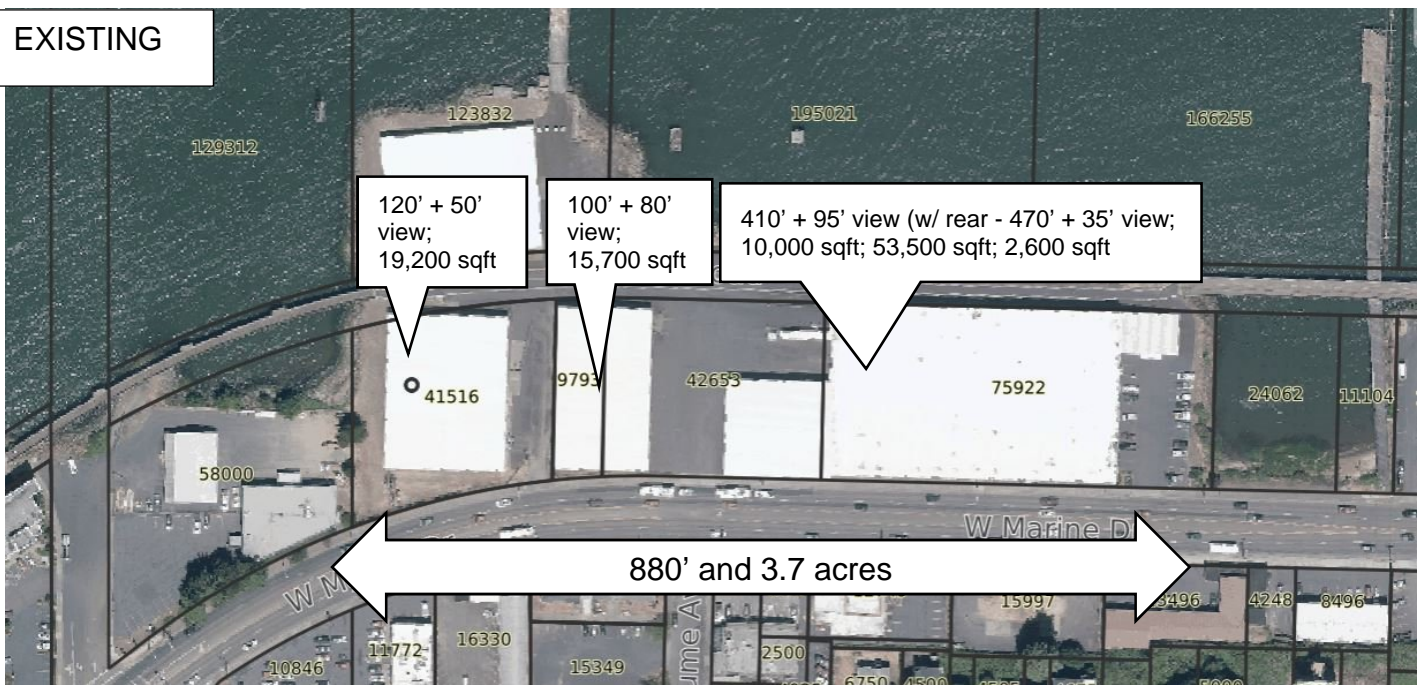
Annotated

August 25, 2019

The following chart shows the comparison of the three scenarios of different options for development. The attached graphic shows an idea of how development in each of these scenarios could occur.

	Scenario 1	Scenario 2	Scenario 3
<b>Bldg height max</b>	35'	28'	28'
<b>Bldg height exception</b>	none	none	35' with public access/ view corridor
<b>Stepback for above 15'</b>	yes	none	yes
<b>Max square footage</b>	30,000 / bldg	20,000 / site	20,000 / site
<b>Max sqft exception</b>	none	none	Over one-acre site: 20,000 / acre with 30,000 sqft max per bldg
<b>FAR</b>	0.75	0.5	0.5
<b>View Corridor</b>	60' between bldgs on same site	60' between bldgs on same site	60' between bldgs on same site

## EXISTING



Scenario 1: (Astoria Warehouse land south of River Trail; 185' x 880')

3.7 acres (161,172 square feet)

30,000 sqft per bldg. = two at 30,000 sqft each, one at 20,586 sqft = 80,586 sqft

60' view corridors - two+

FAR 0.5 = 80,586 sqft

With three one-story high buildings = approximately 430' of view corridor

Scenario 2:

161,172 square feet lot

20,000 sqft bldg maximum per site

FAR 0.5 = 80,586 sqft maximum (limited by max sqft per site)

With one-story high building = approximately 760' of view corridor

### Scenario 3:

3.7 acres (161,172 square feet)

20,000 sqft per acre = 74,000 sqft

30,000 sqft per bldg. = one at 30,000 sqft, two at 22,000 sqft each

60' view corridors - two

FAR 0.5 = 80,586 sqft (so per acre applies)

With three one-story high buildings = approximately 400' of view corridor



### Scenario 1: (Port parcel on Bay Street; 80' x 360')

29,590 square feet lot

30,000 sqft per bldg maximum

FAR 0.75 = 22,190 sqft maximum

With two-story high building = approximately 75' of view corridor

### Scenario 2 & 3: (Port parcel on Bay Street; 80' x 360')

29,590 square feet lot (less than one acre so no additional sqft or height)

20,000 sqft bldg maximum

FAR 0.5 = 14,795 sqft maximum

With two-story high building = approximately 170' of view corridor