

CITY OF CLATSKANIE

Regular Meeting Agenda of the Clatskanie City Council Clatskanie Council Chambers May 7nd, 2025 @ 7:00 p.m.

1. Call meeting to order
2. Pledge of Allegiance
3. Public Comment
4. Consent Agenda:
Regular meeting minutes April 2nd, 2025
Action:
5. *Agenda Item 2025-12; Presentation by Sheriff Pixley.*
6. *Agenda Item 2025-13; Presentation by Jean Sampson.*
7. *Public Hearing: Agenda Item 2025-14; Second Reading of Ordinance 709- Rezone of property on 40 Bryant from Commercial (C-1) to Residential (R-5) which amends the City's Comprehensive Plan Map.*
Discussion:
8. *Public Hearing: Agenda item 2025-15; Second Reading of Ordinance 710- Rezone of property on 50 Bryant from Commercial (C-1) to Residential (R-5) which amends the City's Comprehensive Plan Map.*
Discussion:
9. *Public Hearing: Agenda item 2025-16; Second Reading of Ordinance 711- Clarifying Building Code Provisions.*
Discussion:
10. *Public Hearing: Agenda Item 2025-17; First Reading of Ordinance 712, Revised "Time, Place and Manner" Ordinance.*
Discussion:
11. Manager Items:
12. Finance Manager Items:
13. Public Works Items:
14. Parks & Recreation:
15. Sheriff and Code Compliance items:

16. Council Items:

17. Mayor Items:

18. Adjourn

CITY OF CLATSKANIE

Regular Minutes of the Clatskanie City Council
City Council Chambers, April 2nd, 2025 @ 7:00 PM

Present: Mayor Robert Brajcich, Russell Finney-Leggroan, Bob Emminger, Bruce Jolma, Jeff Horness, Amanda Owen, Heidi White

Staff Present: Greg Hinkelman, City Manager, Elisha Shulda, City Recorder/ Finance Manager, Dave True, Interim Public Works Director, Kelsey Seibel, City Attorney

1. Mayor Brajcich called the meeting to order at 7:00 PM and then lead the Pledge of Allegiance.

2. Public Comment:

Mayor called for public comment. There was none.

4. Consent Agenda:

Regular meeting minutes March 5th, 2025.

Action:

Mayor asked if there were any corrections or additions to the minutes. **Horness** made a motion to accept the minutes as written. **Emminger** seconded. There was no discussion. **Mayor** called for a vote. The motion passed unanimously, no nay votes. **Emminger**, aye; **Jolma**, aye; **Horness**, Aye; **Finney-Leggroan**, aye, **Owen**, aye, **White**, aye.

5. Agenda Item 2025-07; Resolution 2025-03; A Resolution to Approve contract award to Tapani, Inc for Wastewater Treatment Plant Project.

Discussion/Action:

Hinkelman gave an overview. He stated that we received two bids and Tapani, Inc came in with the low bid. **Hinkelman** recommended that council award the contract to Tapani, Inc. **Mayor** recognized councilors. **Jolma** asked if they were the lowest bid by 2 million. **Hinkelman** confirmed. **Emminger** asked if it was likely to go down when we get the \$40,000. **Hinkelman** stated that was a different issue. **Jolma** made a motion to approve Agenda Item 2025-07, Resolution 2025-03. **Owen** seconded. **Mayor** called for discussion. There was none. **Mayor** called for a vote. The motion passed unanimously, no nay votes. Russell **Finney-Leggroan**, aye; Bob **Emminger**, aye; Bruce **Jolma**, aye, Jeff **Horness**, aye, Amanda **Owen**, aye, Heidi **White**, aye.

6. Public Hearing: Agenda Item 2025-08; First Reading of Ordinance 709-Rezone of property on 40 Brayant from Commercial (C-1) to Residential (R-5) which amends the City's Comprehensive Plan Map

Discussion/Action:

Mayor opened the public hearing and recognized **Hinkelman**. He said he would address this and the next agenda item at the same time. **Hinkelman** gave details on the zone change and said it was a house cleaning issue that had been zoned one way, but records show another way. **Hinkelman** said that in

consultation with DLCD and the property owners, it was determined that the best and clearest way to make sure the property is zoned correctly is to go through the formal process. He stated that the zone changes had gone before the planning commission and that they voted unanimously to recommend to City Council that both properties be zoned residential. **Hinkelman** gave detail. **Owen** asked if we were voting this time. **Hinkelman** answered no. **Finney-Leggroan** asked when the partition occurred in 2018 if it was reflected in the city council minutes. **Hinkelman** answered that it would be in the planning commission minutes and explained that this is the cleanest way to clear up the issue. **Mayor** asked for public comment. Larry **Reandeau** asked if there would be an adjustment on property taxes. **Hinkelman** answered that there would be changes. **Mayor** asked for council comment. There was none. The item was suspended until the second reading in the next meeting.

7. Public Hearing: Agenda Item 2025-09; First Reading of Ordinance 710-Rezone of property on 5 Bryant from Commercial (C-1) to Residential (R-5) which amends the City's Comprehensive Plan Map
Discussion/Action:

Mayor opened the public hearing. **Mayor** asked for public comment. There was none. **Mayor** asked for council comment. **Jolma** made a comment about it being a complete rewrite. The item was suspended until the second reading in the next meeting.

8. Public Hearing: Agenda item 2025-10; First reading of Ordinance 711- Clarifying Building Code Provisions.

Discussion/Action:

Mayor opened the public hearing. **Hinkelman** gave an overview of the ordinance. He noted that this ordinance would allow building code officials to enter property if there was suspicion of building activity that didn't have a permit. This ordinance puts into place due process and establishes the ability to issue demolition permits. **Hinkelman** stated it's a major upgrade and addition to our title nine zip code. **Mayor** asked for public comment. Larry **Reandeau** asked how far back this would go. **Hinkelman** answered that it will go with current regulations. **Finney-Leggroan** asked how they will be enforced. **Hinkelman** said that the initial investigation will be done by our building code inspector, and they will report back to him for oversight. **Mayor** asked for council comment. There was none. The item was suspended until the second reading in the next meeting.

9. Agenda Item 2025-11; presentation the FY 2025-2026 CIP projects

Discussion:

Hinkelman recognized **True**. **True** stated that the first job, CIP 147, is cleaning the city's two reservoirs, this is on a five year schedule. He explained the process. He said the next two CIP jobs, 148 & 149, are an upgrade to our two main lift stations, Main and 1A. The fourth job is a pump for the slough at the sewer plant. He said it's our responsibility to maintain it. He noted that the next job is to refurbish the sewer line across Highway 30 and Bryant. CIP job 152, is replacing the roof at the water treatment plant. The last job is replacing the water line between NE 5th Street and NE 7th Street. He stated that the total of CIP jobs will be \$205,000. **True** said that we would have to carry over current budget minus expenses accrued this year, for Conestoga as Lee Engineer is scheduled to start July 2025.

10. Manager Items:

Mayor recognized **Hinkelman**. **Hinkelman** reminded council that next month we will have our regular council meeting and then the next week, will have budget committee meeting. He reminded the council that in May there will be ethics training in town at the library. He stated that the training needs to be done once a term. **Hinkelman** said that he spent last Friday with councilman **Emminger** and councilman **Horness** in Astoria to testify for the joint committee on Ways and Means, to get funding for the Wastewater Treatment Plant. He gave details. He stated that councilman **Emminger** also testified. **Hinkelman** discussed the sewer spill. He said he is very optimistic; he has three very good candidates for the Public Works Director job. He noted **Emminger** volunteered to sit on the interviews. **Larry Reandeau** asked **Hinkelman** if he has the city crew on the interview. **Hinkelman** answered yes, Cal will be at the interview.

9. Finance Manager Items:

Mayor recognized **Shulda**. She brought up the accounts payable report for March. She noted highlighted payments. She noted a reimbursement payment to Robert Horness for repairs at Scout Lake. She noted payments to the building department, Clatskanie Park & Rec, Hamer Electric, and MIG. **Horness** asked if the building code was annual. **Shulda** answered. **Jolma** asked what MIG was. **Hinkelman** explained. She asked for more questions. There were none. **Shulda** noted that we got our reimbursement from Tetra Tech for overpayments, however it won't be reflected until the April budget status report as we didn't receive the money until April 1, 2025.

10. Public Works Director Items:

Mayor recognized **True**. True noted that the crew has finished the new sewer on Norman Street and are now waiting for the customers contractor. He stated it's a meter read month. He gave an update on the Tetra Tech letter and oversight. He said they fixed the streetlight on Geraldine but are waiting on the electrician. They will have them fix it when they come to town for something else.

10. Park and Recreation: Cyndi **Warren** said that Anderson came out to do repairs and will come back out to get the pool ready. The hope is to get the pool ready in time for the Elementary students to use. **Warren** noted some flooding in the park. She stated the Egg Hunt is coming up and is hoping that the park dries out. She asked for questions. There were none.

12. Sheriff and Code Compliance Items: Lieutenant **McQuiddy** noted we have a new day shift officer, Kyle Johnson. He noted Officer Johnson has been hitting the traffic a little harder while staying up on the schools. He went over the calls for the month of March. Lieutenant **McQuiddy** noted the Sheriff will be at the next meeting. He asked for questions. **Jolma** asked if the dog issue was something of substance. Lieutenant **McQuiddy** answered. **Jolma** commented that they are doing a good job on Highway 30 going out of town, slowing down traffic. Discussion occurred. **Mayor** recognized **Simmons**. He gave an update on a car that had been tagged. He noted he called for a couple more cars to be tagged on NE 5th Street.

13. Council Items:

Mayor asked for counselor items. **Jolma** asked if May's meeting was the second Wednesday. **Hinkelman** answered that May's meeting is the first Wednesday and June's meeting is the second Wednesday. **White**

no comment. **Owen** no comment. **Finney-Leggroan** asked when the ethics training was. **Hinkelman** answered May 2nd and that he should have an email. **Horness** had no comment. **Emminger** said the Ways and Means committee meeting was a hoot. He gave detail.

14. Mayor items:

Mayor stated he had been to high school baseball and softball games. He noted that both teams are pretty good and said there is a record number of kids out for track. He encouraged people to go watch them.

14. Adjourned: 7:46 p.m.

**City of Clatskanie
Ordinance 709**

An Ordinance of the City of Clatskanie to Rezone Certain Property

From C-1 (Commercial) to R-5 (Residential, 5,000 sq. ft.) and Amends the Comprehensive Plan Map

THE CITY OF CLATSKANIE:

FINDS, ADOPTS AND DETERMINES as follows:

1. Finds that the property owner, Janet J Berg Revocable Living Trust, petitioned the City for a zone change from C-1 (Commercial.) to R-5 (Residential, 5,000 sq. ft.) for tax account 7408-CA-01702, located on 40 SW Bryant ST ("subject property").
2. Exhibit "A" describes the portion of the tax lot to be zoned R-5.
3. Adopts the findings of the Planning Staff report file 2025-02
4. Adopts the recommendation of the Planning Commission dated February 26th, 2025.
5. Determines this zone change would be consistent and compatible with the current and projected land use for the subject property.

THE CITY OF CLATSKANIE ORDAINS AS FOLLOWS:

1. The subject property, located at 40 SW Bryant Street., tax account 7408-CA-01702, is rezoned from C-1 (Commercial) to R-5 (Residential, 5,000 sq. ft.).
2. The Comprehensive Plan designation for the subject property is changed from Residential, 10,000 sq ft. (R-10) to Residential, 5,000 sq. ft. (R-5) and Multi-Family Residential (MFR).

Passed by the Council of the City of Clatskanie this 7th day of May, 2025.

Attest: _____
Bob Brajcich, Mayor

Elisha Shulda, City Recorder

1st Reading: April 2, 2025

2nd Reading: May 7, 2025

<u>ROLL CALL ADOPTION</u>	<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>	<u>ABSTAIN</u>
Mayor: Robert Brajcich	[]	[]	[]	[]
Councilor: Amanda Owen	[]	[]	[]	[]
Bob Emminger	[]	[]	[]	[]
Jeff Horness	[]	[]	[]	[]
Bruce Jolma	[]	[]	[]	[]
Russel Finney-Leggroan	[]	[]	[]	[]
Heidi White	[]	[]	[]	[]

Exhibit A

Google Satellite View



— Approximate Property Line

Columbia County Assessor's Map





STAFF REPORT

To: Clatskanie Planning Commission
From: Keegan Gulick, City Planner
Date: February 25, 2025
Subject: Zone Change from Commercial (C-1) to Residential (R-5). (File: 2025-02)

Background

REQUEST: The applicant is requesting to rezone the property at 40 SW Bryant Street from C-1 to R-5

APPLICATION TYPE: Zone Change

APPLICANT: Janet Berg LLC

OWNER: Same

ADDRESS: 40 SW Bryant Street
Clatskanie, OR 97016

TAX LOT: 7408-CA-01702

ZONING: Commercial (C-1)

**PROPOSED
ZONING:** Residential (R-5)

**PUBLIC
HEARING:** February 26, 2025

EXHIBITS:

- Exhibit A Application Form and Site Plan
- Exhibit B Hearing Notice

Summary

The applicant is requesting a zone change from the Commercial (C-1) zone to the Residential (R-5) zone. The property is currently vacant. A zone change from C-1 to R-5 would allow the property to be developed with a new detached single-family dwelling. The applicant has indicated the proposed future use of the property is a rental home, but no development application has been submitted at this time. Future development on the site will require building permit review.

The subject property is located at 40 SW Bryant Street (Tax lot: 7408-CA-01702). The property fronts SW Bryant. The property was previously developed with a mobile home that was demolished. An existing driveway remains from the mobile home development. Properties to the north, east, and west are commercial uses located in the C-1 zone. The property to the south is a detached single-family dwelling that is also associated with a zone change request from C-1 to R-5 (File #: 2025-03). No changes to the driveway are proposed with this application. Cumulatively, 11,444 square feet will be rezoned from C-1 to R-5 between both applications. However, they will both be reviewed separately. Findings for 2025-03 will be in a separate staff report and the Planning Commission will vote on them separately.

Clatskanie Review Criteria, Procedures and Findings

9-3-12: QUASI-JUDICIAL AMENDMENTS TO THE COMPREHENSIVE PLAN OR ZONING MAP:

Quasi-judicial amendments to the comprehensive plan or zoning map (generally small in size, single ownership or single interest in changing the zoning map) may be initiated by the city council, the planning commission, or by application of an owner of property or the owner's authorized agent within the area for which the amendment is proposed. The applicant shall demonstrate that the comprehensive plan map or zoning map change request meets the following criteria:

- A. The proposal conforms with the applicable provisions of the city's comprehensive plan;*

FINDING: The Comprehensive Plan is a long-term planning document for the city which provides policy direction and a framework for decisions related to land use. Land Use is a basic element of the plan and describes the basis for specific zones. Within the Land Use section is the General Residential (GR) designation which is intended for a wide range of residential uses. The current land use of the property is vacant. However, the applicant has indicated that the proposed use is a detached single-family dwelling which is a permitted use in this zone and meets the intent of the General Residential designation. The site was previously used for residential with a mobile home that has been removed. The subject site also takes access from

SW Bryant St. which functions as a residential street that connects residential uses to the south with Hwy. 30 to the north. In addition, the site dimensions and smaller lot size would make commercial uses challenging. All residential zones are allowed in the GR designation, including the Residential (R-5) Zone. The minimum lot area for this zone is 5,000 square feet. The subject property has a minimum lot area of 6,387 square feet and would meet the minimum lot size requirements of the R-5 Zone.

Goal 9 of the Comprehensive Plan addresses economic development and the amount of developable commercial land within city limits. The Plan states, "Most of the 19 vacant, buildable acres of commercial land are located east of the CBD, along Highway 30. Although a significant amount of this land lies within the flood plain, the flat terrain would result in a low level of water being spread over a large area." Large portions of the vacant commercially zoned land in Clatskanie are within the floodplain and will be difficult to develop. To account for this, the Plan identifies land near the intersection of Highway 30 and Swedetown Road as suitable for future commercial development outside of the current city boundaries. Both zone change applications (2025-02 & 2025-03), would represent less than 1% of the 19 acres of commercial land identified in the Comprehensive Plan. Additionally, the property in this zone change application (2025-03) is already developed with a residential use (detached single-family) and will not remove viable developable commercial land. The city will still contain sufficient land for commercial development with the proposed zone change applications.

Therefore, this standard is met.

B. The proposal complies with all applicable statutory and ordinance requirements and regulations;

FINDING: As described below, the application is consistent with all applicable requirements of the Clatskanie Zoning Code. The City has notified DLCD of the zone change and followed the noticing requirements of Section 9-3-7 (Public Hearings). The proposal is also consistent the R-5 zoning district requirements.

The application is also consistent with the following Statewide Planning Goals:

- Goal 1: Citizen Involvement. This goal calls for "the opportunity for citizens to be involved in all phases of the planning process." The City has followed the proper notification procedures for this application including mail and newspaper notices. An additional hearing will be required for the City Council decision, which will offer another opportunity for citizen involvement.
- Goal 2: Land Use Planning. This goal requires local governments in Oregon to have and follow a comprehensive land use plan and implanting regulations (Ex. Zoning Code). As

demonstrated above, this application is consistent with the City's Comprehensive Plan designation for General Residential. Additionally, the subject property is consistent with the standards of the R-5 zone. New development on the property will also be subject to the City of Clatskanie Zoning Code.

- Goal 10 Housing. This goal requires cities of certain sizes to inventory buildable lands for housing. The most recent analysis of Clatskanie's housing needs is the 2023 Columbia County Housing Implementation Plan (HIP), which provides a projection of needed housing. The HIP projects Clatskanie may need up to 164 dwelling units by 2042. Along with other recently approved residential projects, the proposed dwelling unit would add to the City's needed supply of housing.

C. There is a public need for the proposal and that this need will be served by changing the zoning of the property(ies) in question as compared with other available property;

FINDING: Until recently, the subject site had a mobile home and the land was used for residential purposes. A rezone from C-1 to R-5 would allow for needed residential development. The applicant has indicated they intend to develop the property with a detached single-family dwelling. As stated above, the HIP projects Clatskanie may need up to 164 dwelling units by 2042. This proposal would help meet the projected need for housing in Clatskanie.

The applicant has also addressed the need for housing in their application narrative. They state, "There is a pressing need for more residential housing in our community, which justifies this proposal. Local real estate agencies have reported a significant waitlist for rental properties, underscoring the demand for additional housing options. Additionally, Solhaven Apartments, a nearby rental property, also has a waitlist, further demonstrating the community's need for more rental units. On the other hand, many commercial spaces in the area remain vacant and unrented, highlighting that there is currently an oversupply of commercial properties and a clear, unmet demand for residential spaces. This imbalance reinforces the need for the zoning change to prioritize residential development."

Staff find the proposal responds to the public need for housing and the subject property is suitable for residential uses. Therefore, this standard is met.

D. The public interest is best carried out by approving the proposal at this time;

FINDING: The applicant proposes to develop the property with a detached single-family dwelling, which addresses needed housing for the city. As stated above, the Columbia County HIP estimates that Clatskanie will need up to 164 dwelling units by 2042. Under the current Commercial (C-1) zone, residential uses are not permitted. The location of the property is adjacent to residential and commercial uses and will not alter the existing character of the area. SW Bryant Street is classified as a local street and the subject property has an existing driveway for a future dwelling to utilize.

Additionally, the applicant has addressed the need for housing in the application narrative. The applicant's narrative states, "The public interest would be best served by approving this proposal. Rezoning the property to residential-only would provide much-needed housing options for local residents, alleviate the strain on the rental market, and support the city's broader goals of responsible growth and community development. By focusing on residential use, the property will be better utilized to meet the needs of the community, contributing to a healthier, more vibrant neighborhood. Approval of this request would be a step toward addressing housing shortages and ensuring that the area continues to thrive."

Staff find this application aligns with the public's interest. Therefore, this standard is met.

- E. Proposal which significantly affects a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the transportation system plan. This shall be accomplished by one of the following: revising the proposal to be consistent with the planned function of the transportation facility or amending the transportation system plan to ensure that existing, improved or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the transportation planning rule. A plan or land regulation amendment significantly affects a transportation facility if it:*
- 1. Changes the functional classification of an existing or planned transportation facility;*
 - 2. Changes standards implementing a functional classification system;*
 - 3. Allows types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility;*
or
 - 4. Would reduce the level of service of the facility below the minimum acceptable level identified in the transportation system plan.*

FINDING: The proposed zone change does not significantly affect a transportation facility because no changes to the existing transportation system are required to serve the proposed land use. The proposal is consistent with the existing functional classification of SW Bryant

Street which is a local street. Levels of service would not be reduced by this request. Therefore, this standard does not apply.

Quasi-judicial amendments to the comprehensive plan map or zoning map shall be considered at a public hearing before the planning commission. Notice and appeal procedures set forth in this chapter shall apply. Quasi-judicial amendments shall be approved by the city council by ordinance following a public hearing. (Ord. 652, 6-4-2008)

FINDING: This proposal is going to be heard before the Planning Commission for a recommendation to the City Council. Therefore, this standard is met.

9-5C-1: Permitted Uses:

- A. *Uses Designated: In an R-5 zone, the following uses, and their accessory uses, are permitted:*
Single-family dwelling.

FINDING: The proposed use for the property is a detached single-family dwelling which is permitted in the R-5 Zone. Therefore, this standard is met.

9-10-1: Table of Standards

Zone	Minimum Lot Area	Minimum Lot Dimension	Maximum Lot Coverage	Maximum Height
R-5	5,000 Sq Ft. (Single-Family)	Width: 50 Ft. Depth: 80 Ft.	35%	2-1/2 stories or 35 Ft.

FINDING: The property's current lot size is 6,387 square feet which meets the minimum lot area for the R-5 zone. The lot is at least 60 feet wide and 105 feet in depth which meets the minimum lot dimensions. Future development of the lot is not proposed at this time but will be required to meet the required development standards for the zone when building permits are applied for. Applicable development standards include setbacks, lot coverage, parking, landscaping, and maximum building height. Therefore, this standard is met.

Planning Commission Options

- 1) Close the public hearing and recommend that the City Council APPROVE the application, per the above report provided which includes the findings of fact.

- 2) CONTINUE the public hearing to a specific date and time.
- 3) Close the public hearing, but KEEP THE RECORD OPEN for the receipt of additional written testimony until a specific date and time.
- 4) Close the public hearing and DENY the application, providing findings of fact for the denial in the motion to deny.

Staff Recommendation

Based on the above report, the application meets all the required criteria of the Clatskanie Zoning Code and staff recommend that the Planning Commission recommend approval of the Zone Change Application (File #: 2025-02) to the City Council with the following condition:

1. A building permit and all other applicable development applications will be required prior to any construction activity on the site.

**City of Clatskanie
Ordinance 710**

An Ordinance of the City of Clatskanie to Rezone Certain Property

From C-1 (Commercial) to R-5 (Residential, 5,000 sq. ft.) and Amends the Comprehensive Plan Map

THE CITY OF CLATSKANIE:

FINDS, ADOPTS AND DETERMINES as follows:

1. Finds that the City of Clatskanie on behalf of the property owner, Joseph Vierra, petitioned the City for a zone change from C-1 (Commercial.) to R-5 (Residential, 5,000 sq. ft.) for tax account 7408-CA-01700, located on 50 SW Bryant ST ("subject property").
2. Exhibit "A" describes the portion of the tax lot to be zoned R-5.
3. Adopts the findings of the Planning Staff report file 2025-03
4. Adopts the recommendation of the Planning Commission dated February 26th, 2025.
5. Determines this zone change would be consistent and compatible with the current and projected land use for the subject property.

THE CITY OF CLATSKANIE ORDAINS AS FOLLOWS:

1. The subject property, located at 50 SW Bryant Street., tax account 7408-CA-01700, is rezoned from C-1 (Commercial) to R-5 (Residential, 5,000 sq. ft.).
2. The Comprehensive Plan designation for the subject property is changed from Commercial (C-1) to Residential, 5,000 sq. ft. (R-5).
3. Passed by the Council of the City of Clatskanie this 7th day of May 2025.

Attest: _____
Bob Brajcich, Mayor

Elisha Shulda, City Recorder

1st Reading: April 2, 2025

2nd Reading: May 7, 2025

<u>ROLL CALL ADOPTION</u>	<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>	<u>ABSTAIN</u>
Mayor: Robert Brajcich	[]	[]	[]	[]
Councilor Amanda Owen	[]	[]	[]	[]
Bob Emminger	[]	[]	[]	[]
Jeff Horness	[]	[]	[]	[]
Bruce Jolma	[]	[]	[]	[]
Russell Finney-Leggroan	[]	[]	[]	[]
Heidi White	[]	[]	[]	[]

Exhibit A

Google Satellite View



— Approximate Property Line

Columbia County Assessor's Map





STAFF REPORT

To: Clatskanie Planning Commission

From: Keegan Gulick, City Planner

Date: February 25, 2025

Subject: Zone Change from Commercial (C-1) to Residential (R-5) (Tax lot: 7408-CA-01700)

Background

REQUEST: The applicant is requesting to rezone the property at 50 SW Bryant Street from C-1 to R-5

APPLICATION TYPE: Zone Change

APPLICANT: City of Clatskanie
PO Box 9
Clatskanie, OR 97016

OWNER: Joesph Viera
PO Box 1475
Clatskanie, OR 97016

LOCATION: 50 SW Bryant Street
Clatskanie, OR 97016

TAX LOT: 7408-CA-01700

ZONING: Commercial (C-1)

**PROPOSED
ZONING:** Residential (R-5)

**PUBLIC
HEARING:** February 26, 2025

EXHIBITS:

- Exhibit A Application Form and Site Plan
- Exhibit B Hearing Notice

Summary

The applicant is requesting a zone change from the Commercial (C-1) zone to the Residential (R-5) zone. The subject property is located at 50 SW Bryant Street (Tax lot: 7408-CA-01700). The property fronts SW Bryant Street and is currently developed with a detached single-family dwelling. The City of Clatskanie has indicated there is a discrepancy in the established zoning for the property. To clarify the zoning of the property, the City is initiating a zone change to officially establish the R-5 zoning district.

No development is proposed with this zone change. The existing single-family dwelling is to remain. The zone change will bring the existing use into conformance with the Zoning Code as single-family dwellings are not permitted in the C-1 zone. The property to the north is also associated with a zone change request from C-1 to R-5 (File #: 2025-02) for a future residential use. Cumulatively, 11,444 square feet will be rezoned from C-1 to R-5 between both applications. However, they will both be reviewed separately. Findings for 2025-02 will be in a separate staff report and the Planning Commission will vote on them separately.

Clatskanie Review Criteria, Procedures and Findings

9-3-12: QUASI-JUDICIAL AMENDMENTS TO THE COMPREHENSIVE PLAN OR ZONING MAP:

Quasi-judicial amendments to the comprehensive plan or zoning map (generally small in size, single ownership or single interest in changing the zoning map) may be initiated by the city council, the planning commission, or by application of an owner of property or the owner's authorized agent within the area for which the amendment is proposed. The applicant shall demonstrate that the comprehensive plan map or zoning map change request meets the following criteria:

A. The proposal conforms with the applicable provisions of the city's comprehensive plan;

FINDING: The General Residential (GR) designation is intended for a wide range of residential uses. All residential zones are allowed in the GR designation, including the Residential (R-5) Zone. The minimum lot area for this zone is 5,000 square feet. The subject property has a minimum lot area of 5,057 square feet and would meet the minimum lot size requirements of the R-5 Zone. The existing use of the property is a detached single-family dwelling. No new development is proposed. The site is currently developed with a single-family home and takes access from SW Bryant St. which functions as a residential street that connects residential uses to the south with Hwy. 30 to the north. In addition, the site dimensions and smaller lot size would make commercial uses challenging.

Goal 9 of the Comprehensive Plan addresses economic development and the amount of developable commercial land within city limits. The Plan states, "Most of the 19 vacant,

buildable acres of commercial land are located east of the CBD, along Highway 30. Although a significant amount of this land lies within the flood plain, the flat terrain would result in a low level of water being spread over a large area." Large portions of the vacant commercially zoned land in Clatskanie is within the floodplain and will be difficult to develop. To account for this, the Plan identifies land near the intersection of Highway 30 and Swedetown Road as suitable for future commercial development outside of the current city boundaries. Both of the zone change applications (2025-02 & 2025-03), would represent less than 1% of the 19 acres of commercial land identified in the Comprehensive Plan. Additionally, the property in zone change application 2025-03 is already developed with a residential use (detached single-family). The city will still contain sufficient land for commercial development with the proposed zone change applications.

Therefore, this standard is met.

B. The proposal complies with all applicable statutory and ordinance requirements and regulations;

FINDING: As described below, the application is consistent with all applicable requirements of the Clatskanie Zoning Code. The City has notified DLCD of the zone change and followed the noticing requirements of Section 9-3-7 (Public Hearings). The proposal is also consistent the R-5 zoning district requirements. The application is also consistent with the following Statewide Planning Goals:

- Goal 1: Citizen Involvement. This goal calls for "the opportunity for citizens to be involved in all phases of the planning process." The City has followed the proper notification procedures for this application including mail and newspaper notices. An additional hearing will be required for the City Council decision, which will offer another opportunity for citizen involvement.
- Goal 2: Land Use Planning. This goal requires local governments in Oregon to have and follow a comprehensive land use plan and implementing regulations (Ex. Zoning Code). As demonstrated above, this application is consistent with the City's Comprehensive Plan designation for General Residential. Additionally, the subject property is consistent with the standards of the R-5 zone. Any development on the property will also be subject to the City of Clatskanie Zoning Code. The zone change will clarify a discrepancy in the zoning designation for the property and further the orderly zoning and development for the City.

Therefore, this standard is met.

- C. There is a public need for the proposal and that this need will be served by changing the zoning of the property(ies) in question as compared with other available property;*

FINDING: A rezone from C-1 to R-5 would remediate the zoning for the property based on existing land use patterns. The purpose of this zone change is to formalize the rezone of the property to correct a discrepancy in the zoning designation. In a previous application (2018-06), the property was identified as R-5 while the recognized zoning is C-1. The existing property is currently a non-conforming use in the C-1 zone but will be permitted in the R-5 zone. Therefore, this standard is met.

- D. The public interest is best carried out by approving the proposal at this time;*

FINDING: Previous staff reports, and documentation have identified this property as R-5, while the property is zoned C-1. The applicant seeks to formally update the zoning to ensure there are no discrepancies in the future. This carries out public interest by ensuring consistency in the implementation of the Comprehensive Plan and Zoning Code. Therefore, this standard is met.

- E. Proposal which significantly affects a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the transportation system plan. This shall be accomplished by one of the following: revising the proposal to be consistent with the planned function of the transportation facility or amending the transportation system plan to ensure that existing, improved or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the transportation planning rule. A plan or land regulation amendment significantly affects a transportation facility if it:*

- 1. Changes the functional classification of an existing or planned transportation facility;*
- 2. Changes standards implementing a functional classification system;*
- 3. Allows types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility;*
or
- 4. Would reduce the level of service of the facility below the minimum acceptable level identified in the transportation system plan.*

FINDING: The proposed zone change does not significantly affect a transportation facility because no changes to the existing transportation system are required to serve the existing land use. The property is already developed with a detached single-family dwelling and it will

remain. The proposal is consistent with the existing functional classification of SW Bryant Street which is a local street. Levels of service would not be reduced by this request. Therefore, this standard does not apply.

Quasi-judicial amendments to the comprehensive plan map or zoning map shall be considered at a public hearing before the planning commission. Notice and appeal procedures set forth in this chapter shall apply. Quasi-judicial amendments shall be approved by the city council by ordinance following a public hearing. (Ord. 652, 6-4-2008)

FINDING: This proposal is going to be heard before the Planning Commission for a recommendation to the City Council. Therefore, this standard is met.

9-5C-1: Permitted Uses:

- A. *Uses Designated: In an R-5 zone, the following uses, and their accessory uses, are permitted:
Single-family dwelling.*

FINDING: The proposed use for the property is a detached single-family dwelling which is permitted in the R-5 Zone. Therefore, this standard is met.

9-10-1: Table of Standards

<i>Zone</i>	<i>Minimum Lot Area</i>	<i>Minimum Lot Dimension</i>	<i>Maximum Lot Coverage</i>	<i>Maximum Height</i>
<i>R-5</i>	<i>5,000 Sq Ft. (Single-Family)</i>	<i>Width: 50 Ft. Depth: 80 Ft.</i>	<i>35%</i>	<i>2-1/2 stories or 35 Ft.</i>

FINDING: The property's current lot size is 5,057 square feet which meets the minimum lot area for the R-5 zone. The lot is at least 50 feet wide and 100 feet in depth which meets the minimum lot dimensions. The property is currently developed with a single-family dwelling and no future development is proposed. If any additions or redevelopment were proposed, it would be required to meet the required development standards for the R-5 zone. Therefore, this standard is met.

Staff Recommendation

Based on the above report, the application meets all the required criteria of the Clatskanie Zoning Code and staff recommend that the Planning Commission recommend approval of the Zone Change Application (File #: 2025-03) to the City Council with the following condition:

1. No development is approved with this zone change. A building permit and other applicable development applications will be required prior to any construction activity on the site.

ORDINANCE NO. 711

AN ORDINANCE CLARIFYING BUILDING CODE PROVISIONS

This ordinance is intended to establish uniform performance standards, enforcement procedures, and administrative standards to provide reasonable safeguards for the health, safety, welfare, comfort and security of the residents of the City of Clatskanie. The ordinance will provide for the use of modern methods, devices, materials, techniques, practicable maximum energy conservation standards, and fire and life safety features in the construction and use of structures beyond the adoption of the Oregon Building Code to comply with applicable Oregon Revised Statutes and Oregon Administrative Rules as allowed under ORS 455.020(4).

Title 9, Chapter 17, Sections 1, 3, and 4 are not amended by this Ordinance and remain the same within the Clatskanie Municipal Code.

The City of Clatskanie ordains as follows:

Title 9, Chapter 17

Construction Standards; State and Uniform Codes

9-17-2. Definitions.

In addition to the definitions provided in the applicable building codes, for the purpose of this chapter, the following definitions shall apply:

A. "Building Official" shall mean the Clatskanie Contract Building Official as permitted by Clatskanie Municipal Code 9-17-4 or Deputy thereof, with powers granted by ORS 455.153.

1. Per OAR 918-020-0015(2), a Contract Building Official means an owner, manager or employee of a person that the director has licensed to perform specialty code inspections and plan reviews under ORS 455.457 and that engages in the business of providing the services described in ORS 455.148(3) and 455.150(3) to one or more municipalities to which the director has delegated a building inspection program.

B. "Building service equipment" means all support systems/equipment such as piping, ducts, vents, and other components of systems other than portable appliances that are permanently in place to serve the building.

C. "Certificate of occupancy" means a certificate of approval issued by the Building Official, as required by the applicable code, after all provisions of the building code, laws, codes and conditions of approval enforced by the Building Official are met for a building intended for occupancy.

D. "Enforcement action" means an action in which an order to correct has been issued, or which seeks or results in a civil penalty.

E. "Operating Plan" means a state-mandated document, as required by OAR 918-020-0080, created and maintained by the Building Official, that outlines policies, procedures, rules, timelines, hours of operation and general administrative procedures describing the operation of

the building division.

F. “State Building Code” means all the combined specialty codes together, including the electrical, plumbing and mechanical codes, as provided in ORS 455.010(8).

G. Per ORS 455.202(c)(A)-(B) a “Discretionary Decision” means a decision on whether to waive a plan review, an inspection or a provision of the state building code; or to allow an alternative material, design or method of construction.

H. Per OAR 918-020-0015(7), a “Qualified Employee” is an individual that the municipality employs and has been designated to ratify or disapprove a contract building official’s discretionary decisions. The Qualified Employee must meet the requirements of ORS 455.202(d)(A)-(B).

9-17-5. Administration.

A. **Title.** This chapter shall be known as the “Building Code,” and may be so cited and pleaded.

B. **Severability.** If any section, paragraph, subdivision, clause, sentence, or provision of this chapter shall be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this chapter or this code, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered, it being the intent of the governing body to enact the remainder of this chapter notwithstanding the parts to be declared unconstitutional and invalid.

C. **Purpose.** The purpose of this title is, consistent with available resources, to establish uniform performance, minimal standards, enforcement procedures, and administrative standards in order to provide reasonable safeguards for the health, safety, welfare, comfort and security of the residents of this jurisdiction, and to provide for the use of modern methods, devices, materials, techniques, practicable maximum energy conservation standards, and fire and life safety features in the construction and use of structures.

D. **Scope.** This title shall apply to new and existing construction and premises, and construction-related activities including, but not limited to, installation of: electrical, plumbing, mechanical, energy, grading, accessibility (disability access), alteration, moving, demolition, repair, maintenance, fire and life safety, and work associated with any building, structure, premises, property, or license regulated by this title, mandated under any of the Oregon Specialty Codes, rules, or statutes, and/or regulated by various other codes of the City of Clatskanie, including zoning or land use regulations. The City of Clatskanie enforces the State Building Code as per ORS Chapter 455 and the rules adopted thereunder. Pursuant to ORS 455.020(4) and adopted by local ordinance, the scope of the State Building Code has been amended to include the following items which shall require permits, plan review, and inspected pursuant to this title and the State Building Code.

E. **Additional Local Authority.** In addition to the requirements of the State Building Code, the City of Clatskanie shall hereby regulate the following items:

1. Structures and items relative to the scope of, and identified in, Section R101.2.2 of the Oregon Residential Specialty Code:

i. Fences constructed of wood, wire mesh or chain link that are more than 7 feet (2,134 mm) in height and fences constructed of materials other than wood, wire mesh or chain link that are over 6 feet (1,828 mm) in height.

ii. Retaining walls that:

1. Are over 4 feet (1,219 mm) in height, when measured from the bottom of the footing to the top of the wall; or,

2. Where the retaining wall supports ascending slopes exceeding 3:1; or,

3. Where the retaining wall supports a non-soil surcharge.

2. Freestanding radio television and other telecommunication antennae and towers, not attached to or supported by a regulated building.

3. Ground-mounted photovoltaic systems except when the structure is 10 feet or less in height measured to the highest point of the installation and no public access is permitted beneath the structures.

4. Tanks that are located exterior to and not attached to or supported by a regulated building except water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed 2 to 1.

5. The design and construction of in-ground swimming pools accessory to detached one- and two-family dwellings, and individual townhouse dwelling units.

6. Abatement of nuisances and dangerous buildings.

7. Structures and items relative to the scope of, and identified in Section 101.2 of the Oregon Structural Specialty Code:

i. Cellular phone, radio, television and other telecommunication and broadcast towers that are not attached to or supported by a regulated building;

ii. Signs not attached to or supported by a regulated building;

iii. Abatement of nuisances and dangerous buildings;

iv. Demolition;

v. Retaining walls that:

1. Are over four (4) feet in height measured from the bottom of the footing to the top of the wall; or,

2. That supports a surcharge or impound Class I, II or IIIA liquids;

vi. Fences constructed of wood, wire mesh or chain link that are more than 7 feet (2134 mm) in height and fences constructed of materials other than wood, wire mesh or chain link that are over 6 feet (1,828 mm) in height;

vii. Tanks except water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed 2 to 1;

viii. Cellular phone, radio, television and other telecommunication and broadcast towers, in compliance with federal law;

ix. Flagpoles, antennae and similar items that exceed 25 feet in height; and

- x. Structural aspects of signs not attached to or supported by a regulated building.

F. Conflicting Provisions. Where, in any specific case, different sections of this chapter specify different materials, methods of construction or other requirements, the most restrictive shall govern, except in cases where the minimum/maximum provisions of the State Building Code apply. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

G. Codes.

1. **State Building Code.** The State of Oregon Building Code is hereby adopted by reference. The State Building Code is on file at City Hall in the City of Clatskanie.

2. **Dangerous Building Code.** The City of Clatskanie adopts, administers, and enforces the Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition, by the International Conference of Building Officials (“UCADB”), a copy of which is on file and available for reference with the city building official.

i. UCADB, Chapter 4, Section 403, Section 1.3 is not an available remedial option for a building declared to be dangerous under this code, except that any repair order (Section 1.1) or demolition order (Section 1.2) of the building official may require premises to be secured and maintained against entry during the period when repair is authorized or prior to scheduled demolition.

ii. All references in the UCADB to the “Building Code” shall mean the applicable Oregon State Building Code is in effect, including all currently enforced specialty codes or, when the context requires, the applicable predecessor code.

iii. Notwithstanding Section 401.2.5 of the Uniform Code for the Abatement of Dangerous Buildings as adopted in this section, the time period for appeals from notices, orders, or actions of the building official shall be 10 days.

3. **Unsafe Buildings.** All buildings or structures regulated by this code which are unsafe under the terms of the Uniform Code for the Abatement of Dangerous Buildings are hereby designated as unsafe buildings, structures, or appendages.

i. All such unsafe buildings, structures or appendages are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in this chapter and the Uniform Code for the Abatement of Dangerous Buildings.

4. Volumes and all subsequent editions of any adopted codes, including all amendments, are hereby incorporated in this chapter by reference.

H. Alternate materials and methods. The provisions of this chapter are not intended to prevent the use of any alternate material, design or method of construction not specifically prescribed by this chapter, provided such alternate material, design or method has been approved and its use authorized by the Building Official.

1. The Building Official may approve any such alternate material, design or method, provided the Building Official finds that the proposed material, design or method complies with the provisions and intent of this chapter and that it is, for the purpose intended, at least the equivalent of that prescribed in this chapter in suitability, strength, effectiveness, fire resistance,

durability, safety and sanitation.

2. The Building Official may require that evidence or proof be submitted to substantiate any claims that may be made regarding the use of such alternate material, design, or method. The details of any approval of any alternate material, design or method shall be recorded and entered in the files of the City.

I. Modifications. When there are practical difficulties in carrying out the provisions of the technical codes or this chapter, the Building Official may grant modifications for individual cases, provided the Building Official finds that the modification is in conformance with the intent and purpose of the technical codes or this chapter and that said modification does not lessen any health, life safety, or fire-protection requirements, nor any degree of structural integrity.

J. Tests.

1. Whenever there is insufficient evidence of compliance with the provisions of this chapter or the technical codes, or that any material, method or design does not conform to the requirements of this chapter or the technical codes, the Building Official may require tests or engineering reports as proof of compliance to be made at no expense to the City.

2. Test methods shall be specified by this chapter, the technical codes, or by other recognized test standards. If there are no recognized and accepted test methods for the proposed alternate, the Building Official shall determine test procedures. All tests shall be made by a testing agency approved by the Building Official. The Building Official shall retain reports of such tests for the period required for the retention of public records.

9-17-6. Permits.

A. Permits – Generally. It is unlawful for any person, firm or corporation to engage in any work, conduct, or activity for which a permit, certificate, label, or other formal authorization is required by this chapter or other regulation without first obtaining such permit, certificate, label, or other formal authorization. Permits are required for any work that is regulated under the State Building Code as per ORS Chapter 455 and the rules adopted thereunder, as well as any work, activity, use, or review required by any code, policy, or procedure within this jurisdiction that is enforced by the Building Official, which may include occupancy reclassifications, grading, signs, demolition, new parking lots, regrading and parking lot resurfacing/stripping, or land use activity regulated by the Clatskanie Municipal Code or Development Code of the City of Clatskanie.

B. Compliance of Construction. No person may engage in construction or other activity not meeting the state standards or other requirements of this chapter as the standards provide at the time of activity.

C. Application for a Building Permit. To obtain a permit, the applicant shall first submit an application to the City of Clatskanie at City Hall and the application shall:

1. Identify and describe the work to be covered by the permit for which application is made;

2. Describe the land on which the proposed work is to be done by legal description, street address, or similar description that will readily identify and definitely locate the proposed building or work;

3. Indicate the use or occupancy for which the proposed work is intended;
4. Be accompanied by plans, diagrams, computations and specifications, and other data as required in this chapter;
5. State the valuation of any new building or structure, or any addition, remodeling, or alteration to an existing building;
6. Be signed by the owner, or the owner's authorized agent;
7. Provide plans showing all rights-of-way, setbacks, easements, covenants, and other such interests in the land that may be impacted by construction; and
8. Give such other data and information as may be required by the Building Official.

D. Submittal documents. Plans, specifications, engineering calculations, diagrams, soil investigation reports, special inspection and structural observation programs, and other data shall constitute the submittal documents and shall be submitted in one or more sets with each application for a permit. When such plans are not prepared by an architect or engineer, the Building Official may require the applicant submitting such plans or other data to demonstrate that state law does not require that the plans be prepared by a licensed architect or engineer. The Building Official may require plans, computations, and specifications to be prepared and designed by an engineer or architect licensed by the state to practice as such even if not required by state law.

1. The Building Official may waive the submission of plans, calculations, construction inspection requirements, and other data if it is found that the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with this chapter.

E. Permit issuance. The application, plans, specifications, computations and other data filed by an applicant for permit shall be reviewed by the Building Official. Such plans may be reviewed by other departments of this jurisdiction to verify compliance with any applicable laws under their jurisdiction. If the Building Official finds that the work described in an application for a permit and the plans, specifications, and other data filed therewith conform to the requirements of this chapter and the technical codes and other pertinent laws and ordinances, and that the applicable fees have been paid, the Building Official shall issue a permit to the applicant.

F. Deferred Submittals and Phased Construction. Deferred submittal of plans and phased construction may be permitted, subject to the approval of the Building Official, when the deferred submittals or phasing of construction is not likely to result in mistakes, faulty construction, or violation of any local or state codes or laws. Requests for deferred submittals must be in writing, noted on the construction documents and noted on the deferred submittal form. Construction associated with phased, partial, or deferred submittals and permits shall be done at the permit holder's risk.

1. The Building Official may issue a permit for the construction of part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this chapter. If the holder of a partial permit elects to proceed, he/she shall do so without assurance that the permit for the entire building or structure will be granted.

2. Additional costs for partial permits and/or deferred submittals shall be in

accordance with the fee schedule and charged to the permit applicant at the time of initial permit issuance.

G. Retention of Plans, Permits and Documentation. One set of approved plans, specifications, computations, and permits shall be retained by the Building Official and shall be stored and retained as required by the State Archivist. One set of approved plans, specifications, computations, and permits shall be provided to the City Manager. One set of approved plans and specifications shall be returned to the applicant, and said set shall be kept in good order and in clean, legible condition on the site of the building or work at all times, and available to the inspector, during which the work authorized thereby is in progress. If the applicant needs additional copies of approved plans, the City Manager may review and approve additional copies, charging the applicant the review cost plus overhead charges for providing the additional plan copies.

H. Validity of Permit. The issuance of a permit or approval of plans, specifications, and computations shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this chapter or of any other code of the jurisdiction, or any other federal, state, or local law, statute, rule, regulation, or code. Permits presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid.

1. The issuance of a permit based on plans, specifications, and other data shall not prevent the Building Official from thereafter requiring the correction of errors in said plans, specifications, and other data, requiring additional engineering data, or from preventing building operations being carried on thereunder when in violation of this chapter or of any other codes of this jurisdiction.

I. Expiration of Plan Review Application. Applications for which no permit is issued within 180 days following the date of the application shall expire by limitation, and plans and other data submitted for review may thereafter be returned to the applicant or discarded by the Building Official. The Building Official may extend the time for action by the applicant for a period not exceeding 180 days upon written request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. No application shall be extended more than once, unless expressly authorized by the Building Official. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee. When an applicant applies for concurrent plan review, the applicant assumes the responsibility and risk of obtaining all approvals required by other departments within the 180-day period.

J. Permit Expiration. Every permit issued by this chapter, shall expire by limitation and become null and void 180 days from the date of such permit issuance if the building or work authorized by such permit is not commenced, or pursuant to any time limits designated by conditions of approval, or after the building or work authorized by such permit is suspended or abandoned for 180 consecutive days at any time after the work is commenced. The work shall not be considered suspended or abandoned where the permittee has pursued activities deemed by the Building Official to indicate the intent to start and complete the project. The Building Official may require the permittee to document these activities.

1. Any permittee holding an unexpired permit may apply to the Building Official for an extension of the time within which work is to be completed under that permit when the

permittee is unable to complete work within the time required by this section for good and satisfactory reasons. The Building Official may extend the time for action by the permittee for a period not exceeding 180 days on written request by the permittee showing that circumstances beyond the control of the permittee have prevented work from being completed. No permit shall be extended more than once, unless expressly authorized by the Building Official.

2. Where a permit has expired, the permit may be reinstated and the work authorized by the original permit can resume, provided the original permit expired less than one year from the request to reinstate.

3. The fee for a reinstated permit shall be one-half the amount required for a new permit plus any costs incurred as a result of investigations. Where the request for reinstatement does not comply with the preceding criteria, a new permit, at full permit fees and review, shall be required.

K. Investigation. Whenever any work for which a permit is required by this chapter or the technical codes has commenced without first obtaining said permit, an investigation shall be made before a permit may be issued for such work. This investigation is subject to fees and may result in a penalty.

1. The Building Official may require an investigation in order to ascertain whether a party is in possession of a state license, and/or is in compliance with other state-mandated requirements.

2. Unless waived by the Building Official, an investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The amount of the investigation fee shall be in accordance with the fee schedule.

L. Not transferable. A permit issued to one person or firm is not transferable and shall not permit any other person or firm to perform any work thereunder unless specifically requested by the owner, in writing, and approved by the Building Official. Electrical permits are not transferable.

M. Suspension and/or Revocation. The Building Official may, in writing, suspend or revoke a permit issued under the provisions of this chapter and the technical codes whenever the permit is issued in error on the basis of incorrect information supplied, or if its issuance, or activity thereunder, is in violation of any state or local statute, code, or regulation, or if the permittee violates any term or condition of the permit or this chapter.

9-17-7. Inspection.

A. Inspections – Generally. Construction or work for which a permit is required shall be subject to inspection by the Building Official and the construction or work shall remain accessible and exposed for inspection purposes until approved by the Building Official. In addition, certain types of construction shall have special or continuous inspection as specified in the State Building Code.

1. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this chapter or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this chapter or of other ordinances of the jurisdiction shall not be valid.

2. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes and shall ensure that the reviewed construction documents are on site and available for the inspector. Neither the Building Official nor this jurisdiction shall be liable for expenses entailed in the removal or replacement of any material required to allow inspection.

3. A survey of the lot may be required by the Building Official to verify that the structure is located in accordance with the approved plans.

B. Inspection Requests. It shall be the duty of the person doing the work authorized by a permit to notify the Building Official that such work is ready for inspection, and to make provision for access during normal business hours. Inspection requests shall be requested at least one working day before such inspection is desired and in accordance with the specific times described in the Operating Plan.

1. It shall be the duty of the person requesting any inspections required by this chapter to provide safe access to and means for inspection of such work, including any and all required special equipment, tools, ladders, belts, clothes, or other protective equipment or devices.

2. It shall be the duty of the permit holder or authorized agent to request all inspections that may be necessary, or otherwise required, in a timely manner, to provide access to the site, and to provide all equipment as may be deemed necessary or appropriate by the Building Official. The permit holder shall not proceed with construction activity until authorized to do so by the Building Official.

3. Work requiring a permit shall not be commenced until the permit holder or an agent of the permit holder has posted or otherwise made available an inspection record card, if required, such as to allow the Building Official to conveniently make the required entries thereon regarding inspection of the work. This card shall be maintained at the worksite in good order and in clean, legible condition by the permit holder until final approval has been granted by the Building Official.

C. Inspections Required. All construction or work for which a permit is required shall be subject to inspection by the Building Official and all such construction or work shall remain accessible and exposed for inspection and test purposes until approved by the Building Official. The address must be posted. No work shall be covered until approved and signed off for that stage of the project or work.

1. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes including providing any necessary ladders, walkways, lighting, carpet runners for protection of carpet or other equipment necessary for safe access and inspection. Neither the Building Official, deputies nor the jurisdiction shall be liable for expenses entailed in the removal, cleaning or replacement of any equipment or material required to allow inspection.

2. Inspection and approval by the Building Official is not to be construed as relieving the permit holder of their responsibility to correct any deficiencies that are later discovered, even though they may have existed at the time of the original inspection and approval.

3. Unless waived by the Building Official, a survey of the lot and the placing of, or revealing of, property pins shall be required to verify that the structure is located in accordance with the approved plans.

D. Re-inspections. A re-inspection fee, in accordance with the fee schedule, may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made.

1. A re-inspection fee may be assessed when the inspection record card is not posted or is otherwise unavailable on the work site, when the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, when the address for the site is not posted, or for deviating from plans requiring the approval of the Building Official.

2. In instances where re-inspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid, unless authorized by the Building Official.

E. Inspection Record Card. It is the responsibility of the permit holder to post or otherwise make available an inspection record card, such as to allow the Building Official to conveniently make the required entries thereon regarding inspection results of the work at the time of the inspection. It is the responsibility of the permit holder to refer to this card for the status of the inspections. This card shall be maintained at the worksite in good order and in clean, legible condition by the permit holder until final approval has been granted by the Building Official.

F. Other Inspections. In addition to the inspections specified above, the Building Official may make or require other inspections of any construction work to ascertain compliance with the provisions of this chapter and other laws which are enforced by the City.

G. Special Inspections and Structural Observations. Special inspections and Structural Observations shall be conducted as required by the State Building Code. Additional special inspections and/or structural observations may be determined necessary and required by the Building Official. Special inspectors are required to be approved by the Building Official prior to any inspections. All special inspections shall be conducted prior to the regular and corresponding city inspection. It shall be the responsibility of the permit holder to ensure that the results of the special inspection are made available to the Building Official and the city inspector at the job site prior to, and at the time of, the city inspection.

H. Approval Required. Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the Building Official. The Building Official, upon notification, shall make the requested inspections and shall either indicate that that portion of the construction is satisfactory as completed, or shall notify the permit holder, or an agent of the permit holder, wherein the same fails to comply with this chapter. Any portions which do not comply shall be corrected and such portion(s) shall not be covered or concealed until authorized by the Building Official.

1. Unless an alternate method of notification is approved by the Building Official, the form of notification shall be a minimum of a written notice left at the job site. Any work that does not comply with this chapter and/or the technical codes shall be corrected, and such work shall not be covered or concealed until authorized by the Building Official.

2. Prior to occupancy, there shall be a final inspection and approval of all buildings and structures when completed and ready for occupancy and use.

I. Certificate of Occupancy. Except for work exempt from permits and residential accessory buildings, no building or structure shall be used or occupied, and no change in the

existing character, use, or occupancy classification of a building or structure or portion thereof shall be made until the Building Official has issued a certificate of occupancy.

1. The certificate of occupancy for buildings other than single-family dwellings and occupancies shall be posted in a conspicuous place and shall not be removed except by the Building Official or its designate.

2. In cases where there are outstanding corrections and/or deficiencies that do not present a hazard or immediate public concern, or where no outstanding corrections exist, the building official may grant a partial and/or temporary certificate of occupancy upon request. When granting a temporary certificate of occupancy, the Building Official shall provide the permit holder with conditions and time restrictions for compliance and final approval. The fee for partial and/or temporary certificate of occupancy shall be in accordance with the fee schedule.

3. Upon failure to obtain final approval and a certificate of occupancy, when applicable, and/or upon the expiration of the permit, the Building Official, in addition to other remedies, may file a notice of noncompliance with the County Recorder. To remove the notice, proof of compliance must be provided and all enforcement costs, recording costs, and filing costs determined by the Building Official must be paid by the permit holder.

4. Changes in the character or use of a building shall not be made except as specified in the applicable building code.

5. Issuance of a certificate of occupancy shall not be construed as an approval of a violation to the provisions of this code or of other City ordinances. The Building Official may, in writing, suspend or revoke a certificate of occupancy issued under the provisions of this chapter when the certificate is issued in error, or on the basis of incorrect information, or when it is determined that the building or structure, or portion thereof, is in violation of an ordinance, regulation, or the provisions of this chapter.

J. Proceeding Without Inspection or Approval. Work performed without approval shall be required to be exposed for inspection, and any costs due to damage, such as the repair to sheetrock, masonry, concrete, siding, and any investigation or penalties shall be the responsibility of the permittee and/or owner.

9-17-8. Compliance and Enforcement.

A. Creation of enforcement program. As required by ORS 455.150(3), it is established in this jurisdiction a code enforcement program which shall be under the administrative and operational control of the Building Official.

B. Designated authority. Whenever the term or title “administrative authority,” “responsible official,” “Building Official,” “Chief Inspector,” or other similar designation is used herein or in any of the technical codes, it shall be construed to mean the Building Official designated by the appointing authority of this jurisdiction, as per ORS 455.150(3).

C. Powers and Duties of Building Official. The Building Official is authorized and directed to enforce all provisions of this title and the referenced technical codes. For such purposes, the Building Official shall have the powers of a law enforcement officer, including the power to issue citations for violations of this title and/or the State Building Code as permitted under ORS 455.153, to grant modifications, and to secure property based upon probable cause even though the violation is not committed in the Building Official’s presence.

1. Per ORS 455.148(3), the Building Official shall have the authority to render written and oral interpretations of this title and the referenced technical codes, and to adopt and enforce administrative procedures to clarify the application of its provisions. Such modifications, interpretations, rules, and regulations shall be in conformance with the intent and purpose of this title and the State Building Code.

2. For purposes of the State Building Code and the Development Code of the City of Clatskanie, in furtherance of public health, safety, and welfare, the Building Official shall have the authority to abate conditions which are contrary to, or in violation of, this title or the referenced technical codes, or which otherwise make the building or premises substandard, unsafe, dangerous, uninhabitable, or hazardous.

D. Deputies. In accordance with prescribed procedures and with the approval of the appointing authority, the Building Official may appoint technical officers and inspectors, other employees, and contractors to carry out the functions of the enforcement of this title and the referenced technical codes.

E. Right of entry.

1. When necessary to make an inspection to enforce the provisions of this chapter or the referenced technical codes, or when the Building Official has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to, or in violation of, this chapter, or which otherwise makes the building or premises substandard, unsafe, dangerous or hazardous, the Building Official may enter said building or premises at reasonable times to inspect or to perform the duties imposed by this chapter.

2. The Building Official may request entry of said building or premises when there are reasonable grounds to believe the property is substandard, unsafe, dangerous, hazardous, or when there are reasonable grounds to believe that there has been work done that would otherwise require a permit. If such building or premises be occupied, credentials shall first be presented to the occupant and entry requested. If such building or premises are unoccupied, the Building Official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry.

3. If entry is refused or the owner cannot be located, the Building Official or any duly appointed representative of the City may appear before any judge empowered to issue warrants, and request a judge to issue an inspection warrant, directing it to any peace officer, as defined in ORS 161.015, to enter the described property to remove any person or obstacle and assist the Building Inspector or representative of the department inspecting the property in any way necessary to complete the inspection.

F. Stop work orders. When work is being done contrary to the provisions of this chapter, the State Building Code, or other pertinent laws or ordinances, including the Development Code of the City of Clatskanie, implemented through the enforcement of this chapter, the Building Official may order the work stopped by notice, in writing, served on persons engaged in the doing or causing such work to be done, and such persons shall forthwith stop the work until authorized by the Building Official to proceed with the work.

G. Occupancy violations. When a building, structure, premises, or building service equipment therein is being used contrary to the provisions of this chapter, the State Building Code, or the certificate of occupancy, the Building Official may order such use discontinued, and the

structure or premises vacated, by written notice served on any person causing such use to be continued. Such person shall discontinue the use within the time prescribed by the Building Official after receipt of notice to make the structure, premises, or portion thereof comply with the requirements of this chapter, the referenced codes, and the certificate of occupancy.

H. Authority to disconnect utilities.

1. Where necessary to eliminate an immediate hazard to life or property, or enforce this chapter, the State Building Code, or the Development Code of the City of Clatskanie, the Building Official or its authorized representative shall have the authority to order the disconnection of a utility service supplied to a building, structure, premises, or building service equipment therein which is regulated by this chapter, the State Building Code, or the Development Code of the City of Clatskanie, or when necessary to eliminate a danger to public health, safety, or welfare.

2. The Building Official shall, whenever possible, notify the owner and/or the occupant(s) of the building, structure, premises, or building service equipment of the decision to disconnect prior to taking such action, and shall notify such owner and/or occupant of the building, structure, premises, or building service equipment, in writing, of such disconnection within a reasonable time thereafter.

I. Connection after order to disconnect. Persons shall not make connections from an energy, water, fuel, or power supply, nor supply energy or fuel to building service equipment regulated by this chapter or the referenced codes which has been disconnected or ordered to be disconnected by the Building Official, or the use of which has been ordered to be discontinued by the Building Official, until the Building Official authorizes the reconnection and use of such equipment.

J. Liability. This chapter shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling a building, structure, or building service equipment therein for damages to persons or property caused by defects, nor shall the City of Clatskanie be held as assuming such liability by reason of the inspections authorized by this chapter or permits or certificates issued under this chapter.

K. Unlawful acts.

1. It shall be unlawful for a person, firm, or corporation to be in conflict with, or in violation of, any of the provisions of this chapter.

2. Nothing contained in this chapter shall impose any duty upon the City of Clatskanie, or any agent, official, or employee thereof, to abate, enjoin, prevent, or correct any defect, violation, or condition regulated or prohibited by this chapter. The City shall exercise discretion to determine whether any particular circumstance warrants or requires an official response. In making such determinations, the appropriate employees and officials shall consider all known facts and circumstances including, but not limited to, the likelihood of injury, the seriousness of the violation, the availability of City resources, both staff and financial, to address the concern and direction from the City Council.

L. Notice of Violation. Whenever the Building Official determines that there has been a violation of the State Building Code, this chapter, or any provisions of the Development Code of the City of Clatskanie, or has grounds to believe that a violation has occurred, the Building Official may serve a correction notice in accordance with the State Building Code, or a stop work

order.

M. Form of notices and orders. Such notices and orders shall be in accordance with all of the following:

1. Be in writing;
2. Include a description of the real estate sufficient for identification;
3. Include a statement of the violation(s), a brief and concise description of the conditions found, and why the notice and/or order is being issued;
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the structure or premises into compliance with the provisions of this code;
5. Include a statement advising that if any required repair or demolition work is not commenced within the time specified, the Building Official will order the building vacated and posted to prevent further occupancy until the work is completed, and may proceed to cause the work to be done and charge the costs thereof against the property or its owner;
6. Include a statement of the City's right provide a notice of substandard or nonconforming conditions; and
7. Inform the property owner(s) or responsible party of the right to appeal and the appeal process.

N. Method of service. Such notices and orders shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified or first-class mail addressed to the last known address of the property owner(s) or responsible party;
3. Sent by certified or first-class mail addressed to the listed address of the property owners(s) or responsible party as shown by the records of the Oregon Department of Motor Vehicles, United States Post Office, county tax records, or other similar governmental source; or
4. If notice and/or order is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice and/or order.

O. Enforcing compliance. To enforce any of the requirements of this chapter, the State Building Code, or the Development Code of the City of Clatskanie, the Building Official may gain compliance by:

1. Instituting an action or suit;
2. Causing appropriate action to be instituted in a court of competent jurisdiction; or
3. Taking other action as the Building Official, in the exercise of the Building Official's discretion, deems appropriate.

P. Recording notice of substandard or nonconforming condition(s). In instances of continued noncompliance with any provisions of this chapter, and after notice has been given by the Building Official regarding deficient, substandard, noncomplying or nonconforming

condition(s) relating to the property, premises, or structures, the City of Clatskanie may, in addition to other remedies, record upon the title of the property a notice of substandard or nonconforming condition(s). Any such notice shall include a detailed description of the substandard or nonconforming condition(s) and may only be removed once the substandard or nonconforming condition(s) is/are abated. Enforcement costs shall be paid prior to any removal of liens or notices resulting from an enforcement action.

Q. Transfer of ownership. It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

R. Authority to Impose Civil Administrative Penalty. Upon a determination by the Building Official that any person, firm, corporation or other entity, however organized has violated a provision of this chapter or a rule adopted thereunder, the Building Official may issue a notice of civil violation and impose upon the violator and/or any other responsible person an administrative civil penalty. For purposes of this subsection, a “responsible person” includes the violator, and if the violator is not the owner of the building or property at which the violation occurs, may include the owner.

1. Prior to issuing an order to correct a violation under this section, the Building Official may pursue reasonable attempts to secure voluntary correction.

2. Prior to issuing a notice of civil violation and imposing an administrative civil penalty under this section, the Building Official shall issue a notice to correct a violation to one or more of the responsible persons which contains the requirements from OAR 918-098-1900. Except where the Building Official determines that the violation poses an immediate threat to health, safety, environment, or public welfare, the time provided for correction shall be not less than five (5) calendar days.

3. Following the date or time by which the correction must be completed as required by a notice to correct a violation, the Building Official shall determine whether such correction has been satisfactorily completed. If the required correction has not been completed by the date or time specified in the order, the Building Official may issue a notice of civil violation and impose an administrative civil penalty to each responsible person to whom an order to correct was issued.

4. The Building Official may issue a notice of civil violation and impose an administrative civil penalty without having issued a notice to correct violation or made attempts to secure voluntary correction where the Building Official determines that the violation was a repeat of a similar violation.

5. In imposing an administrative civil penalty authorized by this section, the Building Official shall consider:

i. The person’s past history in taking all feasible steps or procedures necessary or

appropriate to correct the violation;

- ii. Any prior violations of statutes, rules, orders, and permits;
- iii. The gravity and magnitude of the violation;
- iv. Whether the violation was repeated or continuous;
- v. Whether the cause of the violation was an unavoidable accident, negligence, or an intentional act;
- vi. The violator's cooperativeness and efforts to correct the violation; and
- vii. Any relevant rule of the building official.

6. A notice of a civil violation that imposes an administrative civil penalty under this section shall be served by personal service, or sent by registered or certified mail and by first class mail. A notice served by mail shall be deemed received three days after the date mailed if to an address within this state, and seven days after the date mailed if to an address outside this state. Every notice shall include:

- i. An exact reference to the applicable specialty code section, Oregon administrative rule, or statute involved;
- ii. A short and plain statement of the matters asserted or charged;
- iii. A statement of the amount of the penalty or penalties imposed;
- iv. The date on which the notice to correct was issued and time by which correction was to be made, or if the penalty is imposed, a short and plain statement of the basis for concluding that the violation was repeated; and
- v. A statement of the party's right to appeal the civil penalty to the Building Board of Appeals, or if the Building Board of Appeals lacks sufficient members to constitute a quorum, to the City Manager or the City Manager's designee; a description of the process the party may use to appeal the civil penalty; and the deadline by which such an appeal must be filed.

7. Any person, firm, corporation, or other entity however organized that is issued a notice of civil penalty may appeal the penalty to the Building Board of Appeals.

8. A civil penalty imposed under this section shall become final upon expiration of the time for filing an appeal, unless the responsible person appeals the penalty or if the building board of appeals lacks sufficient members to constitute a quorum, to the City Manager or the City Manager's designee within, the 15-day time limit established by the appeal procedure.

9. Each day the violator fails to remedy the code violation shall constitute a separate violation.

10. Failure to pay a penalty imposed hereunder within 10 days after the penalty becomes final (i.e., upon expiration of the time to appeal) shall constitute a violation of this code. Each day the penalty is not paid shall constitute a separate violation. The Building Official also is authorized to collect the penalty by any administrative or judicial action or proceeding authorized by this chapter or other provisions of this code, or state statutes. The civil administrative penalty authorized by this section shall be in addition to:

- i. Assessments or fees for any costs incurred by the city in remediation, cleanup, or

abatement; and

ii. Any other actions authorized by law; provided, that the city may not issue a citation to municipal court for a violation of this chapter.

11. If an administrative civil penalty is imposed on a responsible person because of a violation of any provision of this code resulting from prohibited use or activity on real property, and the penalty remains unpaid 30 days after such penalty become final, the Building Official shall assess the property the full amount of the unpaid fine and shall enter such an assessment as a lien in the municipal lien docket. At the time such an assessment is made, the Building Official shall notify the responsible person that the penalty has been assessed against the real property upon which the violation occurred and has been entered in the municipal lien docket. The lien shall be enforced in the same manner as liens established by city council pursuant to this chapter. The interest shall commence from the date of entry of the lien in the lien docket.

12. In addition to enforcement mechanisms authorized elsewhere in this code, failure to pay an administrative civil penalty of this section shall be grounds for withholding issuance of requested permits or licenses, issuance of a stop work order, if applicable, or revocation or suspension of any issued permits or certificates of occupancy.

S. Penalties. Any person or business entity which violates any term or provision of this title shall be subject to any or all of the following penalties:

T. Investigative Fee. In case of work performed without permits, as required in this title and the State Building Code, such work shall be subject to the investigation fee(s) waived by the Building Official.

U. Civil Penalties. In the case of a violation of this title or the State Building Code, each violation shall be subject to the following civil penalties:

1. **First Offense.** Where one or multiple violations are committed by a person, business, or corporation, a civil penalty up to \$1,000 per violation shall be assessed. If the violation is corrected within the date(s) specified in the citation, a maximum of \$750 of the civil penalty may be stayed. The stayed amount shall become due if additional violations occur within three calendar years from the date of the citation.

2. **Second Offense.** Where subsequent violation(s) by a person, business, or corporation occurs within three years of their first offense, a civil penalty of \$2,500 per violation shall be assessed. If the violation is corrected within the date(s) specified in the citation, a maximum of \$1,250 of the civil penalty may be stayed. The stayed amount shall become due if additional violations occur within three calendar years from the date of the citation.

3. **Subsequent Offenses.** Where subsequent violation(s) by a person, business, or corporation occurs within three years of their second offense, a civil penalty of \$5,000 per violation shall be assessed. If the violation is corrected within the date(s) specified in the citation, a maximum of \$2,500 of the civil penalty may be stayed. The stayed amount shall become due if additional violations occur within three calendar years from the date of the citation.

4. **Continued Violations.** Violations not corrected by the date specified in the notice of violation or the citation may be subject to an additional penalty of \$1,000 per day, per offense.

5. **Civil penalties for offenses under subsections (T)(1) and (T)(3) of this section are intended for new violation(s) of this title that occur after resolution of the preceding offense.**

V. Violations Which Present an Imminent Life Safety Hazard. In those cases where the Building Official determines that the violation presents an imminent risk of serious physical injury or death to any person, civil penalties shall be doubled. The civil penalty shall not exceed \$5,000 per offense. The civil penalty amount shall not be stayed.

W. Violation of the Development Code of the City of Clatskanie. In the case of a violation of the Development Code of the City of Clatskanie:

1. A civil penalty of \$500 per violation shall be assessed. If the violation has been corrected within 10 working days of the issuance of the citation, the civil penalty may be reduced to \$250 per violation.

2. Repeat Violations. In the case of subsequent violations of this title by the same person, business, or corporation within 12 consecutive months, the civil penalty for each subsequent violation shall be doubled. The doubled penalty amount will remain due even if correction is achieved within 10 working days.

X. Application of Collected Cost Recovery and Penalties.

1. When abatement of a violation is resolved without issuing a citation, all funds collected by the City pursuant to this section will be paid to such accounts as the City may maintain for the support of the City Building Division.

2. When abatement of a violation is achieved by issuing a citation, 30 percent of the funds collected by the City pursuant to this section will be paid to the court for overhead costs, and the remaining 70 percent will be paid to Building Division accounts.

Y. The penalties provided herein are in addition to any other remedies available. The imposition of the penalties herein shall not preclude the Building Official from instituting appropriate action to restrain, correct, or abate a violation, or to prevent illegal occupancy of a building, structure, or premises, or to stop an illegal act, conduct, business, or utilization of the building, structure, or premises.

Z. Every day, or portion thereof, during which any violation of any provision of this title is committed, continued or permitted, may be a separate offense.

9-17-9. Fees and Fee Refunds.

A. Fees – General.

1. Fees charged under this chapter shall be as adopted by resolution by the City Council.

2. Permit and plan review fees shall be adopted, except as otherwise limited by statute. On buildings, structures and mechanical systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the schedule established under authority of ORS 455.020 and 455.210.

3. As applicable, the fee schedule shall comply with OAR 918-050-0100, Statewide Fee Methodologies for Residential and Commercial Permits.

4. The Building Official shall make the determination of value or valuation under any provisions of this chapter. The value to be used in computing the building permit and plan

review fees shall be the total value of all construction work and may include all finish work, parking lots, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire-extinguishing systems and any other permanent equipment. Plan review and inspection fees shall be based on valuation, but the minimum fee shall be no less than the actual costs plus overhead of the plan review and the actual costs plus overhead of the inspections.

5. Each activity, enforcement action, or program shall be provided with its own funding source and one program shall not support another, as required by ORS 455.770 and 455.210(3)(c).

B. Fee refunds.

1. If an applicant erroneously paid a fee under this title due to an error made by the applicant, then the Building Official or City Manager may authorize the refunding of the entire fee, or a portion of a fee, erroneously paid by the applicant.

2. If an applicant erroneously paid a fee under this title due to an error made by the Building Official, the City Manager, or other City of Clatskanie staff, then the Building Official or City Manager must authorize the refunding of the entire fee, or a portion of a fee, erroneously paid by the applicant.

3. The Building Official or City Manager may authorize the refund of all, or a portion of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or cancelled before any plan review effort has been expended.

4. If i) the applicant requests additional plan review outside of typical review requirements for their application and the application is withdrawn or cancelled; or ii) the Building Official has determined that additional plan review outside of typical review requirements has occurred for an application and the application is withdrawn or cancelled, then the Building Official or City Manager may authorize refunding not more than 80 percent of the permit fee paid.

5. The Building Official or City Manager may not authorize the refunding of any fee paid except upon written application filed by the applicant not later than 180 days after the date of fee payment, unless written application is otherwise waived by the Building Official.

9-17-10. Board of Appeals.

A. **State Building Code Appeals Process.** In accordance with OAR 918-020-0090(1)(c), a person aggrieved by the Building Official's technical and scientific determination regarding any provision of the State Building Code may appeal to either the local jurisdiction's appeals board or the state specialty code chief. The appeals process selected may not change once initiated.

B. Appeal to the State.

1. A person aggrieved by a decision made by the Building Official relating to the State Building Code shall first appeal to the appropriate state specialty code chief inspector of the Oregon Department of Consumer and Business Services, as required in ORS 455.475. The decision of the Department Chief Inspector may be appealed to the appropriate state advisory board.

2. Citations or penalties issued by the State Building Codes Division are entitled to

judicial review in accordance with ORS 183.482. A person aggrieved by such a citation or penalty may request a judicial review by filing a petition with the Court of Appeals in Salem, Oregon, within 60 days from the date of the order. Such citations and penalties are not appealable through this section.

C. Appeal and Procedure of a Discretionary Decisions of a Contract Building Official.

In accordance with OAR 918-020-0230(2)(b), OAR 918-020-0250 and OAR 918-020-0260, a person aggrieved by a Discretionary Decision which complies with ORS 455.202(3)(a)-(b) made by the Contract Building Official and reviewed and ratified by the Qualified Employee may appeal to the Clatskanie Board of Appeals as set forth in this chapter.

D. Appeal to Local Building Board of Appeals. A person aggrieved by a decision made by the Building Official relating to any law, code, or regulation, other than a provision of the State Building Code, may appeal to Clatskanie Building Board of Appeals as set forth in this chapter. This shall serve as the appeal procedure for all decisions made by the Building Official.

E. Creation of Local Building Board of Appeals.

1. In order to hear and decide appeals of orders, Non-Discretionary Decisions, Discretionary Decisions, or determinations made by the Building Official relative to the application, enforcement, and interpretation of provisions of this chapter which are not governed by the State Building Code, and to review appeals of technical and scientific determinations regarding any provision of the specialty codes regulated by the municipality, there shall be and hereby is created a Building Board of Appeals consisting of five members who are qualified by experience and training to pass on matters pertaining to building construction. Except on matters pertaining to Discretionary Decisions, the Building Official shall be an ex officio member of and shall act as secretary to the Building Board of Appeals but shall have no vote on any matter before the Building Board of Appeals. The Building Board of Appeals shall be appointed by the City Council of the City of Clatskanie and shall hold office when directed by the City Council. The Building Board of Appeals shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the Building Official.

i. In accordance with OAR 918-020-0250, the Building Board of Appeals hearing an appeal of a Contract Building Official's Discretionary Decision will:

1. Include as a member, the Building Official of the county within which the city is located or the Building Official of an adjacent county.

2. Include as a member, an individual who engages in the business of building design or construction may be a member of the local board, but may not hear an appeal of a Contract Building Official's Discretionary Decision concerning a project that involves a business, or competitor of a business that:

3. The individual owns or manages or for which the individual provides services as an employee, agent or contractor; or

4. A family member or a member of the individual's householder owns or manages or for which the family member or member of the household provides services as an employee, agent or contractor.

5. Not include any contract building official.

6. Not include an owner, manager, director, officer or employee of a person, other than an employee of the municipality, that performs building inspections.

ii. In accordance with OAR 918-020-0260, for an appeal of a Contract Building Official's Discretionary Decision,

1. After receiving notice of the building official's Discretionary Decision, a permit applicant has 30 days to submit an appeal to the Building Board of Appeals.

2. In an appeal before the Building Board of Appeals, the permit applicant has the burden of establishing by a preponderance of the evidence that overturning the Discretionary Decision of the Contract Building Official will not create a dangerous or unsafe condition or decrease the minimum fire and life safety standards set forth in the relevant code.

3. Upon receipt of a notice of appeal, the Building Board of Appeals has 30 days to review the appeal and issue a determination.

4. The appeal rights to which a permit applicant is entitled before the Building Board of Appeals is in addition to, and not in lieu of, any other rights of appeal the permit applicant may have.

5. The Building Board of Appeals makes determinations on a case-by-case basis, and shall have no authority relative to interpretation of the administrative provisions of this chapter, nor shall the board be empowered to waive requirements of this chapter.

F. Appeal procedure.

1. An appeal shall be in writing, shall describe the basis for the appeal, and shall first be filed with the City Manager.

2. Following receipt of such an appeal, the Building Board of Appeals shall convene and an opportunity for hearing shall be granted both to the appellant and to the Building Official or designee. The Building Board of Appeals shall notify all parties of the hearing date and time at least 10 days prior thereto. The Building Board of Appeals shall operate under such rules of procedure as it may, from time to time, promulgate.

3. The decision of the Building Board of Appeals for an appeal of a Contract Building Official's Discretionary Decision shall be rendered within 30 days of receipt of the appeal. The decision of the Building Board of Appeals on other appeals shall be rendered within 60 days of the Building Official's receipt of the appeal, unless both parties stipulate to an extension of time. The Building Board of Appeals' decision shall be in writing and shall be final upon receipt. All notices given by the Board shall be given to the appellant by first-class mail at the address indicated by the appellant on the notice of appeal and shall be deemed received three days after mailing.

4. An appeal of the Building Board of Appeals' decision relative to the application, enforcement, and interpretation of provisions of this chapter which are not governed by the State Building Code, shall be made in writing to the Clatskanie City Council within 14 days of the Board's notice of said decision. An appeal of the Building Board of Appeal's decision relating to technical and scientific determinations regarding any provision of the state specialty codes regulated by the municipality shall be appealed to the appropriate advisory board within 30 days of the Building Board of Appeals' decision per OAR 918-080-0120(6).

5. All work which is the subject of a permit, interpretation, or other matter under appeal shall be suspended pending resolution of the appeal.

G. **Staying of order under appeal.** Except for vacation orders, enforcement of any notice and order of the Building Official issued under this chapter shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

9-17-12. Demolition.

H. **Demolition – Permit – Required.** Unless waived by the Building Official, any demolition of any structure requires a permit. The cost of the permit shall be determined by the Building Official and shall be based on factors such as the number of inspections required and the value of the work.

I. **Demolition – Permit – Expiration.** Every demolition permit issued by the Building Official under the provisions of this chapter shall expire by limitation and become null and void if the demolition work is not commenced within 180 days from the date of such permit, or if the work authorized by such demolition permit is not completed within the time limit established by the Building Official. The Building Official may grant an extension of time limit if it is apparent that the permit holder has made every effort to meet the time limit and will be unable to do so because of unusual or difficult conditions.

J. **Demolition – Permit – Suspension or Revocation.** The Building Official may, in writing, suspend or revoke a demolition permit issued under the provisions of this chapter whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any code or regulation or any of the provisions of this chapter.

K. **Demolition – Notification of utilities.** All utility companies, such as telephone, power, water, sewer, and gas, shall be notified by the applicant to disconnect all of such services from the main lines to the building.

L. **Demolition – Cleanup.** All debris, stumps, broken concrete, brick and other material shall be completely removed from the premises. All ground surfaces shall be raked clean and graded evenly within 30 days of completion of demolition.

Passed by the City of Clatskanie Council and approved by the Mayor on the ____ date of _____, 2025.

Attested:

BY: _____

Robert Brajcich, Mayor

BY: _____

Elisha Shulda, City Recorder

1st Reading: April 2, 2025

2nd Reading: May 7, 2025

<u>ROLL CALL ADOPTION</u>	<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>	<u>ABSTAIN</u>
Mayor: Robert Brajcich	[]	[]	[]	[]
Councilor Amanda Owen	[]	[]	[]	[]
Bob Emminger	[]	[]	[]	[]
Jeff Horness	[]	[]	[]	[]
Bruce Jolma	[]	[]	[]	[]
Russell Finney-Leggroan	[]	[]	[]	[]
Heidi White	[]	[]	[]	[]

ORDINANCE NO. 712
AN AMENDED ORDINANCE OF THE CITY OF CLATSKANIE PROHIBITING
CAMPING AT CERTAIN PUBLIC PROPERTIES

Whereas, on June 7, 2023, the City of Clatskanie passed Ordinance Number 707 which prohibited camping at certain public properties in the City of Clatskanie,

Whereas, the City of Clatskanie was informed that the Ordinance Number 707 did not contain the Ordaining Clause from the City Charter, which is required for all City ordinances,

Whereas, to ensure procedural compliance and validity of all city ordinances, the City of Clatskanie amends Ordinance Number 707 by adding the Ordaining Clause to the ordinance.

The city of Clatskanie ordains as follows:

Section 1. Purpose

This ordinance is intended to balance and prioritize several interests: recognition of the essential human dignity of everyone in the City of Clatskanie; the need to have safe and orderly conditions in City rights-of-way for the safety and benefit of everyone in Clatskanie; the right of everyone in Clatskanie to have shelter for sleep and safety; and respect for public spaces and public property in service to the entire community.

With this in mind, this ordinance is intended to regulate the use of public rights-of-way and City property to protect and preserve public places for their designed and intended purposes, while also making them available for shelter and sleeping by people who have no other options for shelter.

The City recognizes that surviving on City streets is typically an option of last resort. This chapter and the City's enforcement efforts will be focused on mitigating the impacts to public health and safety that can arise from survival camping in public places.

Section 2. Definitions.

For purposes of this section, the following words and phrases shall mean:

- a. To "Camp" means to occupy a Campsite for over 24 hours.
- b. "Campsite" means a location upon City Property where Camping Materials are placed.
- c. "Camping Materials" include, but are not limited to, tents, huts, awnings, lean-tos, chairs, tarps, collections of personal property and/or similar items that are, or reasonably appear to be, arranged and/or used as camping accommodations.
- d. "City Property" includes, but is not limited to, parks, rights of way, parking lots, easements, or other land owned, leased, controlled, or managed by the City.

- e. "Personal Property" means any item that can reasonably be identified as belonging to an individual and that has apparent value or utility.
- f. "Relocate" means to move off of City Property or to a different City Property. This definition does not include moving to another portion of the same City Property.

Section 3. Camping Prohibited Upon City Property

1. It is unlawful for any person to Camp upon City Property unless otherwise authorized by law or by declaration of the City Manager.
2. Unless otherwise authorized by law or by declaration of the City Manager, it is unlawful to establish a Campsite and a fire for any period of time at the following locations:
 - a. City Hall and adjacent sidewalks, 75 S Nehalem Street;
 - b. Clatskanie City Park 300 Park Street;
 - c. Waste Water Treatment Plant, 100 NW 4th Street; and
 - d. City sidewalk in front of any City licensed business.
3. At least once every 24 hours an individual that has placed a Campsite, Camping Materials or Personal Property on City Property must Relocate.
4. The City shall only remove individuals and unclaimed Personal Property from a Campsite as provided by ORS 195.505.
5. Violation of this section is punishable by a fine of no more than \$125. The amount imposed shall be at the discretion of the Judge.
6. If the City refers a service provider to an individual who is cited for a violation of this Section and the individual demonstrates they meaningfully engaged with that or another similar service provider after receiving the citation and before the hearing, the fine is eligible to be reduced or eliminated at the discretion of the Judge.

This Ordinance shall be in full force and effect from and after thirty (30) days from the date of its passage and publication as provided by law.

Passed by the City of Clatskanie Council and approved by the Mayor on the ____ date of ____, 2025.

Attested:

BY: _____

Robert Brajcich, Mayor

BY: _____

Greg Hinkelman, City Administrator



City of Clatskanie
Council Agenda Item 2025-17

Meeting Date: May 7th, 2025 & June 11th, 2025
Subject: Ordinance 712, Revised Time Place, and Manner Ordinance
Prepared By: Greg Hinkelman, City Manager

SUMMARY:

In June of 2023, the City Council passed an ordinance that regulates the “Time, Place, and Manner” (TPM) for which for homeless individuals can be in the City. The original Ordinance, Ordinance 707, did not contain the “Ordination Clause”. In order for that original Ordinance to be fully lawful and not face any legal challenges, this new Ordinance, 712 is identical to Ordinance 707 except that it now includes the Ordination clause.

RECOMMENDATION:

Pass Ordinance 712