



## MEMORANDUM

### CITY OF TUALATIN

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Sherilyn Lombos, City Manager

**DATE:** October 12, 2015

**SUBJECT:** Work Session for October 12, 2015

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**5:00 p.m. (30 min) – Metro Update with Councilor Craig Dirksen.** Metro Councilor Craig Dirksen will be present to update the City Council on projects and initiatives that Metro is working on.

**5:30 p.m. (30 min) – Outdoor Smoke & Tobacco Free City Spaces Policy.** Council will discuss aspects of an Outdoor Smoke and Tobacco Free City Spaces Policy for property owned and/or managed by the City, and provide direction for next steps.

**6:00 p.m. (20 min) – Water Supply Shortage Curtailment Plan.** Council will discuss a proposed plan that will guide the City in implementing water curtailment measures in order to meet needs and/or requirements placed on the City's water supply and distribution.

**6:20 p.m. (20 min) – Civil Exclusion Code.** Council will discuss the current civil exclusion process and provide direction on proposed revisions to the code.

**6:40 p.m. (15 min) – Council Meeting Agenda Review, Communications & Roundtable.** Council will review the agenda for the October 12<sup>th</sup> City Council meeting and brief the Council on issues of mutual interest.



# STAFF REPORT

## CITY OF TUALATIN

### **City Council Work Session**

**Meeting Date:** 10/12/2015

**Subject:** Metro Update

**Through:** Sherilyn Lombos, Administration

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PowerPoint

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MAKING A  
GREAT  
PLACE



# Metro update

Tualatin City Council

Councilor Dirksen

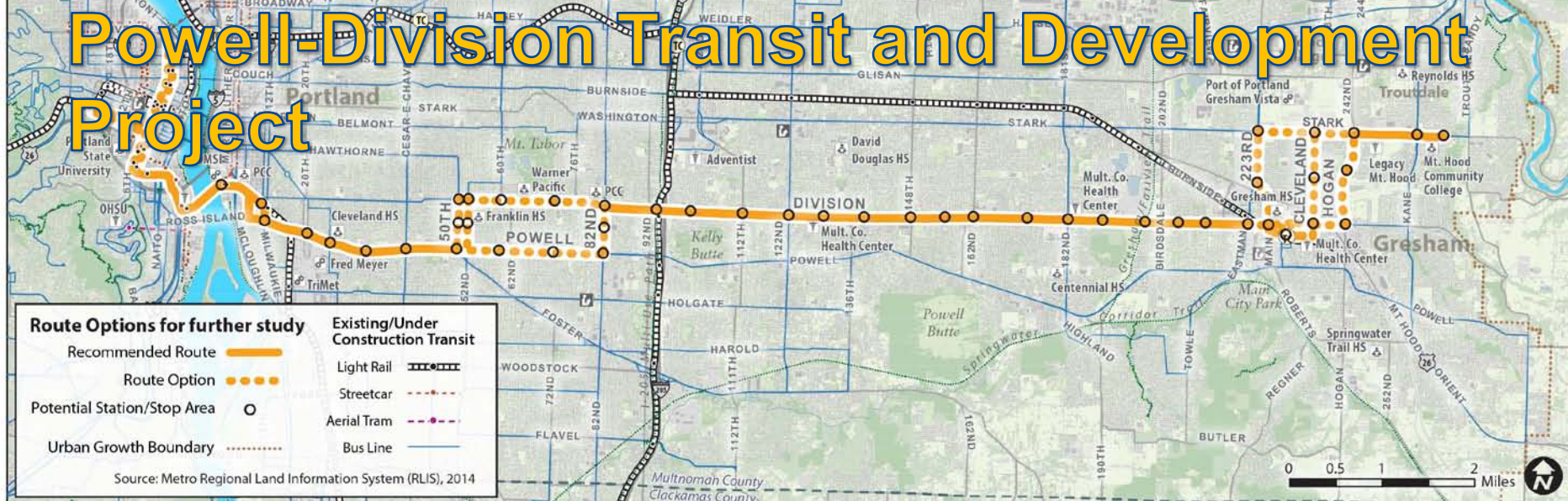
October 12, 2015

# Southwest Corridor



- Will use a surface route from downtown to SW Portland– no tunnels
- Decision expected in October on surface or tunnel route to PCC Sylvania
- Steering committee looking at terminus

# Powell-Division Transit and Development Project



## Decisions made:

- Bus rapid transit
- Tilikum Crossing to Powell Blvd transitioning to Division St to Mt Hood Community College

## Portland route options:

- Downtown Portland
- 50th/52nd Ave
- 82nd Ave

## Gresham route options:

- Main Ave/223rd Ave
- Cleveland Ave
- Hogan Rd



# Regional Transportation Planning



- 2018 Regional Transportation Plan update getting underway
- Regional Transit System Plan
- Regional Flexible Fund Allocation policy update and implementation

# Solid Waste Roadmap



- Making the most of what we don't want: Garbage as energy
- Seeking to remove more items from our garbage
- Evaluating capacity of landfills

# Improving Regional Equity



- Ensuring a healthy, strong region for all of our residents
- Focusing on a strategic approach to improving outcomes



# 2015 Growth Mgmt Decision



- COO recommendation released in August
- Focus on the investments we need for today's communities
- Revisit our decision in 2018

# Parks and Natural Areas



- Parks and Natural areas system plan
- Capital grants and Conservation Education grants awarded this summer
- Grant opportunity for regional trails. Deadline for applications is November 3<sup>rd</sup>, 2015  
(<http://www.oregonmetro.gov/tools-partners/grants-and-resources/trails-grants>)



# Oregon Zoo



- Ground broken Sept. 1 for new conservation education center
- A hub for the thousands of children who participate in zoo camps and classes each year

# Portland's 5 Centers for Arts



- Tchaikovsky's Symphony No. 5 at the Schnitz Oct. 24-26
- Jeff Foxworthy & Larry the Cable Guy on Nov. 20



# Expo Center



- America's Largest Antique & Collectible Show, Oct. 23-25
- RV & Van show Nov. 12-15

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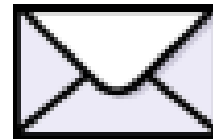
# Your questions...

Craig Dirksen

Metro Councilor, District 3

503-797-1549

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[www.oregonmetro.gov/connect](http://www.oregonmetro.gov/connect)



# MEMORANDUM

## CITY OF TUALATIN

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Richard Mueller, Parks and Recreation Manager  
Paul Hennon, Community Services Director

**DATE:** 10/12/2015

**SUBJECT:** Consideration of Outdoor Smoke and Tobacco Free City Spaces Policy for property owned and/or managed by the City

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### **ISSUE BEFORE THE COUNCIL:**

Council consideration of an Outdoor Smoke and Tobacco Free City Spaces Policy for property owned and/or managed by the City.

### **EXECUTIVE SUMMARY:**

This initiative is to consider an Outdoor Smoke and Tobacco Free City Spaces Policy for property owned and/or managed by the City. At the Council work session on July 28, 2014, Tualatin Together presented information to Council with a proposal to restrict smoking and tobacco in parks and other properties owned and/or managed by the City. The Council requested additional information be brought back at a future work session for further review and discussion.

There is an established trend among federal, state, and municipal agencies and jurisdictions, as well as private business and nonprofit organizations, to regulate smoking and tobacco use in outdoor spaces to promote public health and wellness, reduce operating costs, and for other reasons.

Support for this kind of policy can be found in the City Council 2020 Vision, Community Services Department mission and goals, Tualatin Tomorrow goals, Public Health vision, mission and goals, and health care provider initiatives. The Tualatin Library Advisory Committee and Tualatin Park Advisory Committee have recommended the Council consider smoke and tobacco free outdoor City areas.

Currently, the Tualatin Municipal Code, Chapter 06-07: Tobacco Use in Public Places, does not address outdoor smoking in parks or City owned or managed property, except as it relates to near the entrance of an enclosed area (near the doors of a building).

### **DISCUSSION:**

### Key policy questions for Council consideration include:

- Should smoke free policy include all tobacco and inhalant delivery systems (vapor)?
- Should tobacco free policy include all smoking and chewing items, methods, products and devices?
- Should regulation focus on consumption or use and not possession?

### Not included in the scope or consideration:

- Retail sales and/or advertising or display of smoking and tobacco products
- Hookah establishments
- Smoking or tobacco use inside buildings

### Where should smoke and tobacco products be regulated?

- Option: All Outdoor property owned or managed by City  
Includes all parklands, Library plaza, City offices, Tualatin Commons, property surrounding the Police Department, Operations building, and core area parking lots.
- Option: Selected Locations, but not all sites  
Could include any mix of parklands (parks, natural areas, trails, greenways), Tualatin Commons, Library Plaza, Police Department, Operations Department, City Parking Lots (core area)

### Purpose and Reasons for Policy

The purpose and reasons for implementing a smoke and tobacco free outdoor city space policy include:

- Reduction of maintenance (litter)
- Fire safety
- Public health and wellness (second hand smoke)
- Community image and perception (social norms for youth)
- Environmental harm (wildlife)
- Consistency in policy from the federal, state, county, and municipal levels of government

### Key Considerations

Key considerations for Council review and policy direction regarding an Outdoor Smoke and Tobacco Free City Spaces Policy include:

- Reason and Purpose
- Locations Included
- Implementation Schedule
- Public Involvement
- Constraints and Opposition
- Opportunities and Support
- Penalties and Enforcement

### Financial Implications:

Financial implications would include the cost of refreshing signage for parklands and other property owned or managed by the City and public information materials. An estimate of these costs will be completed, if Council chooses to move forward with a Outdoor Smoke and Tobacco Free City Spaces Policy.

### Next Steps

The next steps to implement such a policy are: 1) public information and public involvement,



followed by 2) preparation of a draft ordinance for Council consideration and direction. Then, 3) Council adoption of an ordinance, and 4) implementation over a designated period of time.

**RECOMMENDATION:**

Staff recommends Council review and consider aspects to include or not include in an Outdoor Smoke and Tobacco Free City Spaces Policy for property owned and/or managed by the City, and provide direction for next steps.

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**Attachments:**     Attachment A: Jurisdictional Comparison Regarding Outdoor Smoke and Tobacco Free Policy  
                             Attachment B: Power Point Presentation

# Jurisdictional Comparison Regarding Outdoor Smoke and Tobacco Free Policy

Attachment A

Organization	Scope / Materials Affected	Outdoor Policy?	Locations	Purpose	Schedule	Public Involvement	Constraints/Opposition	Opportunities/Support	Public Information Plan/Process	Penalty
Beaverton	Includes all tobacco products and e-cigarettes.	Yes.	In all interior spaces owned, rented or leased by the City; all outside property or grounds owned or wholly leased by the city (including parking areas); and in all City vehicles at all times and locations.	Public/staff health and wellness. Grant stipulations.	Worked closely with med insurance vendors to determine timeline. In total, 9 months of preparation.	None.	Some staff opposition.	Suggested reaching out to medical insurance vendors, American Heart Association, Wellness Committee and stakeholders to craft communication.	Worked with Public Information Manager to develop strategic plan so they could inform public.	No penalty.
Corvallis	Includes all tobacco products (lighted or otherwise), vapor, smoking devices. Does not include tobacco cessation products.	Yes.	All City property and the County Public Library (including PROW and area within 50 ft). Does not include designated parking areas, private property, and private vehicles. Added Parks, trails, and natural areas in 2005.	Not available.	Not available.	For 2005 addition: Advisory Board had public testimony opportunity.	Not available.	For 2005 addition: Benton County Tobacco-Free Coalition; Parks, Natural Areas, and Recreation Advisory Board.	Not available.	\$50-100 for 1st offense; subsequent fines increase up to \$500. Fine up to \$500/day for each offense (\$4,000/mo max) for any person who owns, manages, operates premise.
Eugene	Includes all tobacco products (lighted or otherwise) and smoking devices. Vaping added last year.	Yes.	All public spaces, PROW, places of employment, and exterior of buildings serving children. Includes city pools and Rec Centers, but not Senior Centers.	Health, wellness, and litter.	Not available.	Not available.	Not available.	Not available.	Not available.	\$50-\$100 fine for first offense. Subsequent fines increase up to \$500, or an administrative civil penalty up to \$2000/day, or both.
Forest Grove	Includes all tobacco products, smoking products, and e-cigarettes	Yes.	Designated parks, city-owned or leased property and city-sponsored events. Does not include City streets and sidewalks.	Public health, litter reduction, allows law enforcement to contact suspects who may be persons of interest in other cases.	Effective 30 days for "education period" where warning citations issued	3 public comment opportunities during Parks and Rec Commission meetings; City Council held two duly-noticed public hearing	Fiscal impact estimated (signage costs of \$250-\$600). Perception that City-wide policy would be too difficult to implement or litigious. Minimal opposition.	Supported by public health organizations, advisory committees and City Council Goals.	Handed out policy cards to those smoking as education period. Media was used as positive education piece (5-6 articles).	\$100 to \$250 fine. Enforcement officer may cite into Municipal Court.
Hillsboro	All tobacco products (lit or otherwise), vaping, and electronic products/devices. Tobacco product definition includes anything intended to be put in human body. Does not include tobacco cessation products.	Yes.	Includes any public lands, city-sponsored event, and city owned or controlled personal property, including, but not limited to, vehicles. Does not include sidewalk ROW.	Consistency in policies, public health, wellness, and public safety.	Effective 30 days after adoption.	No major outreach. Coordinators did informal survey of Adult Softball Teams who were biggest tobacco users.	Minimal opposition.	Handful of supporters for banning vaping. Anecdotal comments from public about better experiences with smoke ban.	Signage in all of the parks, news releases, TV spots, notice given of new rule, treated as educational tool not punitive.	Warning issued first, then exclusion for up to 90 days. A violation of an exclusion notice constitutes criminal trespass.
Lake Oswego	Includes all tobacco products and smoking. Does not mention e-cigarettes or vaping.	No.	Includes all places of employment. Does not include: smoking-designated hotel or motel rooms and retail tobacco stores; makes exception for bars and taverns that prohibit minors.	Public health and safety.	Not available.	At least two Council meetings with public testimony	Some opposition from public, one Councilor voted against policy.	Larger support from public.	Not available.	Warning for first offense with educational materials & tobacco program referral; fine suspended if violator cooperates with remedial activity. Fine increases with subsequent violations up to \$500.

Jurisdictional Comparison Regarding Outdoor Smoke and Tobacco Free Policy

Organization	Scope / Materials Affected	Outdoor Policy?	Locations	Reason / Purpose	Schedule	Public Involvement	Constraints/Opposition	Opportunities/Support	Public Information Plan/Process	Penalty
Portland	Includes all tobacco products (lit or otherwise), vapor, smoking devices, and marijuana.	Yes.	All park grounds and facilities. Also includes Portland International Raceway, golf courses, and leased properties. Does not include public ROW.	Public health and safety, environmental health, consistency in policies and goals.	Effective 5 months after adoption to educate, post signage.	Parks Board and community members recommended policy to Council. City sent out online survey for feedback, no public hearings.	Internal concerns from staff (smokers) about how it would impact work. Minimal opposition.	Overwhelming community support, in addition to County support. City created designated smoking areas, which staff could request.	Created policy handouts (Spanish and English), FAQ webpage, posters/ads, email blast to partners, newsletter articles and posted signage.	Exclusion for remainder of the day.
Sherwood	Includes all tobacco products (lit or otherwise). Does not mention e-cigarettes or vaping.	Yes.	Includes any city-owned, controlled or managed property, including, but not limited to, buildings, parks, vehicles, and other real and personal property. Does not include public ROW.	Not available.	Not available.	Not available.	Not available.	Not available.	Not available.	Fine of \$50-\$500
Tigard	Smoking	No.	City facilities, including City-owned buildings, vehicles, individual employee offices, and offices or other facilities rented or leased by the City.	Not available.	Not available.	Not available.	Not available.	Not available.	Not available.	Not available.
Tualatin Hills Park & Recreation District	Includes all lit tobacco and non-tobacco substances, marijuana, and e-cigarettes. Does not include chewing tobacco.	Yes.	District grounds, facilities or buildings including parks, trails, parking lots, and athletic fields.	Public health and safety, litter reduction, consistency in mission.	Effective 2 months after board approval to allow preparation and public notification.	Public meetings (at least 2), survey of residents and other organizations, other communications over several months.	Minimal opposition.	Parks Advisory Committee and Washington County Public Health Division.	Publications, social media outreach, added to parks rules sign, notification on website, and ongoing education.	Exclusion (30-180 days/occurrence) or misdemeanor. Arrest and criminal trespass in 2nd degree if violates exclusion.
Washington County	Includes all lit tobacco products, vapor, smoking devices. Does not include chewing tobacco.	Yes.	Most County property, except in parks- areas where people congregate.	Public health.	Effective 90+ days after adoption (2014).	Public information	Minimal opposition.	Community support for health and wellness.	On effective date, flooded grounds with notices; designated employees to hand out print material as policy guide	Reminders. Not many repeat offenders.
Wilsonville	Includes all tobacco products and smoking. Does not mention e-cigarettes or vaping.	Yes.	City park property, park facilities and buildings.	Received CDC Grant; health and wellness; litter reduction; economic impacts.	Effective 30 days after second reading/adoption	Goals presented to Parks and Rec Board. Involved various organizations- students, businesses, etc. Data collected on citizen attitudes.	2% of respondents to poll indicated there should be no policy on tobacco in parks.	98% of poll respondents voted for either: Wilsonville Parks should be tobacco free, or children's play areas in parks should be tobacco free.	Not available.	Class C misdemeanor



City of Tualatin

# **Smoke & Tobacco Free**

Consideration of Smoke and Tobacco  
Free City Spaces Policy for Outdoor  
Property Owned or Managed by the City



# History

- Tualatin Together (initiative)
- Advisory Committees (recommendation)
- Council Workshop (July 28, 2014)
- Existing Practices & Policies (Appendix A)



# Other Jurisdictions

Jurisdictional Comparison Regarding Outdoor Smoke and Tobacco Free Policy

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# Key Issues

## Scope (What's Included)

- Smoke Free (Tobacco & inhalant delivery systems)
- Tobacco Free (Smoking & Chewing)
- Regulation on consumption/use (Not Possession)
- Where (Locations)

## Out of Scope (Not Included)

- Retail sales, advertising or displays
- Marijuana (including edible packaged products)
- Hookah Establishments
- Indoor Buildings



# Purpose & Reasons

- Reduction of Maintenance (litter)
- Fire Safety
- Public Health (second hand smoke)
- Community Image and Perception (social norms for youth)
- Environmental Harm (wildlife)
- Consistency in Policy



## **3 boys charged in Oregon trestle fire**

SHERWOOD, Ore. (AP) — Police have charged three boys with reckless burning in connection with a fire that destroyed a train trestle in Sherwood, Oregon.

A fire investigator said careless smoking was the cause of the Aug. 10 fire that burned eight acres along with the 85-year-old Portland and Western Railroad trestle.



# Key Considerations

- Scope
- Locations (where)
- Schedule
- Public Involvement
- Pre-Mortem (Constraints, Opposition, Opportunities & Support)
- Reason & Purpose



# Next Steps

- Council Direction (Oct. 12)
- Public Information & Involvement (Nov. & Dec.)
- Draft Ordinance to Council with Policy Recommendations (Jan.)
- Ordinance Adoption
- Implementation of Ordinance





# MEMORANDUM

## CITY OF TUALATIN

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Carrie Severson, Management Analyst II  
Jerald Postema, Public Works Director

**DATE:** 10/12/2015

**SUBJECT:** Draft City of Tualatin Water Supply Shortage Curtailment Plan

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### ISSUE BEFORE THE COUNCIL:

Consideration of a proposed plan to guide staff in implementing water curtailment measures in order to meet needs and/or requirements placed upon the City's water supply and distribution.

### EXECUTIVE SUMMARY:

Staff is seeking review and guidance on a draft water curtailment plan, currently, no curtailment plan has been adopted by the City. The scope of the project is to establish a water shortage curtailment plan in the event that a shortage occurs due to supply or distribution difficulties with the goal of minimizing impact to customers, meeting reduction goals, and preserving public health and safety.

This plan also ties to our Water Conservation and Emergency Preparedness Plans. Staff reviewed several plans and met with internal stakeholders to develop the draft plan.

Enforcement of the plan references existing City Ordinances and clearly establishes voluntary and mandatory expectations for water use.

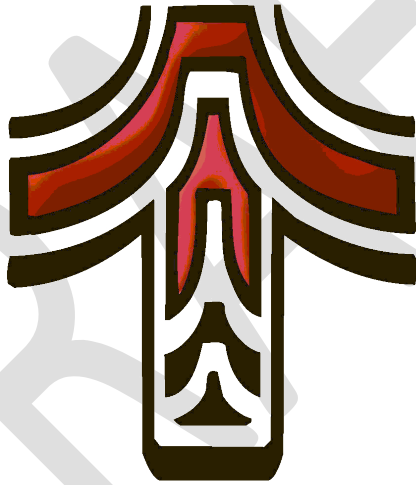
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**Attachments:** Draft Plan  
PowerPoint

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# **Water Supply Shortage Curtailment Plan**

## **City of Tualatin**



**Updated - 2015**

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## **I. Introduction**

City of Tualatin developed this water supply shortage curtailment plan to guide the City Council and City of Tualatin staff in the event of a water shortage due to constraints related to the supply or distribution of water resources. City of Tualatin may undertake a variety of curtailment actions, depending on the time of year and the expected duration of any water supply shortage.

Throughout any such shortage, City of Tualatin will continue to pursue the following objectives:

- Maintain adequate volume of high-quality potable water supplies for all City of Tualatin customers.
- Provide clear customer communications and rapid customer service. Be consistent with public expectations based on information shared to date.
- Promote water use efficiency.
- Control costs that come with curtailed water use, such as losses in revenue, or higher-cost water supplies (e.g., the purchase of peaking water from Portland).
- Have an equitable impact on all users—public and private, urban and suburban, business and residential. Prioritize actions to have the least permanent negative impact.

## **II. Phased Curtailment Plan**

During any stage, no person shall waste City water.

### **Stage 1: Routine Summer Advisory**

City of Tualatin predicts that we will face these conditions each summer, as warm dry weather settles into the region and drawdown of the Water Sources begin. Summer water use typically doubles or triples winter use, as customers begin to irrigate their landscapes, wash cars, and use water for cooling purposes.

#### **Water Reduction Goals & Objectives**

Each user should strive to maintain, not exceed, average summer usage levels.

#### **Triggers (any of these)**

At his/her discretion, the City Manager may declare a Stage 1 alert based upon any of the following:

- Portland Water Bureau activates groundwater wells for non-maintenance or routine purposes.
- Above Average Temperatures
- Below Average Rainfall
- Greater than average water demand
- Infrastructure related matters

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## Public Message: Voluntary Conservation Measures

- Promote already-existing conservation messages from the Regional Water Consortium and the City of Tualatin's Conservation Plan, through the City of Tualatin's website, Facebook, and Twitter accounts.
- Ask customers to use the Regional Water Consortium's weekly water widget to voluntarily reduce outdoor watering schedule, based on the weather.
- Place conservation reminders and tips in *Tualatin Today*, bill message, and on City of Tualatin's website. Use various venues to distribute information. Set up public information booths where opportunities exist and look for other opportunities for public outreach, such as speaking engagements, etc.

## Possible City Actions

- Encourage water efficiency throughout the City of Tualatin-owned facilities, promoting conservation wherever possible and reporting suspected leaks.
- Stop City of Tualatin hydrant flushing program until fall weather patterns resume or until the water situation improves.
- Partner with Regional Water Providers Consortium to send consistent conservation messages to the media.
- Provide free leak detection test for customers who suspect a leak. City staff will help determine the location of leak, if the leak is outdoors, and offer free brochures with conservation information and free conservation devices when applicable.

## Partners to Contact

- Work with local agencies to coordinate resources and uniform messages for water customers, and to prepare, review and/or update local water ordinances regarding curtailment enforcement.

## Stage 2: Moderate Water Supply Shortage

This may be a temporary condition of several days, caused by service interruptions in the region. During this time, City of Tualatin may redirect supplies to areas experiencing shortages. Or, this may be an intermediate stage of an ongoing water supply shortage. Source Water may have begun "summer drawdown," with no rain in the forecast. Customers should voluntarily limit their use of water.

## Water Reduction Goals & Objectives

Decrease overall usage by 10 percent.

## Triggers (any of these)

At his/her discretion, the City Manager may declare a Stage 2 alert based upon any of the following:



- 
- Portland Water Bureau declares a Level 1 curtailment alert.
  - City of Tualatin customer use reaches contractual and/or facility capacity for five consecutive days.
  - Governor issues a declaration of drought for Clackamas, Multnomah or Washington County, pursuant to ORS 536.720-740 and a Drought Monitor Rating of D2 or higher for our region.
  - Extensive repairs needed on local water infrastructure including pumps, reservoirs, mains and other necessary components.

### **Public Message: Voluntary Conservation Measures**

- Promote Stage 1 Public Message.
- Send official notification of Moderate Water Supply Shortage to City of Tualatin customers.
- In terms of a long term event such as a drought or sustained turbidity that will interfere with supply, the voluntary measures may not be adequate over time. Notification should advise of the possibility of increasing levels of curtailment activities.
- Issue a notice to the local media that the City is in a Moderate Water Supply Shortage.
- Encourage conservation through volunteer events and outreach through existing volunteer opportunities.
- Routinely publish in the *Tigard Times*, and *The Oregonian* the voluntary conservation measures that the customers are requested to follow during a Moderate Water Shortage.
- Encourage reduction in water use by 10 percent (as a rule of thumb, for example, residential customers in a four-person single-family household should try to reduce their use by about 29 gallons per household per day).
- Promote limitation of water use in commercial businesses (e.g., do not serve water to restaurant customers unless specifically requested).
- Request elimination of wasted running water, such as unattended hoses, obvious leaks, etc.
- Encourage reduction watering of lawns, plants, trees, gardens, shrubbery, and flora on private or public property to the minimum necessary. Conduct outdoor watering between 10:00p.m. and 5:00 a.m.).
- Promote elimination of outdoor water use, including:
  - a. Washing down of hard surface areas, decks, buildings, gutters, and vehicles;
  - b. Use of freshwater in fountains, reflection ponds, and decorative water bodies for aesthetic or scenic purposes, except where necessary to support aquatic life or for features that recycle water;
  - c. Filling or maintaining private residential swimming pools or hot tubs (excluding use of children's wading pools);

### **Use of fire hydrants for any purpose other than firefighting or flushing essential to maintain water quality.****Possible City Actions**

#### **Encourage water efficiency throughout the City of Tualatin-owned facilities, promoting conservation wherever possible and reporting suspected leaks.**

- Stop City of Tualatin hydrant flushing program until fall weather patterns resume.
- Turn off automatic irrigation where applicable and reduce operating times for water based play features owned by the City of Tualatin
- Postpone enforcement of landscape ordinances.



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## Partners to Contact

- Partner with Regional Water Providers Consortium to send consistent conservation messages to the media.
- Contact potential institutional partners in water conservation, including local businesses that are the most affected (e.g. landscapers/green industry, commercial carwashes, nurseries, restaurants, water-intensive manufacturers, etc.).
- Make conservation presentations to Community Involvement Organizations (CIOs).
- Notify Tualatin Valley Fire and Rescue of the alert and request refraining from any training activities using City water.

## Stage 3: Severe Water Supply Shortage

This is a stage of “restricted” watering; customers still have time to prepare and conserve before a loss of service. Scenarios include protracted period of drought or multi-day disruption of service across the City of Tualatin’s service territory.

### Water Reduction Goals & Objectives

Be able to re-direct unaffected supplies without removing any customers from the system. Decrease overall daily City water use by at least 20 percent through reduction of outdoor water use.

### Triggers (any of these)

At his/her discretion, the City Manager may declare a Stage 3 alert based upon any of the following:

- Portland moves to groundwater sources entirely.
- The Portland supply cannot meet demands.
- City of Tualatin’s distribution system experiences a significant and sustained reduction of water pressure.
- City of Tualatin customer use reaches contractual and/or facility capacity for five or more consecutive days.
- Failures in the City’s Water Distribution System impacting the ability to provide reliable water service for a sustained period.

### Public Message: Mandatory Curtailment Measures

#### **The City will encourage or promote the following:**

Promote Stage 1 and Stage 2 public messages. Focus efforts to educate and encourage indoor and outdoor water conservation. Caching a supply of water for drinking purposes Reduction of all water use by 20 percent, beginning with outdoor use (as a rule of thumb, for example, residential customers in a four-person single-family household should try to reduce their use by about 58 gallons per household per day). Repair leaks in hoses, faucets, and couplings.



<b>The City will Mandate the following prohibitions of City water Use</b>	
<b>Type of Use Prohibited</b>	<b>Exceptions</b>
i. Irrigation of established lawns/grass /turf (those at least six weeks old); Chemical applications to lawns/grass/turf that requires subsequent watering	Commercial sod farms, high-use athletic fields used for organized play, daycare providers and water features that recycle water.
ii. General landscaping	Hand watering of edible garden plants, ornamental plants and flowers permitted between 10pm and 5am
iii. Washing down of hard surface areas, decks, buildings, gutters, or vehicles.	
iv. Ornamental fountains, reflection ponds, and decorative water bodies for scenic purposes.	Water used to support aquatic life, recirculated water features
v. Filling of swimming pools, hot tubs or water based play features	Recirculated water features.
vi. Use of fire hydrants	Firefighting or flushing essential to maintain water quality
vii. Expansion of commercial nursery facilities, placing new irrigated agricultural land in production, or planting or landscaping when required by site design review process.	
viii. Limit use in commercial facilities (water served only upon request in restaurants)	
ix. No applications for new, additional, further expanded, or increased-in-size water service connections, meters, service lines, pipeline extensions, mains or other water service facilities of any kind shall be allowed, approved, or installed.	

- b. Water waste prohibition ordinance Tualatin Municipal Code (TMC) §3-3-200 (1)(a) 3-3-200 may be enforced.

**TMC §3-3-200 Prohibited Conduct.**

(1) It is unlawful and a violation of this ordinance for any person to commit or cause any of the following acts:

(a) Wasteful or improper use of water during times of water shortage due to drought, damage to the water system or supply capability or unanticipated substantial demand which threatens the supply or pressure capability of the water system, or some combination of the foregoing. Wasteful or improper use under this paragraph shall include, but not be limited to, the use of water at times or in a manner which is prohibited by the terms of any City Council rule which may be adopted by resolution.





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## Possible City Actions

- Place messages in *Tualatin Today*, bill message and on the City Web site, as well as on billboards, bus-sides, TV, radio, and movie theatre ads. Turn off automatic irrigation where applicable and decrease time availability of water features owned by the City of Tualatin.
- Issue a statement that the City is experiencing a Severe Water Supply Shortage; notify the local media and send official notification to City of Tualatin customers.
- Routinely publish in the *Tigard Times*, *Tualatin Life* and *The Oregonian* the mandatory restrictions to be placed on the use of water supplied by the City.
- Publicize the penalties to be imposed for violations of mandatory restrictions and the procedures to be followed if a variance in the restrictions is requested, through the media and public outreach efforts, including door hangers.
- Activate conservation information line, including the current supply situation, voluntary measures, and conservation tips.
- Implement the enforcement provisions of City of Tualatin's *Water Supply Shortage Curtailment Plan*.
- City of Tualatin will not reimburse customers for bottled water or hotel stays resulting from any Water Supply Shortage.

## Partners to Contact

- Remind business, industrial, and government customers of any letters of cooperation that City of Tualatin may have signed with them to prepare for Stage 4 curtailment situations.
- Inform landscape / green industry of prohibitions on irrigation and chemical applications that require irrigation.
- Work with CIOs and HOA's to temporarily suspend regulations that require the use of water (Landscape requirements, etc.).
- Notify Tualatin Valley Fire and Rescue of the alert and request to refrain from any training activities using City water and request measures to establish and enforce a ban on open burning.

## Stage 4: Critical Water Supply Shortage

This may include emergency conditions under which little or no water is flowing to customers (as in the case of natural disasters that result in sudden and acute water loss). It may be necessary for the City to proceed directly to Stage 4. Or, this scenario may indicate an extended period of time in which demand outstrips supply.

## Water Reduction Goals & Objectives

Protect safety, health, and economic livelihood.

## Triggers (any of these)

The City Council may declare a Stage 4 alert based upon any of the following. A Stage 4 declaration made by the City Manager shall be received by the City Council within 14 days and may be affirmed, modified or withdrawn by the council:



- Portland reduces or removes the City of Tualatin from its system or the City cannot meet customer demands for water.
- Supplies are either physically cut off or become unavailable.
- City of Tualatin customer use reaches contractual and/or facility capacity for five consecutive days.
- Governor declares statewide drought, U.S. Drought Monitor identifies a regional drought of D3 or greater.
- The City of Tualatin declares a water related emergency.

Public Message: Mandatory Curtailment Measures

<b>The City will Mandate the following prohibitions of City water Use</b>	
<b>Type of Use Prohibited</b>	<b>Exceptions</b>
i. All outdoor water use	
ii. Non-essential residential water use	Basic sanitation, drinking and culinary uses
iii. Non-essential commercial and industrial water use	Fire protection, human health and sanitation
iv. No new applications for additional, further expanded or increased-in-size water service connections, meters, service lines, pipeline extensions, mains or other water service facilities of any kind allowed, approved or installed.	

- Additional curtailment conditions may be implemented by, or on behalf of the Portland Water Bureau or the State of Oregon.
- Enforcement of City of Tualatin's *Water Supply Shortage Curtailment Plan* includes fines.
- Water waste prohibition ordinance Tualatin Municipal Code (TMC) §3-3-200 (1)(a) 3-3-200 strictly enforced.

TMC §3-3-200 Prohibited Conduct.

(1) It is unlawful and a violation of this ordinance for any person to commit or cause any of the following acts:

(a) Wasteful or improper use of water during times of water shortage due to drought, damage to the water system or supply capability or unanticipated substantial demand which threatens the supply or pressure capability of the water system, or some combination of the foregoing. Wasteful or improper use under this paragraph shall include, but not be limited to, the use of water at times or in a manner which is prohibited by the terms of any City Council rule which may be adopted by resolution.

### Possible City Actions

- Issue a statement that the City is experiencing a Critical Water Supply Shortage.
- Issue media releases.
- Enforce *Water Supply Shortage Curtailment Plan* with warnings, fines, and discontinued service if necessary.



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- Place reminder messages in *Tualatin Today*, in the bill message and on the City Web site, as well as on billboards, bus-sides, TV, radio, and movie theatre ads.
  - Activate conservation information line on the current supply situation, voluntary measures, and conservation tips.
  - Contact ORWARN (Oregon Water/Wastewater Agency Response Network) for utility help if appropriate.
  - Enact the appropriate provisions of the Emergency Management Plan and if necessary, conduct the following emergency actions:
    - a. Activate City of Tualatin's Emergency Operations Center (EOC).
    - b. Begin rationing water as needed.
    - c. Activate any curtailment agreements previously negotiated with customers.
    - d. Open interconnections with neighboring water suppliers.
    - e. Bring ASR well on-line.
  - City of Tualatin will not reimburse customers for bottled water or hotel stays resulting from any Water Supply Shortage.

### **Partners to Contact**

- Notify Tualatin Valley Fire and Rescue of the alert and request to refrain from any training activities using City water and request measures to establish and enforce a ban on open burning.
- Activate any previously agreed upon curtailment arrangements with customers.
- Inform developers of the moratorium on all new water service connections and water main extensions.
- Notify and work with neighboring water providers.
- Activate partnerships with bottled water manufacturers, National Guard, Red Cross or other water distributors if needed.
- Contact the Washington County Emergency Management Cooperative for additional resources and open burning, fire pit and fireworks ban.

### **III. Enforcement**

- a. EXAMPLES
- b. (Lake Oswego Example) Curtailment Stage 3 and Stage 4 will be noticed to all City of Tualatin customers, informing them that a Stage 3 or Stage 4 curtailment is in effect and include a listing of mandatory and/or voluntary water use reduction levels that will be in effect as well as specific activities that will be prohibited. Violations of mandatory curtailment action measures will be considered a violation of Tualatin Municipal Code §3-3-200.
- c. (GRC Example) Violation of a provision of this article may be subject to a fine or penalty in the maximum amount of \$500.
- d. (Tigard Example) City manager or designee shall have authority to enforce any water curtailment order. Enforcement shall follow notification process and actions as indicated below.
  - i. First Violation- Warning letter to cease unauthorized water use within 24 hours.



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- ii. Second Violation- 48 hour notice before installation of flow restrictor that limits water use; and a final notification process fee shall be assessed to customer billing charges as noted in most current fees and charges schedule.
  - iii. Third Violation- Tampering with flow restrictor shall result in immediate termination of water service. Restoration of water service will require installation of flow restrictor and a water disconnection charge for non-payment shall be assessed to customer billing charges as noted in the most current fees and charges schedule.
  - iv. Fourth Violation- Water Service connection shall be removed from main water line. A meter disconnection fee shall be assessed to customer billing charges. Reconnection of water service shall be charged at rate of actual material and labor costs plus ten (10) percent. All fees and charges shall be paid before reconnection is authorized.
  - e. (City of Sandy Example) Any violation of the restrictions or prohibitions permitted by this section shall be enforced by the city as follows:
    - i. 1. The city shall personally deliver a notice of violation to the occupant of the premises. If the occupant is not present, the city may post the same on the premises advising the user of the violation and warning the user of what specific sanctions may be imposed if the violations continue. The city shall also mail the notice of violation by regular mail to the occupant at the address of the subject premises where the violation has occurred.
    - ii. 2. The following penalties may be imposed if violations continue:
      - iii. Second violation \$100.00 Fine
      - iv. Third violation \$300.00 Fine
      - v. Fourth and subsequent violations \$500.00 Fine
- In the case of continuing violations, the city also has the authority to discontinue water service.  
(Ord. 12-92 §1, 1992: Ord. 10-73 § 23, 1973.)





# Water Curtailment Plan



*City of Tualatin*

# Water Overview

- Portland Water Bureau Contract
  - Section 14- Water Curtailment and Protection of the Water System
    - Plan provides a mechanism to meet contractual requirements
  - Contract provides plan measures
    - State of Oregon OAR Division 86
    - State declared drought under ORS 536-720-740



# Curtailment Considerations

- Short Term-
  - Distribution System
    - Transmission lines (Portland or Tualatin)
    - Storage Tanks
- Long Term-
  - Supply
    - Drought
    - Quality (Turbidity)
- External
  - Regional
    - Metro v Targeted Cities/Suppliers
- Internal
  - System wide v localized

# Review of Plans

- Template
  - Tualatin Valley Water District
- Portland Wholesale Customers
  - Portland and the four largest users
- Portland Metro Region
- Larger Cities in the United States



# Tualatin's Draft Plan

- Goals
- Triggers
- Messaging
- Actions
  - City
  - Customers

# Tualatin's Draft Plan

- Stage 1
  - Routine Summer Advisory
  - Discretionary for City Declaration
  - Promotes
    - Consortium messages
    - Tualatin Conservation Plan



# Tualatin's Draft Plan

- Stage 2
  - Moderate Water Supply Shortage
  - Promotes Stage 1 Conservation
  - Encourages Voluntary Conservation Techniques
    - Aims to reduce City wide use while preserving economic livelihood



# Tualatin's Draft Plan

- Stage 3
  - Severe Water Supply Shortage
  - Triggers Include
    - Portland cannot meet demands
    - Water use reaches contractual and/or facility capacity for five or more days
  - Mandatory Curtailment
    - Various types of outdoor use



# Tualatin's Draft Plan

- Stage 4
  - Critical Water Supply Shortage
  - Goals are to protect safety, health and economic livelihood
  - Mandatory Curtailment
    - Outdoor use prohibited
    - Non-essential use prohibited
    - Additional curtailment as necessary to preserve life, dependent upon the reduction



# Questions?





# STAFF REPORT

## CITY OF TUALATIN

### **City Council Work Session**

**Meeting Date:** 10/12/2015

**Subject:** Civil Exclusion

**Through:** Sherilyn Lombos, Administration

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Civil Exclusion-Powerpoint

Civil Exclusion - Work Session Draft

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# CIVIL EXCLUSION

CITY COUNCIL WORK SESSION  
OCTOBER 12, 2015

Sean Brady  
City Attorney

# Overview

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- Current Civil Exclusion Process
- Discussion of Changes in Proposed Draft

# Current Civil Exclusion Process

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- ❑ Only Applies to Library and Parks
  - ❑ TMC 5-1 (Library)
  - ❑ TMC 5-2 (Parks)
- ❑ Two Civil Exclusion Processes
  - ❑ One Located in Each Chapter
- ❑ Exclusion Timelines Interspersed throughout each Chapter



# Draft Civil Exclusion Process

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- ❑ Uniform Code
- ❑ Applies to All City Facilities
- ❑ Issued Based Upon Probable Cause
  - ❑ Felony
  - ❑ Misdemeanor,
  - ❑ Violation or Rules Infraction

# Draft Civil Exclusion Process

- Timelines for Exclusion Based on Severity of Offense
  - Felonies – 1 year
  - Misdemeanor – 90 days
  - Violation/Infraction/Rules Violation – 30 days
  - Enhancement for Repeat Offense
  - Encourages Warnings and Compliance
  - Provides Clear Provisions for Enforcement Officers and Court

# Draft Civil Exclusion Process

- Appeal Process to Municipal Court
  - City Prove Offense by Preponderance of Evidence Standard
- Variance Process Available at Municipal Court
  - Obtain social services
  - Conduct valid city business
  - Receive educational services
  - Take immediate family to location

# QUESTIONS AND DISCUSSION

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## **DRAFT CIVIL EXCLUSION ORDINANCE**

ORDINANCE NO. \_\_\_\_

AN ORDINANCE RELATING TO CIVIL EXCLUSIONS; ADDING TUALATIN MUNICIPAL CODE CHAPTER 5-10; AMENDING TUALATIN MUNICIPAL CODE CHAPTERS 5-1 AND 5-2; AND ADDING NEW PROVISIONS.

WHEREAS,

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

**Section 1.** Tualatin Municipal Code Chapter 5-10 (Civil Exclusion) is created as follows:

**5-10-010. Definitions.** As used in this Chapter, the following terms have the following meanings, unless the context otherwise requires:

- (1) "Arrest" means to place a person under actual or constructive restraint, or to take a person into custody, for the purpose of charging that person with the commission of any enumerated offense which is a misdemeanor or felony.
- (2) "Cite" means to issue a citation to appear in court to a person for commission of an enumerated offense.
- (3) "City Property" means any property or physical structure owned or managed by the City, including but not limited to buildings, greenways, libraries, parks, and parking lots.
- (4) "Enumerated offense" means any of the following:
  - (a) Felony: any crime under Oregon law classified as a Class A, Class B, or Class C felony;
  - (b) Misdemeanor:
    - (i) any crime under Oregon law classified as a Class A, Class B, or Class C misdemeanor; or
    - (ii) any violation of the Tualatin Municipal Code that classifies the offense as a misdemeanor.
  - (c) Violation or Infraction:
    - (i) any violation of Oregon law that classifies the offense as a violation;



(ii) any violation of the Tualatin Municipal Code that classifies the offense as a violation or infraction; or

(iii) any violation of the Library Rules of Conduct, Park Rules, Commons Regulations, or any other administrative rule adopted by the City.

(5) "Enforcement officer" means a peace officer as defined by ORS 133.005, or any other person with authority to enforce the City of Tualatin code.

(6) "Essential needs" means food, physical care, and medical attention.

(7) "Reside" means to occupy one's principal dwelling; including transient occupancy in a hotel or motel.

(8) "Travel" means the movement on foot or within or upon a vehicle from one point to another without delay other than to obey traffic control devices.

**5-10-020 Civil Exclusion for Committing Enumerated Offense on City Property.**

(1) Any person arrested or cited, based upon probable cause to believe that the person has committed an enumerated offense on City Property, will be prohibited from being present at the City Property where the conduct occurred, except to travel to or from and be present for:

(a) Attendance at a City Council meeting, or other meeting of a city committee or board;

(b) Compliance with obligations ordered by a court or corrections department;

(c) Contact with criminal justice personnel at a criminal justice facility;

(d) Attendance at Municipal Court hearing relating to:

(i) An appeal of that person's Notice of Exclusion;

(ii) The denial, revocation, or amendment of that person's variance;

(iii) a violation proceeding against that person; or

(iv) pursuant to a validly issued subpoena.

(e) Obtaining, or attempt to obtain, an essential need by accessing the public building that provides an essential need or service when the essential need cannot reasonably be satisfied by the excluded person without entering the public building;

(f) Performance of work directly related to lawful employment;

(g) An activity, place, or event as specified by a variance issued by the Municipal Court pursuant to 5-1-180.

(2) The issuance of a civil exclusion is in addition to any other remedy provided by law.

(3) This section is to be enforced so as to emphasize voluntary compliance with laws and City rules, and so that inadvertent minor violations that would fall under this Chapter can be corrected without resort to an Exclusion Notice.

**5-10-040. Exclusion Notice.** (1) The Exclusion Notice must be issued by the enforcement officer at the time the person is arrested or cited for the commission of the enumerated offense.

(2) The Exclusion Notice must be in writing and must specify the following:

(a) the enumerated offense;

(b) the City building or facility excluded from or geographical extent of exclusion;

(c) the date exclusion takes effect and the date it ends;

(d) the procedure for filing an appeal; and

(e) a statement indicating the availability of a variance.

(3) If the Exclusion Notice is related to the conduct of a minor, the Exclusion Notice must be:

(a) issued to the parent, guardian, or custodian of the minor; or

(b) issued to the minor with a copy of the Exclusion Notice provided to the minor's parent, guardian, or custodian in person or by first class mail.

**5-10-050 Period of Exclusion.** (1) The period of exclusion for a person issued an Exclusion Notice is:

(a) 30 days if the enumerated offense is a violation or infraction.

(b) 90 days if the enumerated offense is a misdemeanor.

(c) One year if the enumerated offense is a felony.

(2) The period of exclusion established in subsection (1)(a) and (b) is doubled if the person previously received an Exclusion Notice within one year from the date of receipt of the Exclusion Notice related to the current violation.

(3) The period of exclusion established in subsection (1)(a) and (b) is tripled if the person previously received two or more Exclusion Notices within one year from the date of receipt of the Exclusion Notice related to the current violation.

**5-10-060. Commencement of Exclusion.** The period of exclusion will commence upon the issuance of the Exclusion Notice, but will be stayed if the person excluded files a Notice of Appeal under 5-10-070, which stay will remain in place until the Municipal Court issues a decision on the appeal.

**5-10-070 Notice of Appeal; Appeal to Municipal Court.**

(1) A person may appeal the issuance of a Exclusion Notice by filing a Notice of Appeal with the Municipal Court. Failure to file a Notice of Appeal waives the right appeal the exclusion.

(2) A Notice of Appeal must be filed within 10 business days of receipt of the Exclusion Notice. The Notice of Appeal must contain a copy of the exclusion notice, a request for a hearing or request for written review without a hearing, and a statement setting forth the reason or reasons that the Exclusion Notice is invalid, otherwise improper, or why it should be modified.

(3) If, as part of the written appeal, the person requests a hearing, a hearing will be conducted by the Municipal Court, within 10 business days after the Notice of Appeal is filed with the Municipal Court, unless otherwise ordered by the Municipal Court. The Municipal Court will render a decision within 10 business days after the hearing, unless otherwise ordered by the Municipal Court.

(4) The City must prove by a preponderance of evidence standard that the enumerated offense occurred as alleged in the Exclusion Notice. If the City fails to so prove, the Exclusion Notice must be dismissed.

(5) The determination of facts made by the Municipal Court under this section does not have any collateral estoppel effect on a subsequent criminal prosecution or civil proceeding and does not preclude litigation of those same facts in a subsequent criminal prosecution or civil proceeding.

**5-10-080. Variance from Exclusion.**

(1) The Municipal Court may grant a variance to an excluded person at any time during the period of exclusion, upon a showing by the excluded person of a plausible need to grant the variance, which may include but is not limited to the following:

(a) To conduct valid city business.

(b) To obtain goods or services not otherwise reasonably available;

- (c) To obtain social services needed for the health or well-being of the person;
- (e) To obtain educational services or to attend classes;
- (f) To take the person's immediate family to a location for the benefit of the person's immediate family as provided in subsection (a) through (e). For the purposes of this paragraph, the term "immediate family" means the person's parents, in-laws, stepparents, siblings, grandparents, children, or grandchildren.

(2) A request for a variance must be in writing, must state the purpose for which the variance is sought, and the period of time during which the variance is requested to be effective.

(3) The municipal court will either grant or deny the variance request. If granted, variance decision must be in writing and clearly state the terms of the variance. The variance decision allows relief from exclusion only to the extent provided in the variance decision.

(4) A copy of the variance decision must be carried by the excluded person while within the area of exclusion, and be presented to any enforcement officer upon request.

(5) A person excluded who is present within the area of exclusions has the burden to demonstrate, by clear and convincing evidence, that the person is present consistent with the purposes specified in the variance decision.

(6) A variance is effective upon issuance; a revocation of a variance is effective upon the fifth business day after the date of the mailing of notice of revocation to the excluded person.

(7) A person may request a variance regardless of whether the person previously filed a Notice of Appeal.

**5-10-90 Revocation of Variance.** The Municipal Court may revoke a variance upon finding that:

- (1) The request for the variance contained false information;
- (2) There is probable cause to believe the excluded person has committed another enumerated offense; or
- (3) Circumstances upon which the variance was granted no longer exist.

**5-10-100. Hearing Procedures.** Except as otherwise provided in this Chapter, the civil infraction procedures in TMC 7-1 apply to hearings on appeals and variances conducted under this Chapter.

## **5-10-110 Violation of Exclusion Notice.**

(1) No person may enter or remain on City Property in violation of an Exclusion Notice issued to the person.

(2) If a person enters or remains on City Property in violation of the Exclusion Notice, the person may be arrested on criminal trespass charges.

(3) In addition to criminal trespass, the person violating an Exclusion Notice may be liable for civil trespass and other civil liability under City or state law.

**Section 2.** Tualatin Municipal Code Section 5-1-050 is amended to read as follows:

### **5-1-050 Specific Library Rules.**

(1) Whenever there is reasonable cause to believe that an individual has committed any of the following acts in or upon Library premises, such individual may be directed to leave the Library. A warning need not be given in advance. Such conduct may be reported to the police. Violation of any of the prohibitions of this subsection may result in exclusion from the library ~~for period not to exceed one year~~ as provided in TMC Chapter 5-10.

It is unlawful to:

- (a) Commit or attempt to commit an assault;
- (b) Commit or attempt to commit a theft;
- (c) Commit or attempt to commit mischief;
- (d) Destroy, damage or deface library property;
- (e) Engage in sexual activity including solicitation of prostitution, harassment or indecent exposure;
- (f) Use, give away, sell or be under the influence of:
  - (i) a controlled substance: or
  - (ii) intoxicating liquor except at City-sponsored events: or
- (g) Commit or attempt to commit disorderly conduct or harassment.

(2) Whenever there is reasonable cause to believe that an individual has committed any of the following acts, such individual shall be given one warning and if the conduct which led to the warning reoccurs, even on a different day, then such individual may be



directed to leave the Library for the remainder of the day. ~~Violation of two or more of the prohibitions of this subsection, each of which results in a directive to leave the Library, within any six month period may also result in exclusion from the Library for a period not to exceed six months.~~

It is unlawful to:

- (a) Use abusive language or behavior which disturbs the quiet atmosphere of the library;
- (b) Solicit, petition, distribute written materials or canvass for political, charitable or religious purposes in the Library;
- (c) Interfere with free passage on Library Premises, which includes restricting passage with or use of a bicycle, skateboard, rollerblades, cart or large backpack, or anything that creates an obstacle or takes up seating, except an assistive device, such as a wheelchair or walker, being used by a person with a disability;
- (d) Smoke, or use tobacco products inside the Library, except as expressly allowed by the Library Manager in the course of a Library-approved event;
- (e) Bring an animal into the Library, except a ~~seeing eye or service animal, or any other animal specifically trained to assist such person with a disability~~ as allowed by state or federal disability laws, or as part of a Library-sponsored event.
- (f) Sleep in the library in a manner that occupies additional seating or creates an audible disturbance, or block access;
- (g) Improperly use a restroom, including but not limited to bathing, shaving or washing hair;
- (h) Play audio equipment at a volume which is plainly audible by others in the Library;
- (i) Allow a child age five or under to be unattended in the Library, unless the child is attending a Library-sanctioned activity;
- (j) Allow a child under age eight to be unsupervised in the Library, unless the child is attending a Library-sanctioned activity; or
- (k) Fail to leave the Library at closing time.
- (l) Violate library policies; or
- (m) To follow the reasonable direction of a library employee.

(3) When there is reasonable cause to believe that an individual has committed any of the following acts, such individual may be directed to leave the Library until the problem is corrected:

(a) ~~It is unlawful to enter~~ Enter or remain on library premises in the Library without wearing shoes or sandals and a shirt or other similar clothing, except for children three years or younger.

~~(4) When a person is excluded from another Library which is a member of the WCCLS program due to conduct which would be sufficient reason to result in exclusion from the Tualatin Library, upon receiving notice from the City of Tualatin as provided in TMC 5-1-080, such person shall be excluded from the Tualatin Library for the period of time specified in TMC 5-1-050, but not exceeding the period for which such person was excluded from the other library.~~

**Section 3.** The following provisions of the Tualatin Municipal Code Chapter 5-1 (Library Rules of Conduct) are deleted in their entirety: 5-1-080 and 5-1-090.

**Section 4.** Tualatin Municipal Code Section 5-1-100 is amended to read as follows:

5-1-100 Remedies.

(1) Except as otherwise provided, a violation of this ordinance Chapter is a civil infraction and shall be punishable by a fine not to exceed \$500. Each violation of this ordinance constitutes a separate offense, and each day that a violation of this ordinance Chapter is committed or permitted to continue constitutes a separate offense. ~~In addition to any other forfeiture, remedy, order or penalty provided by law or city ordinance, the court, upon a determination of a violation, may order the exclusion of a person from the Library for such period as may be specified for such violation under TMC 5-1-050, but not to exceed one year.~~

(2) The remedies provided by this ordinance Chapter for violations are cumulative and the pursuit of one remedy shall not preclude the use of another. In addition, where an offense defined under this ordinance Chapter is also punishable under State law or TMC Chapter 6-4, the use of a remedy or remedies provided by this ordinance Chapter shall not be construed as an election of remedies or otherwise preclude the use of additional or alternative remedies or penalties provided by law.

(3) Where a person has been refused Library privileges by order of the Library Manager, and such refusal is not in connection with ~~an order otherwise appealable to the Municipal Court~~ a Civil Exclusion under ~~TMC 5-1-080~~ TMC Chapter 5-10, an

aggrieved person may petition in writing to the City Manager or designee for reconsideration of such refusal.

**Section 5.** The following provisions of the Tualatin Municipal Code Chapter 5-2 (Use of City Parks) are deleted in their entirety: 5-2-070 and 5-2-080.

**Section 6.** Tualatin Municipal Code Section 5-2-090 is amended to read as follows:

5-2-090 Remedies.

- (1) Except as otherwise provided, a violation of this ~~ordinance~~ Chapter is a civil infraction and shall be punishable by a fine not to exceed five hundred dollars (\$500). Each violation of a provision of this ~~ordinance~~ Chapter shall constitute a separate offense, and each day that a violation of this ~~ordinance~~ Chapter is committed or permitted to continue, shall constitute a separate offense. ~~In addition to any other forfeiture, remedy, order or penalty provided by law or City ordinance, the court, upon a determination of a violation, may order the exclusion of a person from a park or any portion thereof for a period of up to one (1) year.~~
- (2) In addition to other remedies provided by this ~~ordinance~~ Chapter or other law, the Parks and Recreation Director is authorized to revoke the permit or approval given or issued to a person who violates any rule or regulation set forth in this ~~ordinance~~ Chapter or any condition under which the permit was issued. Such determination shall be in writing and delivered to the person to whom the permit was issued. Any person aggrieved by the revocation of such permit may appeal such determination ~~in accordance with the procedures provided in Section 8~~ to the City Manager, or designee.
- (3) The remedies provided by this ~~ordinance~~ Chapter for violations thereof are cumulative and the pursuit of one remedy shall not preclude the use of another. In addition, where an offense defined under this ~~ordinance~~ Chapter is also punishable under State law or other provisions of the Tualatin Municipal Code Ordinance 706-86, the use of a remedy or remedies provided by this ~~ordinance~~ Chapter shall not be construed as an election of remedies or otherwise preclude the use of additional or alternative remedies or penalties provided by law.
- (4) Where a person has been refused a permit or authorization for use of a park by order of the Parks and Recreation Director and such refusal is not in connection with ~~an order otherwise appealable to the Municipal Court under Section 8~~ a Civil Exclusion under TMC Chapter 5-10, an aggrieved person may petition in writing to the City Manager, or designee, for reconsideration of such refusal.

**Section 7. Severability.** Each section of this ordinance, and any part thereof, is severable. If any part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of this ordinance remains in full force and effect.

Adopted by the City Council this \_\_\_\_ Day of \_\_\_\_\_, 2015.

CITY OF TUALATIN, OREGON

BY \_\_\_\_\_  
Mayor

APPROVED AS TO FORM

ATTEST:

BY \_\_\_\_\_  
City Attorney

BY \_\_\_\_\_  
City Recorder