

## Regular Session



# Milwaukie City Council



COUNCIL REGULAR SESSION

2431st Meeting

### **AGENDA**

City Hall Council Chambers, 10501 SE Main Street & Zoom Video Conference (<a href="www.milwaukieoregon.gov">www.milwaukieoregon.gov</a>)

AUGUST 19, 2025

**Council will hold this meeting in-person and by video conference.** The public may come to City Hall, join the Zoom webinar, or watch on the <u>city's YouTube channel</u> or Comcast Cable channel 30 in city limits. **For Zoom login** find the meeting event on the city calendar at <u>www.milwaukieoregon.gov</u>.

Written comments may be delivered to City Hall or emailed to ocr@milwaukieoregon.gov.

Note: agenda item times are estimates and are subject to change.

Page #

- 1. **CALL TO ORDER** (6:30 p.m.)
  - A. Pledge of Allegiance
  - B. Native Lands Acknowledgment
- 2. ANNOUNCEMENTS (6:31 p.m.)

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- 3. PROCLAMATIONS AND AWARDS
  - A. None Scheduled.
- 4. SPECIAL REPORTS
  - A. Clackamas County Stabilization Center Update (6:35 p.m.)

Presenters: Emma Sagor, City Manager, and Mary Rumbaugh, Clackamas County

5. COMMUNITY COMMENTS (6:55 p.m.)

To speak to Council, please submit a comment card to staff. Comments must be limited to city business topics that are not on the agenda. A topic may not be discussed if the topic record has been closed. All remarks should be directed at the whole Council. The presiding officer may refuse to recognize speakers, limit the time permitted for comments, and ask groups to select a spokesperson. Comments may also be submitted in writing before the meeting, by mail, e-mail (to ocr@milwaukieoregon.gov), or in person to city staff.

6. CONSENT AGENDA (7:00 p.m.)

Consent items are not discussed during the meeting; they are approved in one motion and any Council member may remove an item for separate consideration.

- A. Approval of Council Meeting Minutes of:
  - 1. July 15, 2025, regular session, and
  - 2. July 16, 2025, site visit.
- 7. BUSINESS ITEMS
  - A. None Scheduled.
- 8. PUBLIC HEARINGS
  - A. Affordable Housing Code Incentives Ordinance (7:00 p.m.)

Staff: Laura Weigel, Planning Manager, and Vera Kolias. Senior Planner

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- 8. PUBLIC HEARINGS (continued)
  - B. Public Safety Fee Adoption Resolution (7:40 p.m.)Staff: Emma Sagor, City Manager
- 9. COUNCIL REPORTS (8:25 p.m.) 52
- **10**. **ADJOURNMENT** (8:40 p.m.)

#### Meeting Accessibility Services and Americans with Disabilities Act (ADA) Notice

The city is committed to providing equal access to public meetings. To request listening and mobility assistance services contact the Office of the City Recorder at least 48 hours before the meeting by email at <a href="https://orc.org/nc/emilwaukieoregon.gov">or phone at 503-786-7502</a>. To request Spanish language translation services email <a href="mailwaukieoregon.gov">espanol@milwaukieoregon.gov</a> at least 48 hours before the meeting. Staff will do their best to respond in a timely manner and to accommodate requests. Most Council meetings are broadcast live on the <a href="mailwaukieoregon.gov">city's YouTube channel</a> and Comcast Channel 30 in city limits.

Servicios de Accesibilidad para Reuniones y Aviso de la Ley de Estadounidenses con Discapacidades (ADA) La ciudad se compromete a proporcionar igualdad de acceso para reuniones públicas. Para solicitar servicios de asistencia auditiva y de movilidad, favor de comunicarse a la Oficina del Registro de la Ciudad con un mínimo de 48 horas antes de la reunión por correo electrónico a ocr@milwaukieoregon.gov o llame al 503-786-7502. Para solicitar servicios de traducción al español, envíe un correo electrónico a espanol@milwaukieoregon.gov al menos 48 horas antes de la reunión. El personal hará todo lo posible para responder de manera oportuna y atender las solicitudes. La mayoría de las reuniones del Consejo de la Ciudad se transmiten en vivo en el canal de YouTube de la ciudad y el Canal 30 de Comcast dentro de los límites de la ciudad.

#### **Executive Sessions**

The City Council may meet in executive session pursuant to Oregon Revised Statute (ORS) 192.660(2); all discussions are confidential; news media representatives may attend but may not disclose any information discussed. Final decisions and actions may not be taken in executive sessions.



2431st Meeting

### **MINUTES**

AUGUST 19, 2025

### COUNCIL REGULAR SESSION

City Hall Council Chambers, 10501 SE Main Street & Zoom Video Conference (<a href="www.milwaukieoregon.gov">www.milwaukieoregon.gov</a>)

Council Present: Councilors Adam Khosroabadi, Robert Massey, Rebecca Stavenjord, and

Council President Will Anderson, and Mayor Lisa Batey

Staff Present: Joseph Briglio, Assistant City Manager Vera Kolias, Senior Planner

Ryan Burdick, Chief of Police Nicole Madigan, Deputy City Recorder

Justin Gericke, City Attorney Emma Sagor, City Manager
Brent Husher, Library Director Laura Weigel, Planning Manager

**Mayor Batey** called the meeting to order at 6:35 p.m.

### 1. CALL TO ORDER

A. Pledge of Allegiance.

B. Native Lands Acknowledgment.

### 2. ANNOUNCEMENTS

**Mayor Batey** announced upcoming activities, including neighborhood concerts in the park, a city manager's open-door session, the September First Friday event, and the annual Milwaukie Environmental Stewards Group (MESG) Sustainability Fair.

**Mayor Batey** read a summer themed haiku poem.

### 3. PROCLAMATIONS AND AWARDS

A. None Scheduled.

### 4. SPECIAL REPORTS

### A. Clackamas County Stabilization Center - Update

**Sagor** thanked the Clackamas County Health, Housing, and Human Services (H3S) Department for keeping the city informed of its plans to open a 23-hour stabilization center in the North Milwaukie Innovation Area (NMIA).

**Mary Rumbaugh**, Clackamas County H3S Director, provided an update on plans to open the center, explaining the services and programs that would be available, that the facility had been previously used by the Clackamas County Sheriff's Office (CCSO), and that local non-profit support groups would also be operating out of the center. The center was scheduled to open in late fall 2025.

**Mayor Batey** and **Rumbaugh** discussed the good partner agreement the county would develop with the center's neighbors, what would happen when the center reaches maximum occupancy, and how patients would be transported in and out of Milwaukie.

**Councilor Stavenjord** and **Rumbaugh** remarked on how H3S would integrate services with local law enforcement, behavioral health specialists, and social services groups. **Sagor** and **Rumbaugh** reported on plans to develop a good partner agreement between the city and county to streamline services at the center.

**Councilor Khosroabadi** and **Rumbaugh** noted that the center would take peace officer holds and that the state was working on clarifying rules for stabilization centers.

**Rumbaugh** reported on the plans to open a recovery campus in unincorporated Clackamas County, noting services that would be available and the construction timeline that was scheduled be finished in 2027. **Mayor Batey** and **Rumbaugh** clarified the detox, residential and outpatient services that would be offered at the campus.

**Rumbaugh** presented marketing materials H3S had developed to explain services to be provided at the recovery campus. **Mayor Batey** and **Rumbaugh** noted what funding H3S receives from Metro's supportive housing services (SHS) bond and the state.

**Councilor Stavenjord** and **Rumbaugh** discussed how the Caring Place, the stabilization center, and recovery campus would coordinate services and manage case for individuals who need the various service providers.

### **5. COMMUNITY COMMENTS**

**Mayor Batey** reviewed comment procedures. **Sagor** reported there was no follow-up from the August 5 comments and noted correspondence for the current meeting.

**Dylan Kruse**, Milwaukie resident, appreciated the middle housing town hall in July and remarked on the fines and fees in the tree code, adding community event amenities in Milwaukie Bay Park, and creating an entertainment district in downtown Milwaukie. **Council President Anderson** and **Mayor Batey** encouraged Kruse to review recent Council discussions about a proposed open container area.

### **6. CONSENT AGENDA**

It was moved by Councilor Massey and seconded by Council President Anderson to approve the Consent Agenda as presented.

- A. City Council Meeting Minutes:
  - 1. July 15, 2025, regular session, and
  - 2. July 16, 2025, site visit.

Motion passed with the following vote: Councilors Anderson, Khosroabadi, Massey, and Stavenjord and Mayor Batey voting "aye." [5:0]

### 7. BUSINESS ITEMS

A. None Scheduled.

### 8. PUBLIC HEARING

### A. Affordable Housing Code Incentives - Ordinance

<u>Call to Order:</u> **Mayor Batey** called the hearing on the proposed affordable housing code incentives, to order at 7:27 p.m.

<u>Purpose:</u> **Mayor Batey** announced that the purpose of the hearing was to receive a staff report, take public comment, and deliberate on the proposed code amendments.

Conflict of Interest: No Council member declared a conflict of interest.

<u>Staff Presentation:</u> **Weigel** and **Kolias** provided an update on the draft affordable housing strategies code amendments, explaining what types of housing would qualify for the incentives, and how the affordability requirement would be implemented.

**Mayor Batey**, **Kolias**, and **Council President Anderson** remarked on why the Planning Commission had recommended aligning home ownership and rental developments to the same 60-day timeframe.

**Kolias** discussed the proposed incentive variances for setbacks, building height, density, and other design elements. The group commented on how affordable housing incentives would be coordinated with the tree code and downtown design standards.

**Councilor Massey** and **Kolias** noted the Planning Commission's decision to not keep the façade articulations in the incentives code.

**Kolias** reviewed the Type II approval criteria and application review process. The group noted that the state legislature had not mandated an 180-day review period for Type II processes, and they noted what type of projects fall under the Type II review.

**Kolias** reported that the Planning Commission had recommended Council adopt the proposed code amendments.

**Mayor Batey** and **Kolias** discussed the lack of references to the United States Department of Housing and Urban Development (HUD) which staff would correct.

**Councilor Khosroabadi** and **Kolias** remarked on why the Planning Commission had set the affordable housing incentives timeframe for 60 years and not 99 years.

<u>Correspondence</u>: **Sagor** noted written correspondence that had been received.

Hearing Procedures: **Mayor Batey** reviewed the hearing procedures.

<u>Audience Testimony:</u> **Dylan and Allison Kruse** and **Heather Buchanan**, Milwaukie residents, expressed concern about the impacts of the proposed affordable housing incentives on neighborhoods around affordable housing, and encouraged the city to wait to adopt the incentives to see how current affordable housing projects develop.

<u>Staff Response to Testimony:</u> **Briglio** explained that the proposed code addressed enforcement concerns and remarked on the type of developers who would build affordable housing. **Mayor Batey** and **Briglio** commented on how developers work with non-profit or government entities to manage affordable housing. They noted that a 60-year timeframe was becoming the standard duration for affordable housing rules.

The group discussed the chances of an affordable housing developer not following the code and what the city could do to enforce the affordable housing rules in such cases.

**Council President Anderson** and **Kolias** remarked on whether height bonuses would be allowed in the neighborhood mixed use zones and the importance of preserving neighborhood areas versus downtown zoning.

<u>Audience Testimony continued:</u> **Bernie Stout**, Milwaukie resident, noted that developers avoid housing regulations in unincorporated Clackamas County through last minute zoning change requests.

The group remarked on how affordable housing incentives, such as building setbacks, would apply to detached housing units.

Close Public Comment: It was moved by Councilor Massey and seconded by Council President Anderson to close the public comment part of the proposed affordable housing code incentives. Motion passed with the following vote: Councilors Anderson, Khosroabadi, Massey, and Stavenjord and Mayor Batey voting "aye." [5:0]

**Mayor Batey** closed the public comment part of the hearing at 8:21 p.m.

<u>Council Discussion:</u> **Mayor Batey** supported the mixed-use zoning changes in the proposed code and opposed some of the setback incentives.

**Councilor Massey** remarked on the pace of change of state and city affordable housing and parking regulations over the last few years and supported taking more time to consider the proposed code.

**Councilor Khosroabadi** expressed frustration with state housing legislation and remarked on whether waiting to adopt local affordable housing incentives would make housing better for Milwaukie residents.

**Council President Anderson** believed it was important for the city to act on affordable housing incentives and remarked on housing production strategies the city should act on to address Milwaukie's housing needs.

**Councilor Stavenjord** remarked on the likelihood that affordable housing developers would take advantage of the incentives code in a way that would negatively impact the city. [Stavenjord's audio feed was lost part way through the comments.]

**Kolias** clarified which high density residential zones the code would be applied to.

**Mayor Batey** agreed that adopting affordable housing incentives in residential zones would help create housing opportunities the city needed.

**Councilor Stavenjord** continued to remark on the motives of affordable housing developers, the challenges imposed on cities by the state's housing rules, and the city's ability to enforce the code. **Stavenjord** supported adopting the proposed package of affordable housing incentives code.

**Council President Anderson** supported the proposed code applying to residential areas outside downtown and **Mayor Batey** suggested that there would be upcoming opportunities to right-size the proposed code. **Batey** was opposed to the code package as currently written, noting comments received during the July 28 middle housing town hall and tree code concerns. The group discussed how the tree code would be applied to housing developments if the affordable housing incentives code were adopted.

Mayor Batey, Councilor Khosroabadi and Council President Anderson supported adopting a 99-year timeframe for enforcing affordable housing incentives. They also supported the Planning Commission's town home length proposal.

Council Decision: It was moved by Council President Anderson and seconded by Councilor Khosroabadi for the first and second readings by title only and adoption of the ordinance amending Milwaukie Municipal Code (MMC) Title 19 Zoning Ordinance for the purpose of providing code-based incentives for development of affordable housing (Primary File #ZA-2025-003). Motion passed with the following vote: Councilors Anderson, Khosroabadi, and Stavenjord voting "aye," and Councilor Massey and Mayor Batey voting "no." [3:2]

**Sagor** reads the ordinance one time by title only.

**Mayor Batey** announced that as the vote was not unanimous, the second reading of the ordinance and final vote would be scheduled for the September 2 regular session.

**Mayor Batey** recessed the meeting at 8:57 p.m. and reconvened at 9:05 p.m.

### B. Public Safety Fee Adoption – Resolution

<u>Call to Order:</u> **Mayor Batey** called the public hearing on the proposed public safety fee, to order at 9:05 p.m.

<u>Purpose:</u> **Mayor Batey** announced that the purpose of the hearing was to receive the staff report, take public comment, and deliberate on the proposed fee.

Conflict of Interest: No Council member declared a conflict of interest.

<u>Staff Presentation:</u> **Sagor** provided an overview of the proposed public safety fee, citing the need to address increased workload demands and noting the proposed utility fee structure, the fee calculation, and community outreach efforts. **Sagor** believed, if adopted, the fee would be added to utility bills in November or December.

<u>Correspondence</u>: **Madigan** and **Sagor** noted correspondence received.

Audience Testimony: No audience member wished to address Council.

<u>Staff Response to Testimony:</u> **Council President Anderson** and **Sagor** commented on the differences in use between the \$2 million increase for the Milwaukie Police Department (MPD) in the current biennial budget and the proposed public safety fee.

The group discussed the city's plans to develop transparency metrics to document how the fee would be used, whether future changes to the fee amount were necessary, and how the county's new stabilization center would impact Milwaukie's staff workload. **Sagor** suggested data reporting on the fee would be provided through the annual fee schedule review process and as requested and MPD's annual data sharing process.

<u>Close Public Comment:</u> It was moved by Councilor Massey and seconded by Council President Anderson to close the public comment part of the public safety fee hearing. Motion passed with the following vote: Councilors Anderson, Khosroabadi, Massey, and Stavenjord and Mayor Batey voting "aye." [5:0]

Mayor Batey closed the public comment part of the hearing at 9:34 p.m.

Council Decision: It was moved by Councilor Massey and seconded by Council President Anderson to approve the resolution establishing a public safety fee and updating the Consolidated Fee Schedule. Motion passed with the following vote: Councilors Anderson, Khosroabadi, Massey, and Stavenjord and Mayor Batey voting "aye." [5:0]

Resolution 37-2025:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ESTABLISHING A PUBLIC SAFETY FEE AND UPDATING THE CONSOLIDATED FEE SCHEDULE.

### 9. COUNCIL REPORTS

**Mayor Batey** and **Council President Anderson** discussed plans to send a Council letter regarding the proposed state transportation funding bill. It was Council consensus to send the proposed letter on behalf of the entire Council.

**Mayor Batey**, **Councilor Khosroabadi**, and **Sagor** reported on a Council and staff tour of the Housing Authority of Clackamas County's remodeled Hillside Park development.

### **10. ADJOURNMENT**

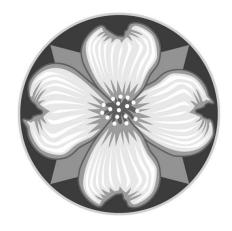
### 11952

It was moved by Councilor Massey and seconded by Council President Anderson to adjourn the Regular Session. Motion passed with the following vote: Councilors Anderson, Khosroabadi, Massey, and Stavenjord and Mayor Batey voting "aye." [5:0]

Mayor Batey adjourned the meeting at 9:42 p.m.

Respectfully submitted,

Scott Stauffer, City Recorder



# RS Agenda Item

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### **Announcements**

### Native Lands Acknowledgment

The City of Milwaukie respectfully acknowledges that our community is located on the ancestral homeland of the Clackamas people. In 1855, the surviving members of the Clackamas signed the Willamette Valley Treaty also known as the Kalapuya etc. Treaty with the federal government in good faith. We offer our respect and gratitude to the indigenous people of this land.

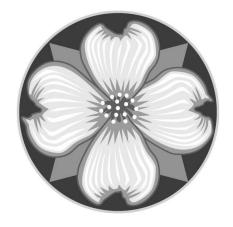


### Mayor's Announcements – August 19, 2025

- Lewelling Concerts in the Park Wednesdays in August (6:30 PM)
  - Ball-Michel Park, 9781 SE Stanely Blvd.
    - Portland School of Rock House Band (Aug. 20)
    - Norman Sylvester (Aug. 27)
- Ardenwald-Johnson Creek Concerts in the Park Thursdays in August (6:30 PM)
  - Ardenwald Park, 3631 SE Roswell St.
    - Shelly Rudolph (Aug. 21)
    - Ben Rice (Aug. 28)
- City Manager Open Door Session Fri., Aug. 22 (9 10 AM)
  - Ask questions, raise concerns, or just learn more about what the city is working on
  - No registration is required.
  - City Hall (3<sup>rd</sup> Floor Bing Cherry Conference Room), 10501 SE Main St.
- First Friday Sep. 5 (5-8 PM)
  - Support downtown businesses while fostering Milwaukie's vibrant arts, music, and food community
  - Learn more at www.firstfridaymilwaukie.com
- Sustainability Fair Sat., Sep. 6 (10 AM 3 PM)
  - Join the Milwaukie Environmental Stewards Group and community partners at the fourth annual event
  - Downtown parking lot at SE Harrison St. and SE Main St.
  - More info at <u>www.milwaukieesg.org/sustainabilityfair</u>
- LEARN MORE AT MILWAUKIEOREGON.GOV OR CALL 503-786-7555

Golden rays embrace, laughter dances in the air, summer sings with joy.

Share your Milwaukie Haiku!
Email yours to bateyl@milwaukieoregon.gov



# **RS Agenda Item**

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# **Special Reports**

### Clackamas County Stabilization Center

Milwaukie City Council Presentation Aug. 19, 2025

Mary Rumbaugh
Health, Housing and Human Services Director,
Clackamas County

### Stabilization Center: What is it?

- Center will operate 24/7 for residents experiencing crises like panic attacks, hallucinations, or other mental health conditions.
- A comfortable and safe place for community members who need short-term support, coping skills and connections to resources to manage a crisis.
- Center will offer transitional housing for individuals experiencing homelessness.



# Center: What are we trying to do?

Help people get immediate access to service/support, and help recover to successful reentry into the community.

DAvoid jails and emergency rooms when unneeded





### Stabilization Center: Services provided

- Rest, safety and hygiene
- Connections to treatment
- Referrals to healthcare, food, disability services, substance use, mental health and employment services.
- D Benefits sign up
- Help accessing permanent housing
- Help with emotional regulation and coping skills
- On average, individuals stabilize and can discharge to their home and community within 10-11 hours.



### Stabilization Center: Timing and Outreach

- The City of Milwaukie, Milwaukie Police Department, Clackamas County departments and our Sheriff's Office have been meeting since late 2023 on design and community engagement.
- In November 2024, Clarvida was awarded the contract for the 23-hour Crisis Stabilization Program and The Father's Heart was awarded the Housing and Case Management Stabilization Program.
- We are performing outreach to surrounding businesses.



### Center: Next steps

- u City partners, county partners and the two providers meet bi-monthly (twice a month) and review the status of design and construction, the development of policy and procedures, ongoing community engagement and completion of a partner agreement.
- with an expected completion of October and opening December 2024.
- An opening event is tentatively planned for November, City officials will be invited.

### **Recovery Campus**



Clackamas
County is
developing a
recovery campus
for individuals
struggling with
substance use
disorder. It is
located at the
former
Clackamas
Heights Public
Charter School.



# Recovery Campus: Timeline

Spring 2025: Start of Schematic Design

Summer 2025: Start of Design Development

u Late Fall 2025: Start of Construction Documents

Spring 2026: Submit building

permit

Summer 2026: Start of

construction

D Summer 2027: End of

construction

### Recovery-Oriented System of Care

- A Recovery-Oriented System of Care (ROSC) is a coordinated network of community-based services and supports that is person-centered and builds on the strengths and resiliencies of individuals, families, and communities to achieve abstinence and improved health, wellness, and quality of life for those with or at risk of alcohol and drug problems.
- An ROSC supports the premise that there are many pathways to recovery.



### Recovery-Oriented System of Care



Addiction, me not literath issues, and homelessness are complex and often interconnected. In April 2023, the county took a bold approach to a didness these issues by establishing a recovery-oriented system of care. A coordinated network of services, this system builds on the strengths and realized so of indistiduals, families, and communities. Our goal? To ensure that includuals struggling with substance use disorder receive timely person-octoered support, treatment, and resources to help them achieve and system long-term recovery.

#### Every path to recovery is different.

For this reason, our approach lowis at helping those in need with an eye toward strengthening one services in three key areas.



Addiction

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Mental health



Housing

The county already provides many services and programs aimed at substance use disorder, mental health issues, and housing insecurity. Our focus on recovery expands our services that strengthen our exhibiting persons of recourses.





### **Recovery-Oriented** System of Care

The Stabilization Center and Recovery Campus are each one of six priority investments for Clackamas County to expand our ROSC



### Priority Investments

Expanding county services

These flagship investments, along with the county's existing programs and services, will ensure people in need will have access to a recovery pathway based on their unique needs.

Core services

Recovery Campus (Unincorporated North Clademan, 2020/77) For housed or homeless persons struggling with substance use disorder. Integrated services including mental health, transitional housing and peer support.







Stabilization Center (Unincorporated Milwaukin, 2023)

For persons experiencing a behavioral health crisis (anxiety attacks, heliadrations) and need short-term help to manage or exercome the crisis.







Clackamas Village (Unincorporated North Circlamas, 2025). A transitional housing community for homeless residents. Provides pads or







Caring Place (Oregon City, 2025)

A one-stop resource center for homeless residents with extensive services (housing support, health care, etc.).







Recovery Housing (County-Me, 2025)

tiny homes to like in while accessing on-site sendoes.

The Housing Authority of Clarkemes County will sell 75 homes to buyers. serving our system of care (e.g., nonprofits delivering transitional housing).







Lake Road Health Center (Unincorporated Milwaukin, 2023)

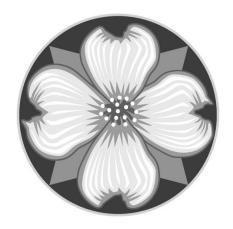
For people needing expanded mental health and substance use disorder services.











# **RS Agenda Item**



## **Consent Agenda**



2429th Meeting

### COUNCIL REGULAR SESSION MINUTES

City Hall Council Chambers, 10501 SE Main Street & Zoom Video Conference (<a href="www.milwaukieoregon.gov">www.milwaukieoregon.gov</a>)

JULY 15, 2025

Council Present: Councilors Adam Khosroabadi, Robert Massey, Rebecca Stavenjord, and

Council President Will Anderson, and Mayor Lisa Batey

Staff Present: Justin Gericke, City Attorney Emma Sagor, City Manager

Nicole Madigan, Deputy City Recorder

**Mayor Batey** called the meeting to order at 6:32 p.m.

### 1. CALL TO ORDER

A. Pledge of Allegiance.

**B. Native Lands Acknowledgment.** 

### 2. ANNOUNCEMENTS

**Mayor Batey** announced upcoming activities, including the Porchfest concert series, a city manager's open-door session, a Pride celebration, a Council middle housing town hall, the August First Friday event, and a Little Float event on the Willamette River.

Mayor Batey read a Milwaukie Fest-themed haiku poem.

### 3. PROCLAMATIONS AND AWARDS

A. None Scheduled.

**Mayor Batey** announced that Council would proceed with items 5 and 6 and then 4.

### **5. COMMUNITY COMMENTS**

**Mayor Batey** reviewed the comment procedures and **Sagor** reported there was no follow-up from the July 8 comments.

**Dylan Kruse,** Milwaukie resident, commented on middle housing developments and the impacts of the city's detached quadplex rule on neighborhoods.

### 6. CONSENT AGENDA

It was moved by Councilor Massey and seconded by Council President Anderson to approve the Consent Agenda as presented.

- A. City Council Meeting Minutes:
  - 1. June 3, 2025, work session,
  - 2. June 3, 2025, regular session,
  - 3. June 10, 2025, study session,
  - 4. June 17, 2025, work session, and
  - 5. June 17, 2025, regular session.
- B. Resolution 33-2025: A resolution of the City Council of the City of Milwaukie, Oregon, in support of a housing grant application to the Oregon Department of

Land Conservation and Development (DLCD) to study the high-density residential zone in Milwaukie.

Motion passed with the following vote: Councilors Anderson, Khosroabadi, Massey, and Stavenjord and Mayor Batey voting "aye." [5:0]

### 4. SPECIAL REPORTS

A. Johnson Creek Watershed Council (JCWC) – Update (added to the agenda)

Holly Baine and Jennifer Hamilton with JCWC provided an overview of the Milwaukie Bay Confluence Project happening where Johnson Creek enters the Willamette River in Milwaukie Bay Park. They discussed the benefits of installing logs in the creek's delta, noted the construction schedule, and how the project would temporarily disrupt access to part of the park. The group noted that the seasonal timing of the project was meant to minimize the smallest impact on the creek.

**Hamilton** and **Mayor Batey** commented on how JCWC could partner with the city and other community partners on events and projects.

### 7. BUSINESS ITEMS

### A. Climate Action Committee (CAC) Creation – Ordinance

**Gavares** reported on what the new CAC would work on, what roles the committee would play, and how the committee membership would be structured.

**Council President Anderson** and **Gavares** remarked on how long it would take to revise the city's Climate Action Plan (CAP). **Passarelli** and **Sagor** noted the role of the CAC and the evolving nature of climate action work. **Councilor Khosroabadi** encouraged staff to make the CAP as relatable as possible. **Gavares** and **Passarelli** commented on ensuring the data and stories told in the CAP would be accurate and relevant.

**Mayor Batey** and **Gavares** remarked that the proposed code would allow up to two non-resident members on the CAC and noted that the plan to recruit and appoint the first cohort of committee members would happen in fall 2025. **Councilor Stavenjord**, **Gavares**, and **Madigan** talked about plans to recruit the CAC's youth positions and noted the youth members would be full voting members appointed to two-year terms.

It was moved by Councilor Massey and seconded by Council President Anderson for the first and second readings by title only and adoption of the ordinance amending Municipal Code Title 2 to create a Climate Action Committee (CAC). Motion passed with the following vote: Councilors Anderson, Khosroabadi, Massey, and Stavenjord and Mayor Batey voting "aye." [5:0]

**Sagor** read the ordinance two times by title only.

Madigan polled the Council with Councilors Stavenjord, Khosroabadi, Massey, and Council President Anderson, and Mayor Batey voting "aye." [5:0]

Ordinance 2255:

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING MUNICIPAL CODE TITLE 2 TO CREATE A CLIMATE ACTION COMMITTEE (CAC).

#### B. Tree Code - Discussion

**Gavares** provided an overview of the city's tree code, discussing why and how it had been developed, how it is applied to public and private properties, how it helps the city achieve CAP, Comprehensive Plan, and equity goals, and how the code was structured.

Mayor Batey announced that Council would take public comment on the tree code.

**Tracy Wold**, Milwaukie resident, commented on the experience of attempting to remove a tree from private property and the associated tree removal permit fee charged by the city. **Mayor Batey** encouraged Wold to follow up with city staff. **Council President Anderson**, **Gavares**, and **Councilor Khosroabadi** remarked on the new trees Wold had planted to mitigate the request to remove one tree from Wold's property.

**Councilor Stavenjord** and **Gavares** remarked on the pre-planting education and post-planting follow up the city provides to property owners when new trees were planted.

The group discussed whether the tree code accounted for a homeowners' ability to pay for tree removal fees or other infrastructure costs associated with trees. **Sagor** noted that Council could direct staff to revise the tree code and its fee structure policy.

**Councilor Stavenjord**, **Gavares**, and **Sagor** discussed the process for appealing a tree removal permit fee, which included a final decision made by the city manager.

The group discussed the city's reliance on certified arborist decisions and recommendations in determining permit approvals and fees. They remarked on how rigorous Milwaukie's tree code was compared to other cities, how the city's tree code was meant to achieve the city's aggressive CAP and tree canopy goals, and noted that in some instances the tree code goals conflicted with other city goals such as affordability.

**Mayor Batey** and **Gavares** noted that Metro would provide a new set of tree canopy data for Milwaukie in the coming months.

**Gericke** remarked on the Council discussion about how aggressive the tree code should be when the code was adopted and observed that Council could revise the code.

**Mayor Batey** supported clarifying the tree code but did not support spending much time revising the existing code if it would delay the development of a commercial property tree code. **Councilor Khosroabadi** supported revising the code to make it more reasonable for homeowners to maintain their properties.

**Passarelli** reported that staff tried to administer the code reasonably while balancing arborist and homeowner reports. **Sagor** asked Council to consider providing further definition of reasonable standards to help staff administer the code.

**Councilor Khosroabadi** suggested the city develop a fund to help homeowners pay for tree-related infrastructure maintenance costs.

**Council President Anderson** agreed that the tree code could use some clarity to the reasonable standard and wondered how much time it would take to make the change. **Passarelli** noted that the city was hiring a new urban forester and that the fall of 2025 would be a good time to review the code for possible changes.

**Councilors Stavenjord** and **Khosroabadi** remarked on how city goals could overlap and conflict for residents, and whether Council could look at revising tree code policies that conflict with affordability goals.

**Mayor Batey** agreed that reviewing the tree code would make sense once the new urban forester was up to speed and the new tree canopy data was received. **Passarelli** remarked on when the new tree canopy data would arrive.

**Mayor Batey** noted how much water big trees require and wondered if a summertime water reduction for watering trees should be considered. **Passarelli** talked about ways the city could encourage the planting of native trees. The group referred to a recent tour of big trees at the Wichita Center and lessons staff could incorporate from that event.

### C. Building Decarbonization - Discussion

**Gavares** provided an overview of CAP decarbonization goals and the 2022 Council resolution discouraging the use of natural gas in new buildings, and current state and federal legal and regulatory restrictions on natural gas use. Energy use reduction programs that had been, or could be, implemented were reviewed including a home energy score (HES) program. The group remarked on what the city could do to encourage more participation in the HES program, noted that a HES is good for seven years, and where a HES was reported. They noted the city lacked enough code enforcement staff to enforce compliance with the HES program.

**Gavares** discussed other ways to expand the city's HES program by applying it to multifamily and rental housing, requiring buyers to make certain energy efficiency improvements within three years of purchasing a home, encouraging homeowners to make energy efficiency upgrades, and encouraging commercial property owners to meet Oregon Department of Energy (ODOE) building performance standards. Adopting more stringent carbon emission standards and adopting a carbon pollution fee were presented as other ways the city could encourage decarbonization efforts.

**Gavares** reviewed next steps including conducting a building stock analysis, community engagement and policy analysis work, and a building feasibility study. **Sagor** and **Gavares** asked for Council feedback on which policy tasks to pursue.

Mayor Batey remarked on the ability of the CAC to help with the presented options in 2026 and asked what staff could focus on in the next sixth months. Gavares discussed decarbonization work staff would continue to work on for the rest of 2025. Councilor Stavenjord encouraged staff to use the CAC in the future and focus first on the lowest budget impact items. Councilor Khosroabadi was hesitant to direct staff to work on anything that would cost more money and encouraged staff to work on what would get the city closest to the decarbonization goals and the HES program. Council President Anderson and Councilor Massey agreed with Stavenjord and Khosroabadi to focus on applying the HES program for rental properties. Mayor Batey agreed the CAC should weigh-in in 2026 and focus expanding the HES program.

**Mayor Batey** remarked on how Milwaukie could adopt a similar program to the City of Ashland, Oregon's that encourages developers to adopt decarbonization goals.

**Madigan** reported that three pieces of correspondence had been received about decarbonization and that someone on Zoom wished to speak.

**Ann Pernick**, with Safe Cities at Stand.Earth, supported the city's decarbonization work and encouraged Council direct staff to prioritize a carbon pollution fee and a local energy use intensity target that surpasses the state target.

**Sagor** noted the time and reminded Council that a motion to continue the meeting past 10:00 p.m. would be required.

**Mayor Batey**, noted an audience member wished to speak on a previous topic, announced that Council would not take further comment on items the Council had discussed earlier in the meeting.

### **8. PUBLIC HEARING**

A. None Scheduled.

### 9. COUNCIL REPORTS

**Mayor Batey** remarked on the potential for a special session of the state legislature to address transportation funding and asked if Council wanted to send a letter in support of the city's transportation priorities. **Council President Anderson** supported Council sending a letter and commented on the status of transportation legislation. **Batey** and **Anderson** agreed a letter could be drafted at the August 5 meeting.

**Mayor Batey** reported on recent North Clackamas Parks and Recreation District (NCPRD) District Advisory Committee (DAC) meetings and construction projects, and a district decision to no longer waive fees for Milwaukie community groups who rent parks. **Sagor** reported that the city had increased neighborhood district association (NDA) funding to account for the parks rental fees.

**Sagor** reported how many individuals had used the cooling center at the Ledding Library during the recent hot weather.

### 10. ADJOURNMENT

It was moved by Councilor Massey and seconded by Council President Anderson to adjourn the Regular Session. Motion passed with the following vote: Councilors Anderson, Khosroabadi, Massey, and Stavenjord and Mayor Batey voting "aye." [5:0]

Mayor Batey adjourned the meeting at 9:58 p.m.

Respectfully submitted,

Scott Stauffer, City Recorder	



### **COUNCIL SITE VISIT**

**MINUTES** 

Oregon Liquor & Cannabis Commission (OLCC) Building 9079 SE McLoughlin Blvd, Milwaukie, OR 97222

JULY 16, 2025

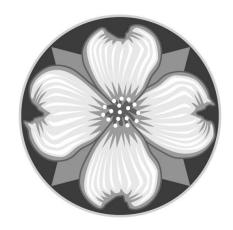
(www.milwaukieoregon.gov/meetings)

Council Present: Councilor Robert Massey, Council President Will Anderson, and Mayor Lisa Batey

Staff Present: Joseph Briglio, Assistant City Manager Emma Sagor, City Manager

Members of Council and staff participated in a site visit starting at 1:00 p.m. The group toured the OLCC building. The tour ended at 2:05 p.m. and Council took no actions.

Respectfully submitted,	
Emma Sagor, City Manager	



# **RS Agenda Item**

8

# **Public Hearings**

### **COUNCIL STAFF REPORT**

RS 8. A. 8/19/25

**OCR USE ONLY** 

Date Written: Aug. 15, 2025

To: Mayor and City Council

Emma Sagor, City Manager

Reviewed: Laura Weigel, Planning Manager, and

Joseph Briglio, Assistant City Manager

From: Vera Kolias, Senior Planner

Subject: Proposed Code Amendments: Affordable Housing Incentives Code

### **ACTION REQUESTED**

Council is asked to open the public hearing for land use file #ZA-2025-003. The purpose is to discuss the proposed amendments to the Milwaukie Municipal Code (MMC) Title 19 (Zoning), take public testimony, and give staff direction on any changes. On August 19, Council is asked to vote to approve the file and adopt the proposed ordinance and findings in Attachment 1.

#### HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

<u>July 22, 2025</u>: Planning Commission held a public hearing and voted 3-1 to recommend approval of the proposed amendments with two recommendations (please refer to details in the Analysis section).

<u>June 10, 2025</u>: The Planning Commission held a work session to discuss the final draft proposed code language for affordable housing incentives.

May 6, 2025: Council held a third work session to discuss final revisions to the package of draft code amendment for affordable housing incentives in advance of moving forward to the public hearing process.

<u>March 18, 2025</u>: Council held a second work session to discuss a revised draft package of code amendments for affordable housing incentives.

<u>January 7, 2025</u>: Council held a work session to discuss a draft package of code amendments for affordable housing incentives.

#### **ANALYSIS**

The city's <u>Housing Production Strategy (HPS)</u> identifies a variety of action steps to increase housing development in Milwaukie, including evaluating incentives for affordable housing development.

Staff are proposing a new code section that would aggregate all code-based affordable housing incentives to centralize information for prospective applicants. The proposed code language includes eligibility requirements for qualifying developments and specific incentives, including variances to setbacks, lot coverage, and certain minimum design standards (see Attachment 1 for the draft language). The goal is to remove barriers to residential development that includes income-restricted units.

The code language proposes a variety of incentives for qualifying developments that are middle housing, multi-unit, or mixed-use residential, organized as a package of variance requests to

existing land use regulation and design and development standards for housing development. The proposal would limit variance applications to no more than 10 distinct variances to these standards. The proposed review process for these variances is an expedited Type II review already included in MMC 19.1006, reducing the decision timeline from 120 days to 100 days.

### Key code provisions:

- Qualifying developments must be designed and constructed so that at least:
  - o Fifty percent (50%) of the total number of proposed dwelling units are restricted to households earning 60% 80% Area Median Income (AMI) or below; or
  - Forty percent (40%) of the total number of proposed dwelling units are restricted to households earning 40% - 60% AMI or below; or
  - Thirty percent (30%) of the total number of proposed dwelling units are restricted to households earning 30% - 40% AMI or below; or
  - Twenty percent (20%) of the total number of proposed dwelling units are restricted to households earning less than 30% AMI; and
  - Comply with all applicable provisions of the affordable housing incentives code.
- A development can use <u>one</u> of the following two additional incentives:

For housing developments where 100% of the total number of proposed dwelling units are restricted to low-income households as defined by the United States Department of Housing and Urban Development (HUD) (80% AMI or below), the incentives are increased by an additional 10 percentage points over the stated amount. This would include a building height bonus of one story or 12 feet for qualifying developments.

OR

For housing developments where 100% of the total number of proposed dwelling units are homeownership units and are eligible for the incentives as defined in Subsection 19.511.B, the incentives identified in this subsection are increased by an additional 10% (10 percentage points) over the stated amount. This increase does not apply to building height. Homeownership developments must use a community land trust model, shared equity, or similar model, that can ensure continued affordability and compliance monitoring.

Summary of code incentives (see Attachment 1):

- Ability to package up to 10 distinct variances into one application.
- o Application processed in an expedited Type II review process (100 days).
- Specific reductions available to:
  - Minimum setbacks, open space/landscaping, lot area, width, and depth.
  - Minimum required bike parking.
- o Maximum lot coverage increased.
- Additional allowances related to development in the downtown mixed use (DMU)
   zone:
  - Multi-unit development in the DMU zone reviewed under 19.505.3, rather than downtown code.
  - Allowance for dwelling units on ground floor.

 Townhouse developments – the allowed number of consecutive townhouses increased to six from four.

### Planning Commission recommendation

- At the July 22 hearing, the Planning Commission voted to recommend that Council consider changing this code incentive from six consecutive townhouses to a linear length of 200 feet. This would account for a variety of townhouse widths, rather than a specific number of units. A development length of 200 feet is approximately the length of a city block in downtown.
- Does Council agree with this recommendation?

### Continued Affordability

- The land use permit application for the residential project must include the procedures proposed by the developer to maintain the continued affordability of the income-restricted units.
  - Ownership developments: developments must maintain the availability of income-restricted units for a minimum of sixty (60) years, and must enter into a development agreement, or show adequate legal proof of restriction/affordability covenant, with the city to ensure retention; or
  - Rental developments: developments must maintain the availability of income-restricted units for a minimum of ninety-nine (99) years, and must enter into a development agreement, or show adequate legal proof of restriction/affordability covenant, with the city to ensure retention.

### Planning Commission recommendation

- At the July 22 hearing, the Planning Commission voted to recommend that Council consider changing this requirement to align both rental and homeownership developments to the same timeframe of 60 years.
- Does Council agree with this recommendation?
- Affordable housing projects will be given priority over other types of projects during permit and land use review and during the inspection process.

#### **CONCLUSIONS**

### **Staff Recommendation to Council**

- 1. That Council vote to approve the proposed amendments to MMC Title 19 (Zoning), presented in Attachments 1-b and 1-c.
- 2. That Council vote to adopt the proposed ordinance and attached Findings in Support of Approval presented in Attachments 1 and 1-a, respectively.

#### Code Authority and Decision-Making Process

The proposal is subject to the following provisions of the MMC:

- MMC Section 19.902 Amendments to Maps and Ordinances
- MMC Section 19.1008 Type V Review

This application is subject to Type V review, which states that the Council make the final decision. Type V applications are legislative in nature and involve the creation, revision, or large-scale implementation of public policy.

Council has 4 decision-making options as follows:

- A. Approve the proposed amendments as per to the recommended Findings in Support of Approval.
- B. Approve the proposed amendments with revisions, including modifications to the recommended Findings in Support of Approval. Such modifications need to be read into the record.
- C. Deny the proposed amendments.
- D. Continue the hearing.

There is no deadline for a final decision on Type V applications, as they are legislative in nature.

#### **Comments**

Notice was provided as described in MMC 19.1008, with a 30-day notice and code commentary made available online on June 18, 2025. The required 35-day notice to Metro and the Oregon Department of Land and Conservation Development (DLCD) was posted on June 17, 2025. Notice was also posted at City Hall, Public Safety Building, Johnson Creek Facility, and the Ledding Library. To date, no comments have been received.

### **BUDGET IMPACT**

None.

#### CLIMATE IMPACT

As with the middle housing code, implementation of regulations allowing a more efficient pattern of development through increased residential density provides opportunities for more walkability/bikeability and compact development patterns. This can lead to less dependence on motor vehicles, more transit opportunities, and more efficient use of available infrastructure.

### **EQUITY IMPACT**

Removing barriers to development of housing is a key component of the city's housing production strategy. More importantly, the city consistently looks for ways to incentivize development of housing to provide even more opportunities to make housing possible. Providing a streamlined process to exceed maximum density increases flexibility for developers. The entire city benefits from having a wide variety of housing types at many price levels.

#### **WORKLOAD IMPACT**

While the proposed amendments may result in more variance applications, they can be absorbed into the department's current planning workplan.

#### COORDINATION, CONCURRENCE, OR DISSENT

None.

### **ALTERNATIVES**

None.

### **ATTACHMENTS**

- 1. Ordinance
  - a. Recommended Findings in Support of Approval (including Metro and State Findings)
  - b. Draft code amendment language (underline/strikeout)
  - c. Draft code amendment language (clean)



### COUNCIL ORDINANCE No.

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING MILWAUKIE MUNICIPAL CODE (MMC) TITLE 19 ZONING ORDINANCE FOR THE PURPOSE OF PROVIDING CODE-BASED INCENTIVES FOR THE DEVELOPMENT OF AFFORDABLE HOUSING (PRIMARY FILE #ZA-2025-003).

**WHEREAS** it is the intent of the City of Milwaukie to promote and support affordable residential development to meet housing production goals; and

**WHEREAS** the proposed code amendments provide an opportunity to reduce construction costs and encourage the development of income-restricted housing; and

**WHEREAS** legal and public notices have been provided as required by law, and multiple opportunities for public review and input have been provided; and

**WHEREAS** on July 22, 2025, the Planning Commission conducted a public hearing as required by MMC 19.1008.5 and adopted a motion in support of the amendments; and

**WHEREAS** the City Council finds that the proposed amendments are in the public interest of the City of Milwaukie.

### Now, Therefore, the City of Milwaukie does ordain as follows:

Section 1. <u>Findings</u>. Findings of fact in support of the amendments are adopted by the City Council and are attached as Exhibit A.

Section 2. <u>Amendments.</u> The Milwaukie Municipal Code (MMC) is amended as described in Exhibit B (underline/strikeout version), and Exhibit C (clean version).

Section 3. <u>Effective Date.</u> The amendments shall become effective immediately on the date of adoption.

Read the first time on and move the City Council.	ed to second reading by vote of
Read the second time and adopted by the	City Council on
Signed by the Mayor on	
	Lisa M. Batey, Mayor
ATTEST:	APPROVED AS TO FORM:
Nicole M. Madigan, Deputy City Recorder	Justin D. Gericke, City Attorney

# Findings in Support of Approval File #ZA-2025-003 Affordable Housing Incentives Code Amendments

Sections of the Milwaukie Municipal Code (MMC) not addressed in these findings are found to be inapplicable to the decision on this application.

- 1. The applicant, the City of Milwaukie, proposes to make code amendments to MMC Title 19 related to code-based incentives for affordable housing developments. The land use application file number is ZA-2025-003.
- 2. The proposed code amendments would aggregate all code-based affordable housing incentives, to centralize information for prospective applicants. The proposed code language includes eligibility requirements for qualifying developments and specific incentives, including variances to setbacks, lot coverage, and certain minimum design standards (see Attachment 1 for the draft language). The goal is to remove barriers to residential development that includes income-restricted units. The city's Housing Production Strategy (HPS) includes a strategy to evaluate incentives for affordable housing development. The proposed amendments address this strategy.
- 3. Amendments are proposed in the municipal code, as follows:
  - Chapter 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS
    - Section 19.511 Affordable Housing Incentives (NEW)
  - Chapter 19.900 LAND USE APPLICATIONS
    - Section 19.911 Variances
- 4. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
  - MMC Section 19.902 Amendments to Maps and Ordinances
  - MMC Chapter 19.1000 Review Procedures
- 5. Sections of the MMC not addressed in these findings are found to be not applicable to the decision on this land use application.
- 6. The application has been processed and public notice provided in accordance with MMC Section 19.1008 Type V Review. Public hearings were held on July 22, 2025 and August 19, 2025 as required by law.
- 7. MMC Chapter 19.1000 establishes the initiation and review requirements for land use applications. The City Council finds that these requirements have been met as follows.
  - a. MMC Subsection 19.1001.6 requires that Type V applications be initiated by the Milwaukie City Council, Planning Commission, Planning Manager, or any individual.

The amendments were formally initiated by the Planning Manager on January 2, 2025.

- b. MMC Section 19.1008 establishes requirements for Type V review. The procedures for Type V Review have been met as follows:
  - (1) Subsection 19.1008.3.A.1 requires opportunity for public comment.
    - Opportunity for public comment and review has been provided as follows:
    - The City Council held work sessions on January 7, March 18, and May 6, 2025. The Planning Commission held a work session on June 10, 2025. The current version of the draft amendments has been posted on the application webpage since June 17, 2025.
  - (2) Subsection 19.1008.3.A.2 requires notice of public hearing on a Type V Review to be posted on the City website and at City facilities that are open to the public at least 30 days prior to the hearing.
    - A notice of the Planning Commission's July 22, 2025 hearing was posted as required on June 17, 2025. A notice of the City Council's August 19, 2025 hearing was posted as required on July 17, 2025.
  - (3) Subsection 19.1008.3.A.3 requires notice be sent to individual property owners if the proposal affects a discrete geographic area or specific properties in the City.
    - The proposed amendments will apply to all zones that permit residential development. Therefore, notices were not sent.
  - (4) Subsection 19.1008.3.B requires notice of a Type V application be sent to the Department of Land Conservation and Development (DLCD) 35 days prior to the first evidentiary hearing.
    - Notice of the proposed amendments was sent to DLCD on June 17, 2025.
  - (5) Subsection 19.1008.3.C requires notice of a Type V application be sent to Metro 35 days prior to the first evidentiary hearing.
    - *Notice of the proposed amendments was sent to Metro on June 17, 2025.*
  - (6) Subsection 19.1008.3.D requires notice to property owners if, in the Planning Director's opinion, the proposed amendments would affect the permissible uses of land for those property owners.
    - The proposed amendments will apply to properties in zones that permit residential development and do not affect the already permitted uses on those properties.
  - (7) Subsection 19.1008.4 and 5 establish the review authority and process for review of a Type V application.
    - The Planning Commission held a duly advertised public hearing on July 22, 2025 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held a duly advertised public hearing on August 19, 2025 and approved the amendments.
- 8. MMC 19.902 Amendments to Maps and Ordinances

- a. MMC 19.902.5 establishes requirements for amendments to the text of the zoning ordinance. The City Council finds that these requirements have been met as follows.
  - (1) MMC Subsection 19.902.5.A requires that changes to the text of the land use regulations of the Milwaukie Municipal Code shall be evaluated through a Type V review per Section 19.1008.

The Planning Commission held a duly advertised public hearing on July 22, 2025 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held a duly advertised public hearing on August 19, 2025 and approved the amendments. Public notice was provided in accordance with MMC Subsection 19.1008.3.

- (2) MMC Subsection 19.902.5.B establishes the approval criteria for changes to land use regulations of the Milwaukie Municipal Code.
  - (a) MMC Subsection 19.905.B.1 requires that the proposed amendment be consistent with other provisions of the Milwaukie Municipal Code.

The proposed amendments coordinate and are consistent with other provisions of the Milwaukie Municipal Code.

(b) MMC Subsection 19.902.5.B.2 requires that the proposed amendment be consistent with the goals and policies of the Comprehensive Plan.

The goals and policies of the Comprehensive Plan support the amendments to permit incentives for the development of income-restricted housing.

(c) Section 7 – Housing:

Provide safe, affordable, stable housing for Milwaukie residents of every socioeconomic status and physical ability within dwellings and neighborhoods that are entirely equitable, delightfully livable, and completely sustainable.

(a) Goal 7.1 – Equity:

Enable and encourage housing options that meet the needs of all residents, with a specific focus on uplifting historically disenfranchised communities and eliminating disparities for populations with special needs or lower incomes.

(i) Policy 7.1.3

Promote zoning and code requirements that remove or prevent potential barriers to home ownership and rental opportunities for people of all ages and abilities, including <u>historically marginalized</u> or <u>vulnerable populations</u> such as people of color, aging populations, and people with low incomes.

The proposed amendments provide numerous code-based incentives for the development of income-restricted housing at a variety of levels. The proposed code language includes eligibility requirements for qualifying developments and specific incentives, including variances to setbacks, lot coverage, and certain minimum design standards. The goal is to remove barriers to residential development that includes income-restricted units.

The proposed code includes a variety of incentives for qualifying developments that are middle housing, multi-unit, or mixed-use residential, organized as a package of variance requests to existing land use regulations and design and development standards for housing development. The code language includes expedited review processes both for land use review and development permit review.

### (b) Goal 7.2 – Affordability:

Provide opportunities to develop housing that is affordable at a range of income levels.

### (i) Policy 7.2.1

Continue to research, leverage and implement <u>housing affordability</u> strategies that meet the needs of Milwaukie households and can adapt to changing market conditions.

The proposed amendments provide numerous code-based incentives for the development of income-restricted housing at a variety of levels. The goal is to remove barriers to residential development that includes income-restricted units.

The proposed code includes a variety of incentives for qualifying developments that are middle housing, multi-unit, or mixed-use residential, organized as a package of variance requests to existing land use regulations and design and development standards for housing development. The identified adjustments include specific standards in an effort to reduce construction costs. The proposed amendments also include additional bonuses for developments that are 100% affordable at 80% or below AMI. The code language includes expedited review processes both for land use review and development permit review.

### (ii) Policy 7.2.3

Pursue programs and incentives that reduce the impacts that development/design standards and fees have on housing affordability, including modifications to parking requirements, system development charges, and frontage improvements.

# Statewide Findings for Milwaukie Plan and Code Amendments – Affordable Housing Code Incentives

This memo summarizes the consistency of the proposed code amendments with the following statewide goals, as well as key Oregon Revised Statutes (ORSs) and Oregon Administrative Rules (OARs):

- Goal 1: Citizen Involvement
- Goal 10: Housing

Other Statewide Planning Goals are not directly applicable to the proposed code amendments. Goals related to agriculture and forestry do not apply to land intended for future urbanization within the urban growth boundary. Additionally, the proposed amendments do not involve land or resources designated as part of Oregon's coastal zone.

Consistency with the applicable goals is a requirement for any amendment to a City's land use ordinances.

Based on the findings described below, the proposed code amendments comply with the applicable Statewide Goals and associated ORS and OAR provisions.

### **Goal 1: Citizen Involvement**

*Finding*: Goal 1 requires the City to employ an appropriately-scaled involvement program to ensure the opportunity for meaningful public involvement throughout the land use planning process. Goal 1 requires the City to incorporate six key components in its public involvement program:

- <u>Citizen Involvement</u>: An officially-recognized committee for public involvement broadly representative of geographic areas and interests related to land use and land-use decisions to provide for widespread public involvement;
- <u>Communication</u>: Mechanisms for effective two-way communication between the public and elected/appointed officials;
- <u>Influence</u>: Opportunities for the public to be involved in all phases of the planning and decision-making process including developing, evaluating, and amending plans;
- <u>Technical Information</u>: Access to technical information used in the decision-making process, provided in an accessible and understandable format;
- <u>Feedback Mechanisms</u>: Programs to ensure that members of the public receive responses from policy-makers and that a written record for land-use decisions is created and made accessible; and,
- <u>Financial Support</u>: Adequate resources allocated for the public involvement program as an integral component of the planning budget.

Following is a summary of activities undertaken by the City to support the proposed code amendments related to consolidation of the high density residential zones.

### Planning Commission and City Council Updates

City staff conducted four work sessions with the City's Planning Commission and City Council to review the status of the work and solicit feedback on key issues.

The specific proposed code language was posted with a code commentary on the City's website on June 17, 2025. Prior to the public hearings the Planning Commission had one work session about the proposed code amendment language on June 10, 2025. This meeting was open to the public and was recorded and available for public viewing after the meeting. Three work sessions with the City Council were held before the City Council hearing on the amendments. these meetings were also open to the public and were recorded and available for public viewing after the meetings.

Based on the findings above, the Zoning Code update is consistent with Oregon Statewide Planning Goal 1.

### Goal 10: Housing

Goal 10: To provide for the housing needs of citizens of the state.

Finding: Goal 10 requires the City to maintain and plan for an adequate land supply to accommodate at least 20 years of future growth, providing flexibility in housing location, type, and density to ensure the availability and prices of housing units are commensurate with the needs and financial capabilities of Oregon households. Comprehensive plans are required to include an analysis of community housing needs by type and affordability, an assessment of housing development potential, and an inventory of residential land; contain policies for residential development and supportive services based on that analysis that increase the likelihood that needed housing types will be developed; and provide for an adequate supply of a variety of housing types consistent with identified policies and meeting minimum density and housing mix requirements (established by OAR 660, Division 007).

The Milwaukie Housing Affordability Strategy (MHAS) was adopted by the Milwaukie City Council in 2018 after the Council identified housing affordability as its number one priority for the 2017–2018 biennium. The MHAS is a blueprint for providing equitable affordable housing opportunities and is intended to help increase the amount of affordable housing in the City. It serves as an overarching framework, combining existing land uses, needs assessments, housing policy analysis, and an analysis of best practices from peer cities. The MHAS includes a total of 31 proposed actions or programs focused around the following three goals:

- Develop New Units
- Prevent Displacement and Keep Affordable Units Affordable
- Connect People to Existing Affordable Housing

The city's Housing Production Strategy (HPS) outlines the specific tools, actions, and policies that the city plans to take to address the housing needs identified in the <u>Housing</u> Capacity Analysis and the city's plan and timeline for adopting and implementing each strategy. The HPS specifically identifies incentives as a way to encourage the development of affordable, income-restricted housing. DLCD approved the city's HPS in November 2023. The proposed amendments directly implement strategies from the approved HPS.

The proposed amendments relate to implementation of portions of the Comprehensive Plan related to the development and support of affordable housing. Creating and supporting housing opportunities has been a key goal for Council and the community. The adopted Comprehensive Plan policies call for ways to encourage the development of affordable housing and the reduction of barriers within the development code.

The proposed amendments implement comprehensive plan policies related to housing affordability and equity by providing specific incentives related to residential development: adjustments to certain design and development standards to reduce the cost of construction, and including height bonuses to provide more residential density. A mix of housing types combined with the higher densities will support development of smaller units with lower land costs and increased opportunities for transit, all of which can facilitate more affordable housing.

The city's Community Development Department will continue to work on ways to assist in the development of housing, provide financial incentives for regulated affordable housing development, and provide incentives for the retention or conversion of existing affordable housing supply.

Based on the findings above, the Comprehensive Plan Amendment is consistent with Statewide Planning Goal 10.

The proposed amendments provide numerous code-based incentives for the development of income-restricted housing at a variety of levels. The proposed code language includes eligibility requirements for qualifying developments and specific incentives, including variances to setbacks, lot coverage, and certain minimum design standards. The proposed amendments also allow for height bonuses in addition to existing height bonuses to allow for more density of residential development in mixed use zones. The goal is to remove barriers to residential development that includes income-restricted units.

The proposed code includes a variety of incentives for qualifying developments that are middle housing, multi-unit, or mixed-use residential, organized as a package of variance requests to existing land use regulations and design and development standards for housing development. The code language includes expedited review processes both for land use review and development permit review.

(d) MMC Subsection 19.902.5.B.3 requires that the proposed amendment be consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

The Metro Urban Growth Management Functional Plan includes a number of titles that address various aspects of the region's goals and policies for urban development.

(a) Title 1 Housing Capacity

The proposed amendments continue to provide opportunities for high density housing development in the city's high density residential zones.

(b) Title 7 Housing Choice

The proposed amendments will continue to provide the opportunity for much-needed high density housing in the city's high density zones. The amendments also reduce barriers to the development of multi-unit housing, residential care facilities, and single room occupancy housing within these zones. The proposed amendments will support Metro's policies for expanding housing choice with a needed housing type in Milwaukie.

The proposed amendments were sent to Metro for comment. Metro did not identify any inconsistencies with the Metro Urban Growth Management Functional Plan or relevant regional policies. The proposed code amendments are in compliance with Metro's Functional Growth Management Plan.

(e) MMC Subsection 19.902.5.B.4 requires that the proposed amendment be consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

In June of 2023 City Council adopted the state required Housing Capacity Analysis (HCA) and Housing Production Strategy (HPS) which were subsequently acknowledged by the Department of Land Conservation and Development (DLCD).

The HPS includes ten actions aimed at encouraging more affordable and diverse housing types, fostering partnerships with housing providers and developers, and increasing housing stability for Milwaukie residents. Strategy E identified in the HPS is to "evaluate incentives for affordable housing development." This code package fulfills the state requirement to implement actions in the HPS.

The proposed amendments were sent to the Department of Land Conservation and Development (DLCD) for comment. The DLCD did not identify any areas where the proposed amendments were inconsistent with State statutes and administrative rules.

(f) MMC Subsection 19.902.5.B.5 requires that the proposed amendment be consistent with relevant federal regulations.

The City Council finds that the Federal Fair Housing Amendments Act of 1988 is relevant to the proposed amendments. The proposed amendments provide a clear and objective review process for middle housing development in the residential zones.

### Attachment 1.c

# UGMFP Findings for Milwaukie Code Amendments for Affordable Housing Incentives

The Metro Urban Growth Management Functional Plan (UGMFP) provides tools to meet regional goals and objectives adopted by Metro Council, including the 2040 Growth Concept and the Regional Framework Plan. Under the Metro Charter, the City of Milwaukie's Comprehensive Plan and implementing ordinances are required to comply and be consistent with the UGMFP. The UGMFP consists of 14 code titles with policies and compliance procedures.

Metro requires "substantial compliance" with requirements in the UGMFP. Per the definition in Title 10, "substantial compliance" means that the City's zoning code conforms with the purposes of the performance standards in the functional plan "on the whole." Any failure to meet individual performance standard requirements is considered technical or minor in nature.

Based on the findings described below, the proposed code amendments related to Affordable Housing Code Incentives substantially comply with all applicable titles of the Urban Growth Management Functional Plan.

The Metro Urban Growth Management Functional Plan (UGMFP) provides tools to meet regional goals and objectives adopted by Metro Council, including the 2040 Growth Concept and the Regional Framework Plan. Under the Metro Charter, the City of Milwaukie's Comprehensive Plan and implementing ordinances are required to comply and be consistent with the UGMFP. The UGMFP consists of 11 code titles with policies and compliance procedures for the following topics:

- Title 1: Housing Capacity
- Title 7: Housing Choice
- Title 8: Compliance Procedures

### **Title 1: Housing Capacity**

*Finding*: Title 1 of the UGMFP is intended to promote efficient land use within the Metro urban growth boundary (UGB) by increasing the capacity to accommodate housing. Metro's 2020 Compliance Report concluded that Milwaukie is in compliance for the City's Title 1 responsibilities.

The city's Housing Production Strategy (HPS) identifies a variety of action steps to increase housing development in Milwaukie, including evaluating incentives for affordable housing development.

Staff is proposing a new code section that would aggregate all code-based affordable housing incentives to centralize information for prospective applicants. The proposed code language includes eligibility requirements for qualifying developments and specific incentives, including variances to setbacks, lot coverage, and certain minimum design standards. The goal is to remove barriers to residential development that includes incomerestricted units.

The proposed code includes a variety of incentives for qualifying developments that are middle housing, multi-unit, or mixed-use residential, organized as a package of variance requests to existing land use regulations and design and development standards for housing development. The proposal would limit variance applications to no more than 10 distinct variances to these standards. The proposed review process for these variances is an expedited Type II review already included in Milwaukie Municipal Code (MMC) 19.1005, that would reduce the timeframe for a decision from 120 days to 100 days. The amendments are intended to increase the supply of affordable housing, and provide equitable access and housing choice for all.

Based on the findings above, the proposed amendments are consistent with Title 1.

### **Title 7: Housing Choice**

### Finding:

Title 7 is designed to ensure the production of affordable housing within the UGB. Under Title 7, the City is required to ensure that its Comprehensive Plan and implementing ordinances include strategies to: ensure the production of a diverse range of housing types, maintain the existing supply of affordable housing, increase opportunities for new affordable housing dispersed throughout the City, and increase opportunities for households of all income levels to live in affordable housing (3.07.730). Metro's 2020 Compliance Report concluded that Milwaukie is in compliance for the City's Title 7 responsibilities.

The City's Housing Production Strategy (HPS), includes a strategy to evaluate incentives for affordable housing development. The proposed amendments address this strategy. The local code findings also illustrate how the proposed code amendments implement the policies in the new comprehensive plan that promote a diverse range of housing types, with a focus on housing affordability.

In addition to the recently adopted comprehensive plan which has multiple policies supporting housing affordability, equity and choices, the City has conducted several recent planning efforts aimed at addressing similar goals. The *Milwaukie Housing Affordability Strategy* and *Equitable Housing Policy & Implementation Plan* identify a variety of specific strategies to further these goals, many of which are already being implemented by the City and its local and regional partners. The proposed code amendments are the result of an

evaluation of the existing zoning ordinance to reduce barriers to and encourage the development of affordable housing.

Based on the findings above, the proposed amendments are consistent with Title 7.

### **Title 8: Compliance Procedures**

*Finding:* Title 8 establishes a process for ensuring compliance with requirements of the UGMFP. An amendment to the City comprehensive plan or land use regulations is deemed to comply with the UGMFP only if the City provided notice to Metro as required by section 3.07.820(a). The City of Milwaukie provided Metro a set of draft code amendments on June 17, 2025 which was more than 35 days prior to the first evidentiary hearing, which was held on July 22, 2025

Based on the findings above, the proposed amendments are consistent with Title 8.

### **CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS**

### 19.511 AFFORDABLE HOUSING INCENTIVES

### A. Purpose.

The purpose of this section is to offer incentives to developers for providing housing that is affordable to the types of households and qualifying residents identified in subsection B (Eligibility for Incentives), below. Affordable housing incentive requests of this chapter can be made concurrently as part of a land use permit application, as applicable.

### B. Eligibility for Incentives.

To be eligible for an adjustment and other incentives provided by this section, a proposed residential project must meet the following requirements:

- 1. Development must be middle housing, mixed-use residential, or multi-unit residential;
- 2. Middle housing, multi-unit, and mixed-use residential development must be designed and constructed so that at least:
  - a. Fifty percent (50%) of the total number of proposed dwelling units are restricted to households earning 60% 80% Area Median Income (AMI) or below; or
  - b. Forty percent (40%) of the total number of proposed dwelling units are restricted to households earning 40% 60% AMI or below; or
  - c. Thirty percent (30%) of the total number of proposed dwelling units are restricted to households earning 30% 40% AMI or below; or
  - d. Twenty percent (20%) of the total number of proposed dwelling units are restricted to households earning less than 30% AMI; and
  - e. Comply with all applicable provisions of this title.
- 3. Where the calculation of the number of affordable units does not result in a whole number, the result will be rounded up to the nearest whole number.
- 4. The income restricted units must be reasonably dispersed throughout the development, must contain on average the same number of bedrooms as the market rate units in the development, and must be compatible with the design of the market rate units in terms of size, appearance, materials, and finish quality.
- C. Types of Variances and Incentives Allowed.

A residential project that satisfies all applicable provisions of this section is entitled to apply for the following incentives. A variance application may ask for no more than a total of 10 distinct variances between the development and design standards identified below. For the purposes of this section, multiple instances of the same variance type will be considered one distinct variance.

AFFORDABLE HOUSING INCENTIVES: CODE AMENDMENTS

DRAFT DATE 07/08/2025

- 1. The following variances to development standards will be reviewed via an expedited Type II review process pursuant to Section 19.1005:
  - a) Minimum side yard setbacks: 40% reduction.
  - b) Minimum front, rear, street side yard setbacks: 25% reduction; 50% reduction for middle housing except cottage clusters.
  - c) Common area, minimum landscaping, or open space: reduction of up to 25%.
  - d) Minimum lot area: up to 25% reduction.
  - e) Minimum lot width or depth: up to 10% reduction.
  - f) Maximum lot coverage: up to 10 percentage points increase over the base maximum.
  - g) <u>Bike parking: a reduction to the minimum number of long-term and short-term spaces (0.5 spaces/dwelling required for each) and location of spaces.</u>
  - h) <u>Maximum building height: for multi-unit and mixed-use residential developments, allowance of up to an additional 20 ft.</u>
    - a) In the Downtown Mixed Use (DMU) and the General Mixed Use (GMU) zones, this bonus is in addition to allowable height bonuses for developments where 50% of the total number of proposed dwelling units are restricted to households earning no more than 60% AMI.
    - b) In the GMU zone, a qualifying development that elects to use the allowable height bonuses is not subject to the Type III review identified in Subsection 19.911.7.
  - i) Maximum density: none.
  - j) <u>In the DMU: ground-floor residential units are allowed on all streets.</u>
  - k) In the DMU: nonresidential active uses that support the residential use, such as lobbies, community rooms, exercise rooms, offices, day care, etc., are allowed on the ground floor.
  - I) Townhouse developments: the allowed number of consecutive townhouses that share a common wall is increased to six (6).
- 2. The following variances to design standards will be reviewed via an expedited Type II review process (Section 19.1005):
  - a) Façade articulation: full adjustment to the standard.
  - b) Inclusion of a minimum of three (3) detailed design features in Subsection 19.505.1.C.4., 19.505.4.D.4.d, and 19.505.5.C.4, rather than 5.
  - c) Total window area: reduction of up to 30%; minimum 12% required.
- 3. A development can use one of the following additional incentives:
  - a. For housing developments where 100% of the total number of proposed dwelling units are for low-income households as defined by the federal department of Housing and Urban Development (HUD) as 80% AMI or below, the incentives identified in this subsection are increased by an additional 10% (10 percentage points) over the stated amount. This increase does not apply to building height. OR

b. For housing developments where 100% of the total number of proposed dwelling units are homeownership units and are eligible for the incentives as defined in Subsection 19.511.B, the incentives identified in this subsection are increased by an additional 10 percentage points over the stated amounts. This increase does not apply to building height. Homeownership developments must use a community land trust model, shared equity, or similar model, that can ensure continued affordability and compliance monitoring.

### 4. Other Incentives.

- a. Qualifying multi-unit residential-only developments (not mixed-use developments) proposed in the DMU zone will be reviewed for compliance with Subsection 19.505.3 (Multi-Unit Housing).
- b. <u>This section does not prohibit developers of qualifying affordable residential projects from requesting other regulatory incentives or concessions from the City.</u>

### D. Continued Affordability.

The land use permit application for the residential project must include the procedures proposed by the developer to maintain the continued affordability of the income-restricted units.

Developments receiving a direct financial contribution, or other financial incentives from the City, or utilizing any of the incentives provided in this subsection, must maintain the availability of income-restricted homeownership units for a minimum of 60 years and of income-restricted rental units for a minimum of 99 years. Developers must enter into a development agreement or provide legal proof of restriction/affordability covenant with the City of Milwaukie to ensure retention. This should also include the monitoring and verification process that will be utilized throughout the duration of the affordability term to ensure the appropriate income levels are being certified for prospective renters or buyers.

### E. Processing of Incentive Requests.

Proposed incentive requests must be included as part of the land use application or permitting materials required for the residential project by this title, including the application of all relevant criteria.

- 1. Approval Criteria. The approval of the incentives by the review body or City designee must also comply with the following approval criteria:
  - a. The approval criteria for Type II variances identified in Subsection 19.911.4.A; and
  - b. There are sufficient provisions to guarantee that the dwelling units will remain affordable in the future as required.
  - c. Evidence has been provided to show compliance with Subsection 19.511.B.4.

### F. Priority Processing of Affordable Housing Projects.

A residential project that satisfies all applicable provisions of this section will be given priority over other types of projects and permits by all City departments in the processing of land use permit and building permit applications, and in inspections of the project during the construction process.

AFFORDABLE HOUSING INCENTIVES: CODE AMENDMENTS

DRAFT DATE 07/08/2025

### **CHAPTER 19.900 LAND USE APPLICATIONS**

### **19.911 VARIANCES**

19.911.3 Review Process.

B. Type II Variances

Type II variances allow for limited variations to numerical standards. The following types of variance requests shall will be evaluated through a Type II review per Section 19.1005:

- 11. For any middle housing development, except townhouses and cottage clusters, that includes at least one dwelling unit that is affordable that meets the exemption standards as defined in Section 3.60.050, the minimum setbacks in Table 19.301.4 may be reduced to the following:
- a. Front yard: 10 ft
- b. Rear yard: 10 ft
- c. Side yard: 5 ft
- d. Street side yard: 10 ft

### **CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS**

### 19.511 AFFORDABLE HOUSING INCENTIVES

### A. Purpose.

The purpose of this section is to offer incentives to developers for providing housing that is affordable to the types of households and qualifying residents identified in subsection B (Eligibility for Incentives), below. Affordable housing incentive requests of this chapter can be made concurrently as part of a land use permit application, as applicable.

### B. Eligibility for Incentives.

To be eligible for an adjustment and other incentives provided by this section, a proposed residential project must meet the following requirements:

- 1. Development must be middle housing, mixed-use residential, or multi-unit residential:
- 2. Middle housing, multi-unit, and mixed-use residential development must be designed and constructed so that at least:
  - a. Fifty percent (50%) of the total number of proposed dwelling units are restricted to households earning 60% 80% Area Median Income (AMI) or below; or
  - b. Forty percent (40%) of the total number of proposed dwelling units are restricted to households earning 40% 60% AMI or below; or
  - c. Thirty percent (30%) of the total number of proposed dwelling units are restricted to households earning 30% 40% AMI or below; or
  - d. Twenty percent (20%) of the total number of proposed dwelling units are restricted to households earning less than 30% AMI; and
  - e. Comply with all applicable provisions of this title.
- 3. Where the calculation of the number of affordable units does not result in a whole number, the result will be rounded up to the nearest whole number.
- 4. The income restricted units must be reasonably dispersed throughout the development, must contain on average the same number of bedrooms as the market rate units in the development, and must be compatible with the design of the market rate units in terms of size, appearance, materials, and finish quality.
- C. Types of Variances and Incentives Allowed.

A residential project that satisfies all applicable provisions of this section is entitled to apply for the following incentives. A variance application may ask for no more than a total of 10 distinct variances between the development and design standards identified below. For the purposes of this section, multiple instances of the same variance type will be considered one distinct variance.

AFFORDABLE HOUSING INCENTIVES: CODE AMENDMENTS

DRAFT DATE 07/08/2025

- 1. The following variances to development standards will be reviewed via an expedited Type II review process pursuant to Section 19.1005:
  - a) Minimum side yard setbacks: 40% reduction.
  - b) Minimum front, rear, street side yard setbacks: 25% reduction; 50% reduction for middle housing except cottage clusters.
  - c) Common area, minimum landscaping, or open space: reduction of up to 25%.
  - d) Minimum lot area: up to 25% reduction.
  - e) Minimum lot width or depth: up to 10% reduction.
  - f) Maximum lot coverage: up to 10 percentage points increase over the base maximum.
  - g) Bike parking: a reduction to the minimum number of long-term and short-term spaces (0.5 spaces/dwelling required for each) and location of spaces.
  - h) Maximum building height: for multi-unit and mixed-use residential developments, allowance of up to an additional 20 ft.
    - a) In the Downtown Mixed Use (DMU) and the General Mixed Use (GMU) zones, this bonus is in addition to allowable height bonuses for developments where 50% of the total number of proposed dwelling units are restricted to households earning no more than 60% AMI.
    - b) In the GMU zone, a qualifying development that elects to use the allowable height bonuses is not subject to the Type III review identified in Subsection 19.911.7.
  - i) Maximum density: none.
  - j) In the DMU: ground-floor residential units are allowed on all streets.
  - k) In the DMU: nonresidential active uses that support the residential use, such as lobbies, community rooms, exercise rooms, offices, day care, etc., are allowed on the ground floor.
  - I) Townhouse developments: the allowed number of consecutive townhouses that share a common wall is increased to six (6).
- 2. The following variances to design standards will be reviewed via an expedited Type II review process (Section 19.1005):
  - a) Façade articulation: full adjustment to the standard.
  - b) Inclusion of a minimum of three (3) detailed design features in Subsection 19.505.1.C.4., 19.505.4.D.4.d, and 19.505.5.C.4, rather than 5.
  - c) Total window area: reduction of up to 30%; minimum 12% required.
- 3. A development can use one of the following additional incentives:
  - a. For housing developments where 100% of the total number of proposed dwelling units are for low-income households as defined by the federal department of Housing and Urban Development (HUD) as 80% AMI or below, the incentives identified in this subsection are increased by an additional 10% (10 percentage points) over the stated amount. This increase does not apply to building height. OR

b. For housing developments where 100% of the total number of proposed dwelling units are homeownership units and are eligible for the incentives as defined in Subsection 19.511.B, the incentives identified in this subsection are increased by an additional 10 percentage points over the stated amounts. This increase does not apply to building height. Homeownership developments must use a community land trust model, shared equity, or similar model, that can ensure continued affordability and compliance monitoring.

### 4. Other Incentives.

- a. Qualifying multi-unit residential-only developments (not mixed-use developments) proposed in the DMU zone will be reviewed for compliance with Subsection 19.505.3 (Multi-Unit Housing).
- b. This section does not prohibit developers of qualifying affordable residential projects from requesting other regulatory incentives or concessions from the City.

### D. Continued Affordability.

The land use permit application for the residential project must include the procedures proposed by the developer to maintain the continued affordability of the income-restricted units. Developments receiving a direct financial contribution, or other financial incentives from the City, or utilizing any of the incentives provided in this subsection, must maintain the availability of income-restricted homeownership units for a minimum of 60 years and of income-restricted rental units for a minimum of 99 years. Developers must enter into a development agreement or provide legal proof of restriction/affordability covenant with the City of Milwaukie to ensure retention. This should also include the monitoring and verification process that will be utilized throughout the duration of the affordability term to ensure the appropriate income levels are being certified for prospective renters or buyers.

### Processing of Incentive Requests.

Proposed incentive requests must be included as part of the land use application or permitting materials required for the residential project by this title, including the application of all relevant criteria.

- 1. Approval Criteria. The approval of the incentives by the review body or City designee must also comply with the following approval criteria:
  - a. The approval criteria for Type II variances identified in Subsection 19.911.4.A; and
  - b. There are sufficient provisions to guarantee that the dwelling units will remain affordable in the future as required.
  - c. Evidence has been provided to show compliance with Subsection 19.511.B.4.

### F. Priority Processing of Affordable Housing Projects.

A residential project that satisfies all applicable provisions of this section will be given priority over other types of projects and permits by all City departments in the processing of land use permit and building permit applications, and in inspections of the project during the construction process.

AFFORDABLE HOUSING INCENTIVES: CODE AMENDMENTS

DRAFT DATE 07/08/2025

### **CHAPTER 19.900 LAND USE APPLICATIONS**

### **19.911 VARIANCES**

19.911.3 Review Process.

B. Type II Variances

Type II variances allow for limited variations to numerical standards. The following types of variance requests will be evaluated through a Type II review per Section 19.1005:

[remove item 11]



# AFFORDABLE HOUSING CODE INCENTIVES ZA-2025-003

City Council
Public Hearing
August 19, 2025
Vera Kolias, Senior Planner

# **PURPOSE**

## **Housing Production Strategy**

- Adopted in May 2023
- Identifies 8 new strategies to:
  - Support development of new affordable housing
  - Preserve existing affordable housing
  - Stabilize households at risk of displacement
  - Help address houselessness



# **PURPOSE**

This code package implements the HPS strategy to:

• Evaluate Incentives for Affordable Housing Development



# **PURPOSE**

- Code-based approach to address housing supply and affordability
- Consolidates all incentives into one new code section
- Applies to middle housing, mixed use residential, and multiunit developments

The proposed code is the result of three work sessions with City Council and a work session with the Planning Commission.



# QUALIFYING DEVELOPMENTS

Qualifying developments must be designed and constructed so that at least:

- 50% of units: 60% 80% AMI or below; or
- 40% of units: 40% 60% of AMI or below; or
- 30% of units: 30% 40% AMI or below; or
- 20% of units: <30% of AMI
- Where 100% of the total number of proposed dwelling units are 80%
   AMI or below, the incentives are increased by an additional 10 percentage points.
- Where 100% of the total number of proposed dwelling units are ownership units, the incentives are increased by an additional 10 percentage points.



# CONTINUED AFFORDABILITY

The land use permit application for the residential project must include the procedures proposed by the developer to maintain the continued affordability of the income-restricted **rental** units for at minimum of **99 years**, and **ownership** units for at minimum of **60 years**.

At the July 22 PC hearing, they recommended Council align ownership and rental developments to the same 60-year timeframe.



# LIST OF VARIANCES

Incentives			
Side setbacks:		40% reduction	
Front/rear setbacks:		25% reduction; 50% reduction for middle housing	
Common area/la space:	ndscaping/open	25% reduction (must still meet tre	ee code)
Min. Lot area:		25% reduction	
Min. Lot width/de	pth:	10% reduction	
Max. Lot coverag	e:	10 % increase	
Bldg Ht:		1 story/20 ft incred (MU and MFR only	



• In the DMU, height bonus is in addition to allowable height bonuses if 50% of units are for households at 60% AMI or less.

# LIST OF VARIANCES

Incentives		
Bike parking:	number/location	
Max. Building ht:	1 story or 20 ft (except cottage cluster)	
Max. Density:	No maximum	
Ground-floor residential allowed in DMU – all streets		
Ground-floor non-residential support uses allowed in DMU		
<ul><li>Consecutive townhouses:</li><li>PC voted to recommend this</li></ul>	increased from 4 to 6 to be a linear length of 200 ft.	



 Multi-unit development in the DMU reviewed with multi-unit standards, not Downtown Design Standards.

# LIST OF VARIANCES

Design Standards	
Façade articulation	full adjustment
3 detailed design standards	rather than 5
Total window area	30% variance; 12% required



# SUMMARY OF APPROVAL CRITERIA

# Application must meet the following criteria:

- Type II variances approval criteria related to impacts
- Provisions to guarantee that the dwelling units would remain affordable in the future.
- Evidence provided to show that income-restricted units are reasonably dispersed, have the same number of bedrooms and compatible design with market rate units.



# REVIEW PROCESS

- Expedited Type II review: 100 days (instead of 120 days)
- Priority processing by all city departments, including review and inspections during the construction process.



# PLANNING COMMISSION RECOMMENDATIONS

- July 22 hearing: PC voted 3-1 to recommend approval with 2 recommendations:
  - Ownership and rental developments = 60 year affordability
  - Townhouses be permitted for a linear length of 200 ft, rather than 6 units in a row



# QUESTIONS?



# **CONTACT US**

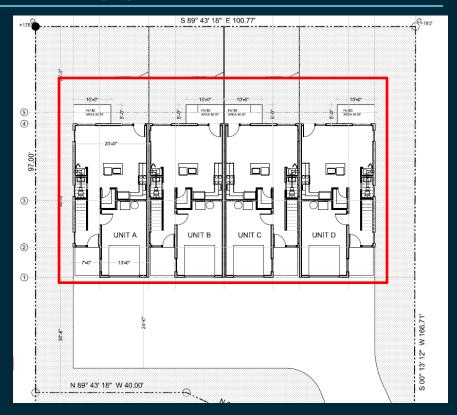
Vera Kolias, Senior Planner

koliasv@milwaukieoregon.gov





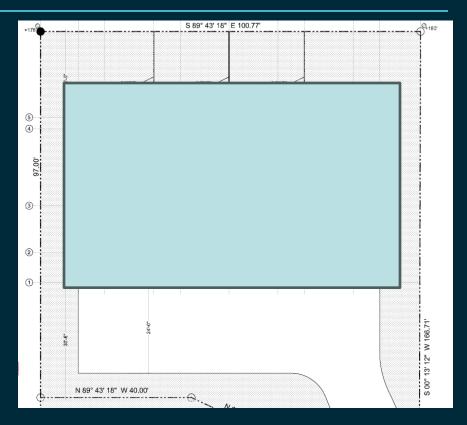
- Attached quadplex
- Flag lot
- Dev area = approx. 8,000 sq ft



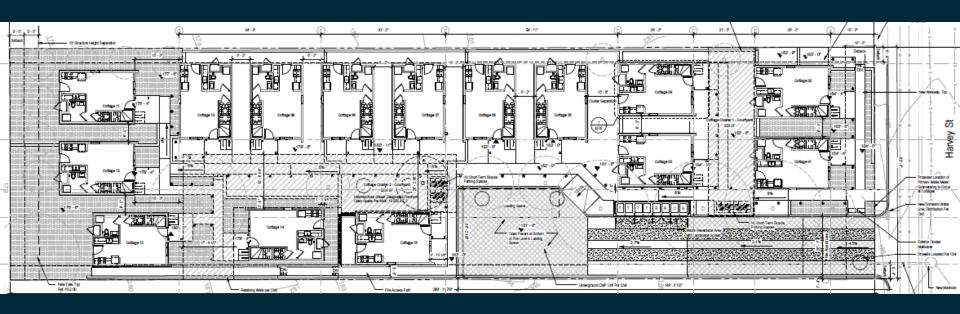




- Attached quadplex
- Flag lot
- Dev area = approx. 8,000 sq ft

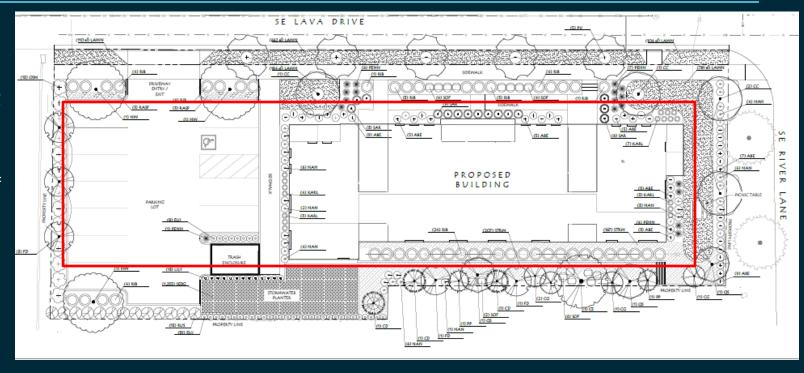




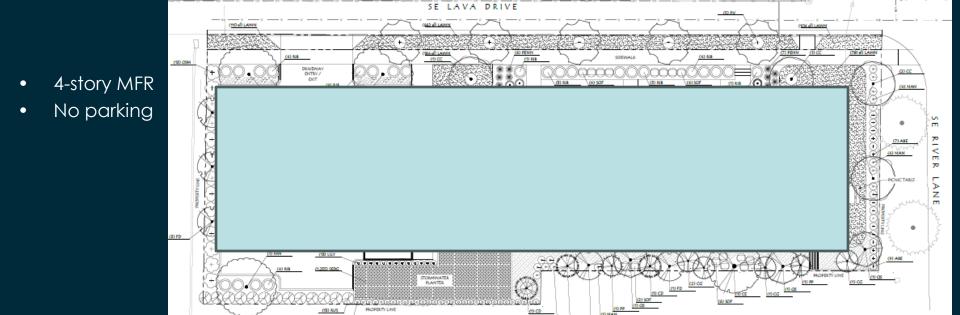


- 15-unit cottage cluster
- No off-street parking
- Fire turnaround
- Dev area = approx. 24,000 sq ft

- 3-story MFR
- 13 units
- 11 spaces
- Dev area = approx.
   19,000 sq ft









## EXEMPTION TO SB 1537

If city can show that all of the listed variances are eligible for a variance, AND

That within the last 5 years the city has approved 90% of requested variances

THE CITY CAN REQUEST AN EXEMPTION



## EXEMPTION TO SB 1537

Milwaukie can provide evidence of both 
<u>except</u> that current code prohibits variances to exceed

maximum density <u>in multi-family and single dwelling</u>

<u>development.</u>

- Middle housing is exempt from maximum density limits (except townhouses)
- Planned Developments are only way to exceed density (20% limit)

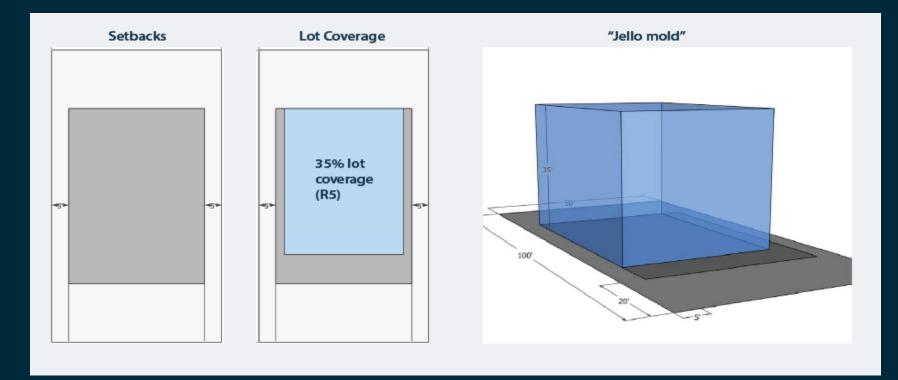


## MAXIMUM DENSITY

- Maximum density limits number of units, not size of the structure
- Code relies primarily on development standards to regulate site development
  - Setbacks, lot coverage, landscaping, tree code, etc.



# MAXIMUM DENSITY





## MAXIMUM DENSITY

- For single detached dwellings, maximum density applies during land division only.
  - Density standards tagged to lot size
  - Would require variance to min. lot size in a subdivision
- City must allow variance to max. density (only in single dwelling and multi-dwelling units) to qualify for exemption
  - Benefit when compared to bulk variance applications



From: Kelly Smith-Haley

To: OCR

**Subject:** Low-Income Housing Development Variances Comment

**Date:** Monday, August 18, 2025 11:21:08 AM

#### This Message originated outside your organization.

I want to share my deep concerns about the proposed Low Income housing development variances being discussed today.

I see proposed that qualifying developers would be allowed to build within five to six feet of a property line instead of the current ten, add an additional 20 feet vertically and decrease required bike parking (in the context of already controversially absent car parking provisions), and decrease the required landscaping/green space requirements. This means BIG buildings CLOSE to property lines/other structures with less vegetative coverage.

On standalone property developments (i.e. near Providence Milwaukie Hospital, or SE Monroe & 34th), these changes have a minimal impact. However, within neighborhoods with single-family residences, these changes would be significant. They say in real estate the one thing you can't change is location... these proposed changes make that phrase obsolete as your home could suddenly be completely in the shadow of a giant complex, reminiscent of the house in the Disney movie "Up."

I am also hugely disappointed to see the "Climate Impact" report only reporting that density improves walkability and access. This blindly optimistic perspective completely omits the impact of development and density on increased environmental temperatures from increased pavement, the low likelihood of structures surviving fire in dense environments, and the cooling effects of trees and vegetation on climate.

I understand this process has been in the works for some time, but Council has new information from the community via the July 28th Middle Housing forum. Your constituents shared with you very clearly their concerns with the fast tracking of development in Milwaukie. This should be a message that we need to slow down and reevaluate our growth approach and compliance capacity, not double down on more density with decreased requirements. I am confident we can improve housing which is desperately needed for our low income neighbors without sacrificing the voices and livability of current residents. Please do not pass these proposed variances today.

Thank you, Kelly Smith-Haley Linwood Neighborhood

--

Kelly Smith-Haley kellann8@gmail.com

From: Rob Reynolds
To: OCR
Subject: Middle Housing
Date: Monday, August 18, 2025 3:31:04 PM

This Message originated outside your organization.

Lisa,

As I said in your last town hall you and the counsel are not thinking about existing Milwaukie residents and yet onward you and the city counsel go. Still not doing anything to help the current tax payers. If we want to live in an area that was different then the way Milwaukie was 3 or 4 years ago, we would move. The changes that are being made are making people move away. Please stop trying to make us like portland. If we wanted to live there we would move there.

Thank you

Rob Reynolds

From: Allison McManus

To: OCR

Subject: Opposition to Proposed Affordable Housing Incentive Code Amendments (8/19/25 Packet)

**Date:** Monday, August 18, 2025 5:33:59 PM

This Message originated outside your organization.

Allison Kruse Milwaukie, OR

## Opposition to Proposed Affordable Housing Incentive Code Amendments (8/19/25 Packet)

Dear Mayor and Members of the Milwaukie City Council,

I appreciate the City's commitment to addressing the critical need for affordable housing. However, I respectfully urge the Council to reconsider adopting the proposed Affordable Housing Incentive Code Amendments as currently drafted.

While the intent behind these amendments is commendable, the breadth and scale of the incentives raise serious concerns related to neighborhood character, livability, and long-term community outcomes.

Since House Bill 2001 was enacted, Oregon state, and thereby Milwaukie, has some of the most progressive and accommodating building codes in the country. These reforms were designed to dismantle exclusive single-family zoning and substantially expanding housing options. The law removes regulatory barriers, enabling more affordable housing development by default. Attached and detached duplexes, triplexes, fourplexes, cottage clusters, and townhouses are already allowed in single-family zones. There is no reason to create further exceptions to the existing code.

We are already seeing the changes from House Bill 2001 create developments in neighborhoods with unintended consequences. An example of this is the eight house development on Harrison St at Home Ave. This development has no open space, no green space, and has pushed the limits on what is already allowed under the law.

The proposal allows for **numerous variances**—including reductions to **setbacks**, **open space**, **design articulation**, **bike parking**, **and façade standards**, as well as **height bonuses** of up to 20 feet. Taken together, these flexibilities could drastically change the built environment and reduce compatibility with surrounding neighborhoods. A side yard reduction of 40% means homes could be built 3.6 feet from the property line. That's barely enough room to wheel a recycling bin through. A four story development next to a single story single family home is imposing, blocks natural light, and fundamentally changes the character of a neighborhood. Additionally, it makes no sense to allow a reduction in

required bike parking when Oregon has aggressive climate goals to meet.

Second, the amendments permit **up to a 25% reduction in usable open space**, which threatens the green space and landscaping that contribute to livability and visual quality in Milwaukie's neighborhoods. As I described above, we are already seeing developers abuse open space requirements. Just because the proposal is for affordable housing doesn't mean residents shouldn't have access to some open green space where they live.

Third, there is an **inconsistency in affordability duration**: rental units must remain affordable for 99 years, while ownership units are subject to only a 60-year requirement. This inequity could undermine long-term affordability goals once ownership units re-enter the market. Additionally, the proposal provides no detail regarding the enforcement mechanism that will ensure affordable ownership units stay that way five, ten, fifteen years later when owners want to sell. The public deserves transparency about how this will be handled and upheld, as well as information about the consequences for violations.

The proposed shift to a **Type II expedited review (100 days)** reduces opportunities for public input and meaningful oversight. It risks prioritizing development timelines over transparency and accountability to the community.

The lack of **public comments or cost-benefit analysis** in the record suggests that the community may not yet fully understand the long-term implications of the changes being proposed.

Finally, a **one-size-fits-all approach** across all residential zones—whether downtown, suburban, or historic—fails to reflect the diversity of Milwaukie's neighborhoods and could lead to inappropriate development in areas that deserve more sensitive design standards. I'm personally supportive of more dense housing in areas where adequate public transportation is available and within reasonable all ages walking distance, like within half a mile of a MAX line.

While not present in the current proposal, it is likely developers will additionally ask for exemptions from System Development Charges in the future. I would appreciate the city council taking a strong stance that SDCs are critical to the city to developing the needed infrastructure to support the growing community. I cannot walk from my house to the grocery store without walking in the road half of the way. If we want to support more housing with less cars, continuing to build Miwaukie's sidewalks and bike lanes is critical.

For these reasons, I respectfully ask the Council to **pause or revise** the proposal and consider the following adjustments:

•

open space, set backs, design standards, and bike parking);

- Completely remove height bonus variances from the proposal;
- Provide the public more detail around what mechanisms will be in place to enforce long term duration requirements for both ownership and rental units as well as more information regarding consequences for violators;
- Apply context-sensitive incentives that differentiate between downtown mixed-use zones and low-density residential areas;
- Provide additional time and opportunities for public engagement and comment;
- Require the completion of a fiscal and community impact analysis before adoption;
- Take a stance on the necessity of System Development Charges.

Affordable housing is essential—but so are livable, vibrant, and equitable neighborhoods. Responsible incentives grounded in transparency and context-sensitive design can achieve both.

Thank you for your consideration, and for your continued service to the Milwaukie community.

Sincerely, Allison Kruse 
 From:
 Zac Perry

 To:
 OCR

**Subject:** Low income housing proposal

**Date:** Monday, August 18, 2025 10:37:40 PM

This Message originated outside your organization.

To start I appreciate the City of Milwaukie exploring and proposing options to make housing more accessible to more people. I feel like I live in a beautiful, safe city and I hope more good people see Milwaukie as I do and take advantage of the rapid growth already underway within our City limits.

I do also strongly feel like the established residents of this City should not lose and be forced to reduce the quality of their living experiences to achieve the prior goal of high density, bigger, taller. This proposal of lowering buffers between neighbors and increasing height limitations in the outskirts of our city center will result in increased traffic flow beyond what our failing pedestrian walkways were designed to accommodate for safe active transportation. These proposals also work directly in opposition to the goals Milwaukie already adopted as a community to adopt and support the standards to be recognized as a 'Tree City', whom actively protects and values urban tree canopies. I believe that the city is already in a position under current code to increase the number of available units in our city to help with affordability. I believe it's important for the City to take the time it needs to study and understand the impacts of the already adopted development code and insure that the projects you have already committed to are implemented as proposed with care that reflects the needs and wants of your community.

I'm writing in opposition to reducing development buffers between new and established housing and to increase the change in code that allows housing to be taller that the 33' as prescribed currently.

Thank you taking the time to read and consider this request and statement, Zac Perry
Linwood resident



# CITY OF MILWAUKIE

10722 SE Main Street P) 503-786-7502 F) 503-653-2444 ocr@milwaukieoregon.gov

## **Speaker Card**

The City of Milwaukie encourages all residents to express their views to their city leaders in a **respectful** and **appropriate** manner. If you wish to speak before the City Council, fill out this card and hand it to the City Recorder. Note that this Speaker Card, once submitted to the City Recorder, becomes part of the public record.

Name: SERNIS STOUT Organization:	Address: Phone: Email: AFFORDABCC
Meeting Date: Topic:	HOUSING
Agenda Item You Wish to Speak to:	You are Speaking
#5 Community Comments  Note: Council generally does not respond to comme The city manager will respond to comments at the n	ext regular session.
#7 Other Business, Topic:	from a Neutral Position
#8 Public Hearing, Topic:	to ask a Question
Comments:	



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becomes part of the public record.					
Name: Jun Kruse Organization:	Address: 10449 SE SIST Ave Phone: 303-328-7524 Email:				
Meeting Date: $9-19-25$ Topic:					
Agenda Item You Wish to Speak to:	You are Speaking				
#5 Community Comments	in Support				
<b>Note:</b> Council generally does not respond to comme The city manager will respond to comments at the ne					
#7 Other Business, Topic:	from a Neutral Position				
#8 Public Hearing, Topic: _A	to ask a Question				
Comments:					



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Name: Allan hose Organization:	Address: Phone: Email:
Meeting Date: 8/19 Topic:	Afford dokle Housey
Agenda Item You Wish to Speak to:	You are Speaking
#5 Community Comments	in Support
<b>Note:</b> Council generally does not respond to comme The city manager will respond to comments at the ne	ix in innocition
#7 Other Business, Topic:	from a Neutral Position
#8 Public Hearing, Topic:	
Comments:	

#### COUNCIL STAFF REPORT

RS 8. B. 8/19/25

**OCR USE ONLY** 

Date Written:

Aug 14, 2025

To: Mayor and City Council

Emma Sagor, City Manager

Reviewed: Ryan Burdick Police Chief, and

Brent Husher Library Director

From: Michael Osborne, Finance Director

Subject: Proposed Public Safety Fee Hearing and Adoption

#### **ACTION REQUESTED**

Council is asked to consider adoption of a public safety fee, which would be added to the city's consolidated fee schedule and implemented in November or December 2025.

#### HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

<u>November 18, 2024:</u> The Budget Committee met to discuss the city's financial stability strategy. During this meeting the committee reviewed and analyzed many different future revenue strategies with a multicriteria analysis.

May 12, 2025: Staff presented to the Budget Committee a list of three proposed new revenue ideas that met the feasibility criteria. Included in this list was a proposal to implement a public safety fee on the utility bill.

June 17, 2025: Council adopted the fiscal year (FY) 2026 consolidated fee schedule. Staff shared that given direction provided by the Budget Committee to develop a tiered commercial rate for the public safety fee, the vote on that component of the fee schedule would occur in later summer 2025.

<u>August 5, 2025</u>: Council received an updated proposal for the public safety fee, reflecting feedback received at the May 12 Budget Committee meeting. Council indicated support in advancing a fee for adoption on August 19.

#### **ANALYSIS**

#### Recap of August 5, 2025, Council discussion and direction

The staff report prepared for the August 5 regular session provides a comprehensive overview of the proposed public safety fee, including the connection to the city's broader financial stability strategy and explanation of the proposed fee design.

On August 5, Council received a presentation from staff about the proposed fee and were provided four different fee design scenarios to consider. These are shown below:

Account type	# of Accounts	# of units	c	\$5 Res \$3 MF Tiered ommercial	С	\$5 Res \$5 MF Tiered ommercial	c	\$7 Res \$4.2 MF Tiered ommercial	(	\$10 Res \$6 MF Tiered Commercial
Single Family	5,998	5,998		29,990.00		29,990.00		41,986.00		59,980.00
Multi-Family	363	3,537		10,611.00		17,685.00		14,855.40		21,222.00
Commercial	364	364		13,296.49		13,296.49		14,662.38		15,912.16
Minus: Low Incone Acc	ounts			(1,000.00)		(1,000.00)		(1,400.00)		(2,000.00)
	Monthly	Revenue		52,897.49		59,971.49		70,103.78		95,114.16
	Annual Revenue	Revenue	\$	634.769.88	\$	719.657.88	\$	841.245.38	\$	1.141.369.92

Council discussed the following topics at the August 5 meeting:

• Low-income accounts: Council was concerned the assumed lost revenue by providing exemptions to low-income utility assistance customers may be underestimated. Staff agreed and shared that through a recent audit of our utility assistance program, the number of enrolled accounts had declined to approximately 150. Staff do expect this is low and noted that through the affordability goal, there are plans to increase outreach around the assistance program to ensure those who do qualify can receive the support. Staff noted they will increase the assumption of forgone revenue and look into estimating a better target of potential low-income assistance accounts.

Firmly estimating this number is difficult because different family sizes qualify for assistance at different income rates (the city uses federal guidelines designated by the Housing Choice Voucher Program), and some families who meet income thresholds may not pay their own utility bill if they live in a multifamily complex where the landlord covers utilities. Preliminary census data research indicates about 149 family households (greater than two people) are below the federal poverty level and would qualify. Approximately 107 of those households are estimated to rent, so many of them may not pay a utility bill themselves. Factoring in non-family households (single-person) that might also qualify, this supports our assumption that with outreach, the number of enrollees in the low-income utility assistance program will increase perhaps by 50-100 customers.

- Appreciation for continuum of care focus: Councilors noted their appreciation that the fee
  would help support safety services across several departments, reflecting a continuum of
  care approach that involves support, response, and accountability.
- Specificity of investment needs: Council asked staff to provide greater specificity on what full-time equivalent (FTE) assumptions were used to calculate the investment target of \$900,000 \$1,000,000 annually. Staff clarified the estimate was based on the cost of an additional behavioral health specialist, a dedicated training sergeant at Milwaukie Police Department (MPD), two entry-level MPD patrol officers, an assistant manager and additional library assistant at the Ledding Library, and a deputy court clerk. The city manager explained, however, that this is not a budget ask and specific FTE or resource requests would be made through quarterly budget adjustments and biannual budget processes. The exact needs, staff classification, and prioritization among these investments may change and would be subject to public deliberations.
- *Rate design:* Council members asked why the third scenario included a \$4.20 rate for multi-family customers. Staff clarified this is the trips ratio between a multi-family unit

and single-family residence and noted a different rate could be assigned to multi-family if Council desired. Councilors recommended increasing the multi-family rate slightly.

At the conclusion of the August 5 discussion, Council indicated consensus support for advancing a fee for potential adoption on August 19 at a rate of \$7 per single-family residential customer, \$5 per multi-family customer, and a tiered fee for commercial customers (between \$5-\$50) utilizing trips data.

The updated rate design proposal that staff will ask Council to consider adopting on August 19 is below:

Account type	# of Accounts	# of units	c	\$7 Res \$5 MF Tiered Commercial	_
Single Family	5,998	5,998		41,986.00	
Multi-Family Commercial	363 364	3,537 364		17,685.00 14,662.38	Min \$5, Max \$50
Minus: Low Income Accounts			-	(2,100.00)	
	Monthly	Revenue		72,233.38	
	Annual	Revenue	\$	866,800.58	

#### August 13 Public Q&A

On August 13, staff held a public question and answer town hall at City Hall from 6:00 - 7:20 p.m. The event was advertised in the Milwaukie *Pilot* newsletter, on social media, and via the weekly email to neighborhood district association (NDA) representatives. Community members could participate in-person or via Zoom.

In total, 16 total people participated in the event—8 in person and 8 online. The recording of the Q&A can be found on the <u>city's YouTube channel</u>. Due to a technical error, part of the staff presentation was not recorded; the presentation, however, was the same as provided to City Council on August 5 (<u>which can be viewed here</u>).

Key themes and questions raised by the event participants include the following:

Affordability and impact on people living on low or fixed incomes: Multiple attendees
reflected on rising costs of living, particularly increases on other, non-city owned utilities
such as solid waste, electricity, and natural gas. Attendees shared concerns about the
ability to keep up with these rising costs and the fact that, while the city provides lowincome assistance, other private utilities do not.

Staff appreciated these concerns and discussed the city's recently adopted affordability goal. Within this goal, Council and staff are taking on efforts to evaluate opportunities for rate relief, reduction, or rebates across city services and advocating with external entities that provide utilities in Milwaukie to do the same. An attendee asked if the city has ever lowered fees, and staff shared examples of where this has occurred, including recent reductions in parking permit rates and wastewater fixed charges, as well as the elimination of library fines.

• Commercial and multi-family rate design: Some attendees asked questions about why the multi-family rate is lower than the single-family rate and how the commercial rates would be calculated.

Staff explained the intent, per direction from Council and Budget Committee, was to design the rate similarly to the Safe Access for Everyone (SAFE) fee. Originally, staff proposed a flat customer rate, which is the most common rate design utilized by other Oregon cities with similar fees. Budget Committee felt a tiered rate approach, like SAFE, was more equitable. SAFE uses trip generation data, published by the Institute of Transportation Engineers, to calculate anticipated travel demand of different types of establishments, including single-family residences, multi-family units, and commercial properties of varying types. While staff recognize this is not a perfect proxy for public safety demand, it is the best available dataset that we can use to be consistent with other exiting utility charges and tier rates based on a characteristic that has a connection to safety. Going forward, staff can explore other datasets that may be a better fit, but consideration of administrative complexity will be important to make fee collection cost effective.

Participants asked if staff would be open to hearing appeals from commercial customers who may dispute the rate applied to their business. Staff noted there is a process for making appeals of this kind and stated this is one advantage of a fee like this over a property tax.

- Options for sequestering funds to ensure expenditure on public safety: Some participants expressed concern that the revenue raised would go into general fund rather than a safety-specific fund. Other participants noted they would not be supportive of a "police fee." Staff explained that the public safety continuum of care spans several departments that are supported by the general fund, including Police, Library, and Municipal Court. As the intent is to use this fee to invest in these services, the proposal is to put the revenue into the general fund, but track expenses tied back to this revenue transparently through the quarterly budgeting process. Some suggested they would still prefer the city establish a safety-specific fund.
- Prioritization of investment needs: Some participants advocated for prioritizing some proposed investments over others, for example, hiring more behavioral health specialists and fewer patrol officers. Staff clarified the proposed investment list is a starting point so we could determine an ideal revenue target for implementing this fee. Any new resources (positions or funding) have to be reviewed and approved by Budget Committee and Council via the public budget adjustment and budget adoption processes. Community members have an opportunity to provide input and share their thoughts on budgeting priorities at quarterly Budget Committee meetings, which are publicly noticed. In short, community members will have a chance to influence how investments are prioritized at those quarterly budget milestones.
- Utility bill implementation and comparison to tax alternative: Some participants noted they would prefer the city pursue this funding via a tax that goes to the public for a vote, rather than through a fee adopted by Council. Staff explained the rationale behind treating public safety like other core services that are in part funded by utility fees because infrastructure and service changes can fluctuate and should be proactively programmed through annual rate setting. Staff also clarified ways the community can share their opinion on the proposed fee with Council before or at the August 19 hearing.

#### Plan for August 19 hearing

At the August 19 regular session, Council will hold a hearing to hear public testimony and consider voting to adopt the proposed fee. If adopted, the fee would be added to the city's consolidated fee schedule. Staff would begin preparing for implementation via the monthly utility bill and expect the fee would begin collection on either the November or December 2025 bills.

#### **BUDGET IMPACT**

If adopted, this added utility fee would bring in an estimate of \$866,800 in revenues to the general fund annually. This revenue would be programmed via the city's biannual budget process and used to support the investments in staffing and resourcing along the public safety continuum of care described above.

#### **CLIMATE IMPACT**

None.

#### **EQUITY IMPACT**

This new fee to the city's utility bill will impact all residents of Milwaukie. Staff recognize that the city is asking to add a new fee in a time of economic uncertainty. For these reasons, staff are recommending lower rates than in many other comparator cities. Staff are recommending excluding low-income utility assistance customers from this public safety fee based on the financial impact it would have on their overall household expense. Currently the city's low-income threshold is roughly \$43,000 for single-person residences and up to \$62,000 for residences with up to four people (based on federal guidelines designated by the Housing Choice Voucher Program).

#### **WORKLOAD IMPACT**

The implementation of this fee would require 2-3 months to implement. Staff estimate this fee would be ready by late fall/early winter 2025. The hiring process for the additional city staff will take time. We would begin hiring for these new positions in early 2026.

#### COORDINATION, CONCURRENCE, OR DISSENT

City staff, (from the finance, police, and library departments and the city manager's office) have worked on developing this plan for the public safety fee. Staff have reached out to counterparts in other cities and discovered the public safety fee is an increasingly used tool in Oregon cities to help pay for government needs

#### STAFF RECOMMENDATION

Staff recommend passage of a public safety fee to address acute service delivery risks across the city's public safety continuum of care.

#### **ALTERNATIVES**

The Council can take no action, and the current levels of staffing and resourcing will remain. Council can also propose a different rate structure for consideration.

#### **ATTACHMENTS**

- 1. Resolution
  - a. Draft updates to the Consolidated Fee Schedule



#### COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ESTABLISHING A PUBLIC SAFETY FEE AND UPDATING THE CONSOLIDATED FEE SCHEDULE.

**WHEREAS** the City Council directed staff to develop proposals for revenue stabilization that can support services at risk of cuts or reductions; and

WHEREAS the City Council desires to establish a public safety fee to ensure adequate investment in critical services across the city's public safety continuum of care, including behavioral health support, police response and training, library safety, and municipal court; and

WHEREAS this public safety fee would be collected on monthly utility bills;

**WHEREAS** the funds received from the public safety fee on the monthly utility bill would be directed to the city's General Fund to support additional public safety services and investments made possible by the fund, which would be disclosed on at least an annual basis; and

**WHEREAS** the City Council desires to amend the City of Milwaukie Consolidated Fee Schedule to include rates for the public safety fee; and

**Now, Therefore, be it Resolved** by the City Council of the City of Milwaukie, Oregon, that the city's Consolidated Fee Schedule document is amended as follows.

Section 1 The public safety fee, included as Exhibit A to this resolution, is hereby adopted and included in the City of Milwaukie Consolidated Fee Schedule.

Section 2 The fees established by this resolution will become effective November 1, 2025.

Introduced and adopted by the City Council on August 19th, 2025.

This resolution is effective on August 19th, 2025.

	Lisa M. Batey, Mayor					
ATTEST:	APPROVED AS TO FORM:					
Nicole M. Madigan, City Recorder	Justin D. Gericke, City Attorney					

#### Exhibit A

#### **UTILITIES**

### **Public Safety Fees**

#### **Public Safety Rates for All Categories**

Account Type		Fiscal Year 2026 Fees Public Safety Fee	
Single Family Residential	N/A	\$7.00	
Utility Assistance	Exempt		
Commercial per daily trip generated 1,2,	N/A \$0.70		
Including Elderly Housing/Mobile Homes & Congregate Min \$5		Min \$5,	
Care, per unit)		Max \$50	
Multi-Family Residential (per unit)	N/A	\$5.00	



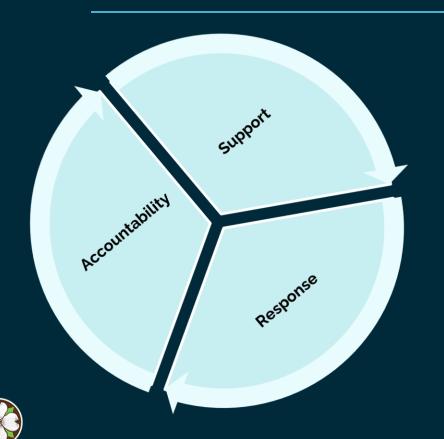
# **OUR PLAN TO INVEST IN**

# PUBLIC SAFETY

# Public Hearing and Vote Aug. 18, 2025

Emma Sagor, City Manager Ryan Burdick, Chief of Police Brent Husher, Library Director

## RECAP: NEED FOR PUBLIC SAFETY INVESTMENT



- Multiple departments provide community safety services, including Police, Library, and Municipal Court
- Demand for services has outpaced resources – staffing, training, and tools
- These services are most at risk without General Fund investment
- Without stabilization and investment, services will be impacted

## RECAP: PUBLIC SAFETY NEED, BY THE NUMBERS

- Since 2020, calls for police response have increased by 21%. Staffing has not changed
  in that time, and overall sworn officers are down 6 from early 2000s.
- Calls and needs are getting more complex
  - Good pressures: More housing, more economic activity
  - Bad pressures: Behavioral health crises, substance abuse. Milwaukie #1 in Clackamas County for drug overdose-related 911 calls in 2024
- Milwaukie's sole behavioral health specialist made 527 contacts last year alone. He only works Mon-Thurs.
- Ledding Library, which serves 600+ patrons a day 7 days a week, has logged 327 patron incidents since late 2023; 35% required MPD response



Court dockets have returned to pre-pandemic levels (~5,000 citations a year), but we
only have one full-time Court staffer

## WHAT OUR **PUBLIC SAFETY CONTINUUM OF CARE** NEEDS

We want to add	Which would mean				
An additional behavioral health specialist	<ul> <li>Greater ability to provide compassionate response for those in crisis</li> <li>Support for behavioral health needs on the weekends</li> </ul>				
A dedicated training officer at MPD	<ul> <li>More de-escalation, anti-bias, and skills trainings annually</li> <li>Better equipped and prepared officers</li> </ul>				
More patrol officers	<ul> <li>Maintaining 3-5 min average response times</li> <li>Less use of overtime</li> <li>Coverage for 24/7 safety needs</li> </ul>				
More support for the Ledding Library	<ul> <li>Greater safety for Library patrons and staff</li> <li>More outreach and support services</li> </ul>				
More support for Municipal Court	<ul> <li>More efficient processing of tickets, trials, and citations</li> </ul>				

And will cost...

~\$900K to \$1M annually

### INVESTING IN PUBLIC SAFETY LIKE OTHER ESSENTIAL INFRASTRUCTURE

 Propose adding a Public Safety fee to the existing monthly Utility Bill

 Rates set by Council via city's consolidated fee schedule

 Reviewed annually; can be changed (increased or decreased) as needs change







## PROPOSED RATE AND REVENUE GENERATION

Account type	# of Accounts	# of units	C	\$7 Res \$5 MF Tiered Commercial	
Single Family	5,998	5,998		41,986.00	
Multi-Family	363	3,537		17,685.00	
Commercial	364	364		14,662.38	Min \$5, Max \$50
Minus: Low Income Accounts				(2,100.00)	
	Monthly	Revenue		72,233.38	
	Annual	Revenue	\$	866,800.58	



## COMMUNITY CONVERSATIONS

- May 12 Budget Committee
- June 17 City Council
- July 24 Equity Steering Committee
- July 24 Public Safety Advisory Committee
- Aug 5 City Council
- Aug 11 Budget Committee
- Aug 11 Library Board
- Aug 13 Community Q&A at City Hall (advertised in Pilot and to NDAs)
- Aug 19 City Council Hearing and vote



## THEMES FROM COMMUNITY CONVERSATIONS

- Affordability and impact on people living on low or fixedincomes
- Opinions on investment priorities
- Rate design
- Transparency of expenditures and data reporting
- Implementation via utility bill



## **NEXT STEPS**

- Council to take public comment
- Council discussion and vote
- If approved, would be incorporated into the city's Consolidated Fee Schedule and implemented on November or December bills





From: <u>David Chitsazan</u>

To: OCR

Subject: Comments to Council/Mayor - Public Safety Fee Q&A

Date:Wednesday, August 13, 2025 1:42:17 PMAttachments:We sent you safe versions of your files.msgDavidChitsazan Comments 8-13-25.pdf

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

This Message originated outside your organization.

Hi Scott,

Hope all is well! See attached PDF for my comments for the Mayor/Council for the Public Safety Fee Q&A meeting tonight. I will not be able to attend in person unfortunately.

Please pass on to the Mayor/Council. Thank you.

Sincerely, David

Dear Mayor, Council Members, Members of the Public,

Thank you for taking the time to hear my comments:

- 1. From 2023-24 to the 2025-26 adopted biennium budget, the total costs of the police department increased from \$15,382,000 to \$17,966,000 (see screenshot below, from biennium budget voted on last year), an approx.. 17% increase (~\$2.6M).
  - a. We were told this was to help keep the department staffed, maintain response time, etc...

		HISTORICAL BN 2023-2024 BN 2025-2026																				
(Amounts in Thousands: \$100 = \$100,000)				Actual Amended Y 2022 Budget		Actual FY 2023				imated N Total			Approved Total		Adopted Biennial FY 2025 FY 2026			Budget Total				
PERSONNEL SERVICES		1 2021		1 2022		oogei	-	1 2023	11	2024	DI	N IOIGI		otal		orai	(F)	2025	71	2026		oldi
Budgeted FTE Positions	_	38.50		38.50		38.50		38.50	3	8.50		38.50	4	0.50	4	0.50		10.50	4	0.50	4	0.50
Salaries & Wages	\$	3,796	\$	3,816	\$	8,865	\$	4,215	\$	4,067	\$	8,282	\$	8,747	\$	8,747		4,292		4,455	5	8,747
Employee Benefits		2,191		2,201		5,066		2,417		2,375		4,792		6,554		6,554		3,229		3,325		6,554
TOTAL PERSONNEL SERVICES	5	5,987	\$	6,017	\$	13,931	\$	6,632	\$	6,442	5	13,074	5	15,301	\$	15,301	\$	7,521	\$	7,780	\$	15,301
Professional & Technical Services: 911 Dispatch (LOCOM)		433		454		1,027		478		501		979		1,155		1,155		563		592		1,155
Other		125		177		396		128		200		328		522		522		261		261		522
General Office Supplies		125		20		30		22		200		50		70		70		35		35		70
Dues & Subscriptions		1		20		4		3		28		4		8		8		4		4		,
Education & Training		41		72		180		85		40		125		200		200		100		100		200
Public Safety Supplies		90		135		250		127		180		307		260		260		130		130		260
TOTAL MATERIALS & SERVICES		699		859		1,887		843		950		1,793		2,215		2,215		1,093		1,122		2,215
CAPITAL OUTLAY																						
Furniture & Equipment		*		-				225				225		30		30		15		15		30
Vehicles		185		59		330		150		140		290		420		420		240		180		420
TOTAL CAPITAL OUTLAY		185		59		330		375		140		515		450		450		255		195		450
															_							

- 2. I was treasurer on the Clackamas Community College (CCC) bond last year, which was a ballot measure initiative that taxes residents at \$0.25 per \$1,000 of assessed value<sup>1</sup>, and Clackamas County has an average taxable home value of \$346,348<sup>2</sup>. This means the average cost to each household is ~\$86.59 per year.
  - a. The proposed Public Safety utility fee for Milwaukie by the Council would cost the average residential household \$84 a year<sup>3</sup>, essentially the same as the CCC bond.
  - b. Further, the utility fee would be less equitable than the CCC bond, as it is a flat rate fee. E.g. a millionaire home gets the same \$7/month bill as someone with a \$200,000 home.

https://cms2.revize.com/revize/milwaukie/Documents/Departments/Finance/Fees%20Charges/Public%20Safety%20Fee%20One-Pager%20FINAL\_1.pdf

<sup>&</sup>lt;sup>1</sup> https://www.clackamas.edu/about-us/vision-initiatives/bond-measure-3-613

https://dochub.clackamas.us/documents/drupal/4a9c18e4-cd3c-4485-80db-57bc3226036d

 $<sup>^{3}</sup>$  \$7 a month x 12 months = \$84.

Further, I note Mayor Batey's statement from the Budget Committee 11/18/2024 where potential revenue raising items were discussed, including a utility fee, bringing a bond or levy to a vote, etc: "My inclination is to look at, it will not be easy, it will be a big lift to sell, a permanent tax rate increase, but to me that's the better solution. And I do think if we were to talk about a permanent rate increase to fund police, library, parks, is something we have to be thinking about."<sup>4</sup>

In summary, we were told last year at the budget committee that the large increase in the police budget from 2023-24 to 2025-26 was to cover most of the items mentioned in the Public Safety bill flyer, and now on top of that, we are potentially getting an monthly fee without a public vote. Not to mention that this is a less equitable structure than a bond or levy as it charges all households equally (aka a millionaire home gets the same \$84 a year fee as a \$200,000 home). Jamming an \$84 a year fee on a utility bill (rather than through a public vote) to fund a department that already got a \$2.6M increase in the biennium budget is a poor decision for the council to make.

Sincerely, David Chitsazan

Budget Committee Chair, Clackamas Community College.
Milwaukie Redevelopment Commission Community Advisory Committee Member.
Budget Committee Member, North Clackamas Parks and Recreation District.
Former Budget Committee Member, City of Milwaukie.
Former Citizens Utility Advisory Committee Member, City of Milwaukie.

<sup>&</sup>lt;sup>4</sup> Budget Meeting 11/18/2024, 2:00:08,

From: Bernie Stout To:

OCR

campbellneighbors@gmail.com Cc: Subject: SAFETY FEES AND PA

Thursday, August 14, 2025 4:09:49 AM Date:

This Message originated outside your organization.

Thursday, August 14, 2025

### Dear City Council,

I am writing in regards to the SAFETY FEE being voted on August 19<sup>th</sup>.

Please vote yes, if you can assure **all FEES** are being collected.

- CONCERNS VOICED AT MIDDLE HOUSING OPEN HOUSE > "QUALITY OF LIFE"
- SINGLE FAMILY HOUSING BEING CONVERTED INTO DUPLEXES WITH OUT PERMITS OR FEES COLLECTED IN THE FORM OF SYSTEM DEVELOPMENT CHARGES and TRIP FEES, this SAFETY FEE
  - NEED TO INCLUDE MORE STANDARDS OF DEFINING A DUPLEX.
  - 2. CURRENTLY ONLY <u>ONE CRITERIA</u> A GAS LINE OR 220 ELECTRICAL FOR COOKING. ELECTRICAL IS ONLY CONSIDERED IF A THIRTY INCH RANGE WITH AN OVEN IS INSTALLED.
  - IF ADDITIONAL BATHROOM & KITCHEN ARE ADDED A SYSTEM DEVELOPMENT CHARGE SHOULD ALSO BE INACTED. AS THIS ADDS TO THE CITIES WATER & SEWER USAGE.
  - 4. IF A RESIDENCE IS FOR RENT, LEASE, SALE OR EXCHANGE AN LICENSED ELECTRICIAN MUST PERFORM THE WORK.
  - PREVENT POOR CONSTRUCTION WHICH DOES NOT MEET DUPLEX DEFINITION.
  - 6. RENTS AT THREE LOCATIONS: Advertised rents -
- a. Wednesday, June 5, 2025 4730 SE Ada Ln #B

Milwaukie, OR 97222 \$1,495 Monthly Rent 1Beds 1Baths 650

b. 2025

4789 SE Ada Lane #B

### \$1,599

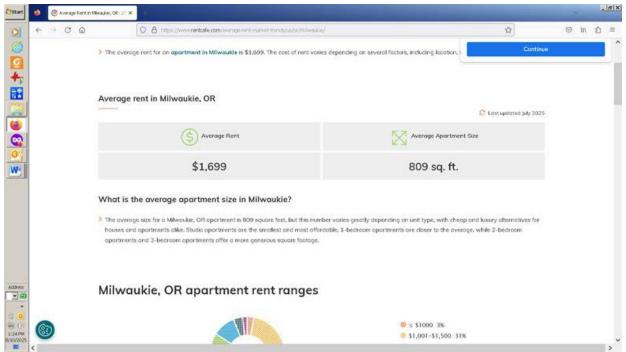
- 1 Bed
- 1 Bath

c. 2019 4683 SE Ada Lane #B \$1,300

- 1 Bed
- 1 Bath
- Kitchen
- 7. PERMITS DO MORE THAN PROVIDE SAFETY BUT, PLAY AN IMPORTANT ROLE IN OTHER AGENCIES PERFORMING THERE PART OF THE OVERSIGHT.
  - a. The state of Oregon Contractors Board needs know when unlicensed work is being done and by who.
  - b. The state of Oregon Builders Board needs to know that building codes are being followed.
  - c. Real Estate Agents & Buyers need to be able to research prior alterations to protect from future conflicts with the City of Milwaukie Code Enforcement.
  - d. Insurance Companies need to cover building replacement costs.
  - e. The Clackamas County Tax Assessor uses the Permit Records to determine improvements to

structures. Current example on record as an unfinished basement but, now has walls, bedroom, bathroom, kitchen, and egress windows.

Without a record of alterations many problems are generated. As time goes by these deficiencies compound and result in more use of resource due to improper work having to be ripped out and replaced. The impact on community result in a lower Quality of life due to poor oversight.



https://www.rentcafe.com/average-rent-market-trends/us/or/milwaukie/

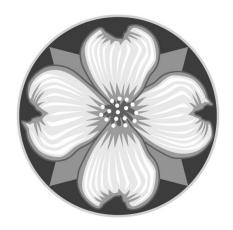
THESE FIGURES REPRESENT REAL MONEY THAT IS BEING IGNORED. THE NEW FEE SHOULD BE COLLECTED AS THE OCCUPANTS WILL BEING BENIFITING THE SAME SERVICES.

Thank you, Bernie Stout

To City Council Public Comment We have lived in our home for over 50415, 973988 42NDAUE Portland OR 972325787 Through address and street number changes. I myself for 40 of those years by myself cared For right Aways and then years later 3 idewalks, Curbing and 3 kater Crates from our Address past 9757 SE 42ND and Then lirectly accross from 9758, and above, back North towards Howe Street doing same Streets, Side walks and Grate. Then going East on Howe doing deep Leaves in Fall for about 1/2 block. This Takes a lot of time and patients Not courting tooks, WATER, Rakes. My husband is Now retired so has helped For past 7 yrs orso. We have had a lot of people notice, Milwankie Police Dept., Fire Dept., Ambulance Drivers, City officials Neighbors Walkers, Clackamas County police Dept. STate Police and many other Eity Employees.

We now, to gether continue to make our intersection brates, curbing Sidewalks and neighborhood exceptionaly clear of all lears junk, Needles, human, wastre, condoms, clothing Surniture, Garlage glass and Dead Apimals. We realize it's our time our concurry, But it has also become very expensive with, hawling, tooks, gloves, time AND WATER! We Do Not ThiNK IT IS FAIR You Charge us for Street maintenance Isull water chas. Sasse? Chase Fuery one thinks The City pays us Sor Beautifying our Neighborhood, No they Don't. We can't ever get a call back from the City Attorney We Keep Trying!

503-6595914 There is way to much Debris Lest/Duryed on Howe Street and the Corner Handicap Ramp, This is so wrong! MANAS RS51 att



# **RS Agenda Item**



# **Council Reports**

August 19, 2025

Co-Chairs McLain and Gorsek\*, and Members of the Joint Committee,

We, the undersigned members of the Milwaukie City Council, appreciate your continued work to fund and reform Oregon's transportation system and thank you for reconvening during this special session to advance a revised package.

We are particularly grateful that this proposal preserves the 50/30/20 funding split between the state, counties, and cities. Local jurisdictions are responsible for much of the transportation network Oregonians use every day, and this formula ensures that state investments reach the places where people live, work, and travel. While cities raise funds through various local sources (Milwaukie supplements state funds with revenue from two utility fees, a local gas tax, our general fund, and our urban renewal district,) certain mechanisms remain outside our scope. These local tools are essential, but they cannot alone meet our long-term needs. Earlier versions of this package would have provided funding closer to the scale required; the current proposal is a critical start, but more work will be needed in future sessions.

At the same time, we recognize that funding must come with accountability. Cities like Milwaukie hold our public works projects to high standards; we deliver on time and on budget, and we expect the same from our state partners. We are deeply concerned by the delays and cost overruns associated with the Oregon Department of Transportation's (ODOT's) major capital projects, including the Interstate-205 (I-205) and Rose Quarter projects. Those outcomes erode public trust and make it harder to build support for shared investment. We appreciate the accountability measures included in the package, including regular audits, stronger oversight by the Legislature, and changes to how ODOT's leadership is appointed and reviewed. These are important first steps toward ensuring that taxpayer dollars are spent efficiently and transparently.

Transit funding remains one of our top concerns. As TriMet has warned, without stable funding they may be forced to make deep cuts to service. That would be devastating for working families, seniors, and students who rely on transit every day and would risk a "doom loop" in which declining service drives down ridership and undermines financial stability. Especially as the state legalizes denser housing types and eliminates parking minimums, we must ensure that Oregonians have viable alternatives to car travel. The proposed 0.1% payroll tax increase for transit is a necessary step, but we urge the Legislature to commit to further expanding service in the years ahead, not cutting it back.

We also remain concerned that key needs are not addressed in this package. Safe Routes to School funding falls short of the scale needed; projects promised in HB 2017 remain incomplete, further straining ODOTs budget; and state-owned roads like McLoughlin Boulevard will remain costly, under-built assets the state must manage because the Great Streets program was not able to get much needed funding.



HB 2025, as revised, is an important stop gap measure, but it should not be confused for a solution to the problems facing our system. It strengthens the system, improves oversight, and provides urgently needed resources, but it must be the beginning, not the end, of the conversation. We look forward to working with you to secure the investments necessary to ensure that every Oregonian, regardless of where they live, has access to safe, reliable, and sustainable transportation options.

Sincerely,



# North Clackamas Watersheds 2024 Temperature Study



July 2025

Prepared by Amy van Riessen, NCWC Watershed Restoration Manager amy@ncwatersheds.org

Supported by:





# **Executive Summary**

### Purpose

In 2019-20 the North Clackamas Watersheds Council (the Council) completed a Watershed Bio-Assessment. The Bio-Assessment determined that the absence of temperature data has made it difficult to prioritize projects that protect cold water refugia, or to track long term watershed conditions over time. Thanks to funding from the PGE Habitat Support Program and Oak Lodge Water Services, the North Clackamas Watersheds Council has begun to fill some of these stream temperature data gaps, with 2023 being the second year of data collection. Robust temperature monitoring information is critical to the management and restoration of our watersheds in four ways:

- 1. Determining the location of cold-water sources that create refugia for fish
- 2. Tracking on-going watershed trends
- Informing decision-making by multiple agencies in project prioritization, land management, policy, and resource allocation
- 4. Educating landowners and land managers about watershed health

The methodology for this monitoring study was developed in cooperation with the Oregon Department of Environmental Quality (DEQ) Volunteer Monitoring Program. Temperature probes were launched in mid-May and were collected mid-October. The months of July and August were identified as the time period where temperatures were most critical for cold water species. We placed loggers at the confluences of the creeks in our service area to see how they function as potential cold water refugia (CWR) for fish migrating through the Lower Willamette.

### Findings

- 1. Several Willamette River confluences are potential cold water refugia Boardman Creek was identified as CWR. Both Kellogg Creek and River Forest Creek were warmer than the Lower Willamette River. However, loggers placed above Kellogg and River Forest Lakes showed that those impoundments significantly increased water temperatures. If Kellogg Dam and its associated impoundment could be removed, then the mouth of Kellogg Creek would function as CWR habitat. And if River Forest Lake could be hydraulically disconnected from River Forest Creek, that confluence could also function as CWR habitat. Rinearson Creek, however, does not seem to be functioning as CWR because of the warm water in the beaver pond.
- Kellogg Creek, Dean Creek, the North Fork of Boardman Creek, and Philips Creek continue to provide cold water
  - We were able to identify several cold-water sources in the North Clackamas watersheds. The water flowing from Dean Creek and Kellogg Creek upstream of its confluence with Mt. Scott Creek was significantly cooler than Mt. Scott Creek. Phillips Creek was also slightly cooler than Mt. Scott Creek. The coldest water found was at Minthorn Springs, however, this water warmed significantly to become the warmest water studied as it travelled through Minthorn Springs Wetland. In Boardman Creek, the temperatures in the North Fork of Boardman Creek were significantly cooler and may function as a thermal refuge in the summer.

- Thermal imaging of restoration projects sites gives insight into capturing cold water for climate resiliency.
  - The thermal drone imagery has proven to be helpful to identify cold water seeps. This imagery identified a significant spring in the Kellogg impoundment and is driving the design process to maximize this cold water. Some additional cold-water seeps were identified at the Elk Rock Island project area, informing the restoration design process.
- 4. The south fork of Kellogg Creek seems to be significantly cooler due to the presence of springs and beaver wetlands at Parmenter Ponds. Parmenter Ponds seem to have a significant cooling effect on the south fork of Kellogg Creek.
- The year-round temperatures are cool enough to support spawning by coho and Pacific Lamprey, but not Steelhead.

### Implications for Restoration, Protection and Management

- Fix heat-loading effects at impoundments
   Water temperatures increased significantly through water impoundments. Potential
   treatments vary at each site:
  - When Kellogg Dam is removed, the associated impoundment will be dewatered and the channel will be restored to a sinuous flowing creek.
  - River Forest Lake could potentially be disconnected hydraulically from River Forest Creek, while maintaining the lake for its surrounding residents. Further study should be conducted to determine the feasibility of accomplishing this.
  - Minthorn Springs Wetland heats up considerably in the summer. Restoration of that wetland should focus on shading to control summer temperatures.
  - As Clackamas Water Environment Services (WES) plans restoration of their 3-Creeks property, consideration should be given to the pool downstream of the water diversion structure to determine how best to mitigate the temperature impacts at that site.
  - The pond in the Rinearson Natural Area was maintained in the mitigation project
    at the request of adjacent landowners who wanted to be able to see the open
    water. However, the heat loading that occurs in this pond during the summer is
    problematic. Consideration should be given to restoring this area to a beavermanaged wetland complex that would allow the creek to access the floodplain
    and still meet needs of adjacent landowners
- 2. Target cold water areas for protection and fish access
  The cold-water areas (Boardman/Willamette Confluence, Dean Creek, Upper Kellogg
  Creek below Parmenter Ponds, North Fork Boardman Creek) should be prioritized for
  protection and fish access. These areas will provide thermal refuge for fish in the summer,
  and the Council will focus on removing any barriers to fish accessing these reaches,
  especially during summer low flows. There are two large passage barriers upstream of
  the Boardman Creek confluence at Walta Vista and River Roads that currently block
  passage of anadromous fish past that point.
- 3. Identify restoration projects that can trap spawning gravels for coho and Pacific Lamprey in the Kellogg-Mt. Scott Watershed, in preparation for removal of Kellogg Dam.

Restoring spawning gravel beds involves replenishing and trapping quality gravel in rivers and streams to provide suitable habitat for fish to lay their eggs. Adding habitat complexity through additions of large wood slows down the water and traps these gravels for fish. Sometimes additional gravels are placed behind wood structures to accelerate the process. The stability of added gravels is dependent on gravel size and on the hydrology of the reach. One potential site for these large wood additions is Mt. Scott Creek through Mt. Talbert Nature Park. NCWC is discussing the potential for a large wood project at this location with Metro.

### **Further Study**

As with any research project, this study has generated several more questions that need answering. Future monitoring years should study the following in more depth:

- Repeat temperature monitoring in the upper reaches of Mt. Scott Creek to verify potential cold-water sources and determine why it heats up so much as water flows down to Mt. Talbert.
- Continue long-term trend monitoring to track changes in watershed temperature impacts from climate change, development, and restoration actions.
- Compare the results of this study with the Council's fish passage barrier and eDNA studies to better understand fish utilization.
- Study harmful algae blooms (HAB's) in the impoundment behind Kellogg dam and
  other sites with warming stagnant water. As temperatures increase, and the
  impoundment continues to fill in with sediment, we are seeing increased growth in
  algae. NCWC and our partners would like to better understand that growth, the
  potential impact to both stream and human health, and best management options.
- Use drone technology mounted with an infrared camera to look at temperature dynamics such as point-sources for heating and cooling, and the management of these impacts in restoration sites. Sites for consideration include Parmenter Ponds and the Rinearson beaver pond.

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## Introduction

In 2019-20 the North Clackamas Watersheds Council (the Council) completed a Watershed Bio-Assessment and developed a list of high-priority restoration projects for ecological uplift of the Clackamas fish population (NCWC, 2020). The Bio-Assessment found there is little to no continuous temperature monitoring underway in these watersheds, the exceptions being one project on Lower Rinearson Creek and 3 stations maintained by the Clackamas Water Environment Services (WES) to calibrate flow meters. The absence of this fundamental information has made it difficult to prioritize projects that protect cold water refugia, or to track long term watershed conditions over time as we monitor impacts from restoration, climate change, and urbanization.

Water temperature affects the distribution, health, and survival of native salmonids and other aquatic organisms by influencing their physiology and behavior. Water that is too warm can cause direct mortality of fish. But while lethal high temperatures can be locally problematic, temperatures in the range that cause sublethal effects are much more widespread and may have the greatest effect on the overall wellbeing of our native fish populations. These sublethal effects resulting from abnormally high temperatures include impaired feeding, reduced growth, diminished resistance to disease, inability to compete, and poor predator avoidance (EPA, 2001). Evidence suggests that small increases in temperatures (2-3 °C) above biologically optimal ranges can begin to reduce salmonid fitness. Temperature related impacts to lamprey are more difficult to describe as there are few studies in nature to describe such impacts. Researchers investigating lamprey through laboratory experiments, field observations, and telemetry work concluded that water temperature in the Willamette Basin ≥ 20 °C is corelated with developmental abnormalities in larvae, expedition of sexual maturation, pre-spawning mortality, slowed or stopped upstream migration by adults, and gonadal tissue damage (Ben Clemens, ODFW Statewide Lamprey Coordinator, personal communication with Todd Alsbury, November 2020).

Water temperatures are influenced by solar radiation, stream shade, ambient air temperatures, channel morphology, groundwater inflows, and stream velocity, volume, and flow. Surface water temperatures may also be warmed by anthropogenic activities such as discharged heated water, changed stream width or depth, lowered stream complexity that decreases hyporheic exchange, reduced stream shading, and water withdrawals.

The Kellogg-Mt. Scott, Rinearson, River Forest, and Boardman watersheds provide rearing habitat and some spawning habitat to threatened and endangered salmonids and other priority species including winter steelhead, coho salmon, Pacific lamprey, cutthroat trout (resident, fluvial, and anadromous), and fall and spring Chinook salmon (Clackamas Partnership, 2018). Furthermore, they provide both potential off-channel cold-water refugia in a stretch of the Willamette River where geological features largely prevent alcoves and significant side channel refugia in the Willamette mainstem (USGS, 2018 and DEQ, 2020). This makes the availability of cold water refugia critical in lower Willamette tributaries and tributary junctions. However, the lack of information on cold-water refugia in these tributary systems of the Willamette floodplain is a key knowledge gap that has hindered strategic restoration.

NCWC has begun to fill some of these stream temperature data gaps, and this year is the third year of monitoring. The first year of data collection was completed in 2022 (NCWC, 2023), and that data informed this year's study sites and priorities. Funding has been secured through OWEB to continue the research for a total of five years, and the hope is that this monitoring program will run in perpetuity. This effort is being undertaken in cooperation with multiple jurisdictions and partners including the Oregon Department of Environmental Quality (DEQ), Oregon Department of Fish and Wildlife (ODFW), Oak Lodge Water Services (OLWS), Clackamas Water Environment Services (WES), City of Gladstone, City of Milwaukie, City of Happy Valley, Metro, and North Clackamas Parks & Recreation District.

# **Project Goals**

Robust temperature monitoring information will be critical to the management and restoration of these watersheds in four ways: Determine the location of cold-water sources that create refugia for fish: This study helps address knowledge gaps regarding cold-water refuges in tributaries of the lower Willamette and North Clackamas watersheds. By closing information gaps on temperature, the Council will ensure that future projects are located to protect and maximize cold water refugia, and remove barriers that potentially prevent access to cold water refugia. The thermograph monitoring effort will also be supplemented by flying some sites with a drone carrying a thermal infrared camera, thanks to a grant from ODFW.

- Track ongoing watershed trends: Ongoing continuous temperature monitoring is fundamental to a long-term understanding of watershed function and how it changes over time with impacts from climate change, urbanization, and ongoing restoration efforts. We will maintain these temperature stations in the same locations, creating a long-term trend analysis that will guide the Council's restoration and advocacy.
- 2. Inform decision-making by multiple agencies: The information gathered in this study will be shared with local and state jurisdictions, allowing them to utilize it to engage in informed planning when projects may impact these watersheds. It will also help to monitor the impact natural areas have on stream temperatures as local jurisdictions advocate to create, protect and manage natural areas, parks and public lands and take other steps to improve water quality and climate resilience in their jurisdictions. Finally, the data will provide baseline information to better understand how manmade impacts such as development and point-source discharges affect stream temperatures.
- 3. Use for landowner education: Projects such as these provide vital opportunities to engage the public in watershed science. Discussions with landowners and residents during the Bio-Assessment revealed a lack of understanding by well-meaning landowners of the role of large wood, side channels, wetlands, in-channel complexity, and temperature as a limiting factor for aquatic health. This field work has opened the door to many of these conversations, and this temperature monitoring information will be incorporated into on-going landowner education efforts.

# Methods

The Council developed the temperature monitoring methodology in cooperation with the Oregon Department of Environmental Quality (DEQ) Volunteer Monitoring Program. The Council developed a Sampling and Analysis Plan (SAP) which was approved by DEQ in 2022. We are collecting Level A quality data, as defined by DEQ in the Quality Assurance Project Plan (QAPP): Volunteer Water Quality Monitoring, July 2021. Level A data can be used to assess compliance with water quality standards, permitting requirements, or other regulatory activities; however, the Council is not a regulatory agency and will not be using the data in this way. Level A data requires that the accuracy of every thermograph is checked with a NIST thermometer within an accuracy +/- 0.5°C and a precision of +/- 0.5°C. This NIST thermometer is borrowed from DEQ through their Volunteer Monitoring Program, and every year they calibrate it for accuracy. All temperature data was collected using Onset HOBO MX2203 Tidbit Data Loggers in Celsius. The Tidbits are durable and designed for data collection up to 400-foot depths. They are waterproof with a precision sensor with ±0.2°C accuracy, 0.01C resolution, and ranges between -20°C and 50°C (-4 to 122°F) in water. The accuracy of the thermographs were tested against a NIST certified temperature probe before and after field deployment to ensure that they operated within their designed range of accuracy (+/- 0.5°C), which they all did. These pre- and post-season logger calibrations are then submitted to DEQ with the data every year. The monitoring was intended to capture high summer water temperatures, which predominantly occur from June through September.

Temperature monitoring occurred in Kellogg-Mt. Scott, Rinearson, River Forest, and Boardman watersheds and their confluences with the Willamette River. This year two additional sites were added in the Willamette River. The Council selected some sites as reference sites to reflect baseline conditions within a specific stream year after year. Other sites were chosen as study sites to answer specific questions about how water temperatures are impacted by water impoundments, nature areas, or instream temperatures, and those research questions change year to year. Temperatures were monitored May to October; however, this year four sites (Sites 2,7,34 and 16) were also selected for year-round monitoring. These sites were selected as they were geographically spread throughout the watershed and were in areas identified as having potential spawning habitat. This data will give information on water temperatures during the spawning and spring rearing stages.

Figure 1 - Locations of temperature monitoring stations in 2024.

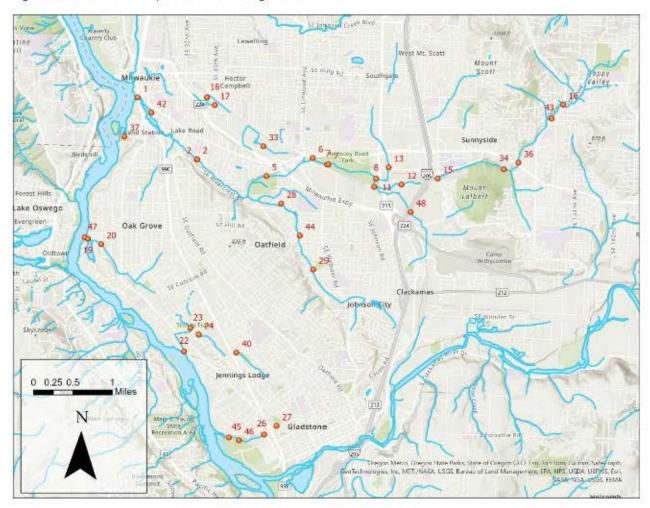


Table 1 - Station descriptions and research questions being asked at each location. Table arranged by geographic proximity.

Site ID#	Logger#	Station Description	Research Question
1	21727635	Kellogg Dam fish ladder	Temperatures at the downstream end of the Kellogg Dam impoundment?
42	21333025	Behind Milwaukie Presbyterian Church	Temperatures in a back channel to the impoundment?
2	21727636 (summer) & 21333018 (winter)	Kellogg Creek upstream of impoundment (on private land)	Temperatures flowing into the Kellogg Dam impoundment?
28	21333028	Kellogg Creek at Rusk Road culvert	Temperature profile of Kellogg Creek?
44	21333042	Upstream end of Parmenter Ponds	Temperatures of water going into Parmenter Ponds?

Site ID#	Logger#	Station Description	Research Question
29	21727634	Kellogg Creek at SE Clackamas Road culvert	Temperature profile of Kellogg Creek?
5	21723339	Clackamas Park	Temperature profile of Kellogg Creek?
6	21723339	Mt. Scott Creek at downstream end of 3- Creeks Natural Area	Temperatures leaving 3 Creeks?
7	21333039 (summer) & 21333044 (winter)	Mt. Scott Creek upstream of water control structure	Temperatures going into the pond downstream of the water control structure at 3 Creeks?
8	21726929	3 Creeks downstream of Phillips confluence	Temperatures in 3 Creeks after tributary influence?
11	21723336	Mouth of Dean Creek behind PCC	Temperatures in Dean Creek before entering Mt. Scott?
48	21726928	Dean Creek under multi- use trail bridge	Temperatures of the headwaters to Dean Creek?
12	21333016	Mt. Scott at SE 84th	Temperatures of Mt. Scott before being influenced by Dean & Phillips Creeks?
13	21333037	Phillips on WES 84 <sup>th</sup> property north of Sunnybrook	Temperatures in Phillips Creek?
15	21727637	Mt. Scott downstream of Mt. Talbert east of 97 <sup>th</sup>	Temperatures flowing out of Mt. Talbert Nature Park?
34	21333027 (summer & winter)	Mt. Scott in Mt. Talbert downstream of unnamed tributary confluence	Temperatures of Mt. Scott Creek after the confluence with the unnamed tributary?
36	21333018	Mt. Scott at SE Sunnyside Road	Temperatures of Mt. Scott Creek before being influenced by the unnamed tributary in Mt. Talbert?
43	21333041	Mt. Scott off SE Adoline Avenue	Temperatures along Mt. Scott Creek Trail?
16	21723337 (summer & winter)	Mt. Scott end of anadromy	Temperatures at the uppermost limit of anadromy (as defined by ODFW)?
18	21333032	Spring entering Minthorn Wetlands	Temperature of the spring feeding Minthorn Wetlands?

Site ID#	Logger#	Station Description	Research Question
17	21333019	Leaving Minthorn Wetlands	Temperatures flowing out of Minthorn Wetlands compared to the springs?
33	21333024	Minthorn Creek at SE Mallard Way culvert	Temperatures of Minthorn Creek in the Industrial Way area?
37	21723348	Willamette River at Elk Rock Island back channel	Temperatures in restoration project area?
47	21333033	Willamette River on dock near outflow of River Forest Creek	Temperatures in this part of the Willamette much different than the USGS gauge station at Morrison Bridge?
19	21333015	River Forest downstream of lake below culvert	How does the lake impact River Forest temps before it drains into the Willamette?
20	21333036	River Forest upstream of lake at SE Fairoaks	Temperatures of River Forest Creek before it enters River Forest Lake?
22	21333035	Boardman at OLWS lift station	Boardman's temperatures before draining into the Willamette?
23	21333023	NF Boardman (on private property)	Temperatures of the north fork before it joins with the south fork?
24	21333044	Boardman at Stringfield Park	Temperatures of the south fork before it joins with the north fork?
40	21723338	Boardman at SE Boardman Ave	Temperatures just before passing through the HW99 corridor?
26	21333040	Rinearson downstream of River Road	Temperatures of creek after flow through Hwy99?
27	21333026	Rinearson at Olson wetlands (end of Risley Ave)	How does the influence of Olson Wetlands affect stream temps?
45	21726927	Downstream of pond at Meldrum Bar	Temperatures leaving pond?
46	21333029	Upstream of pond at Meldrum Bar	Temperatures going into pond?

At all sites except Site 1, a three-foot piece of rebar was driven into the streambed and was used to secure each thermograph. This rebar was driven to a depth below the surface of the water level, keeping the installation relatively hidden. At locations that were accessible to the public, the rebar was topped with a plastic cap to prevent people from injuring themselves on it. The probes were housed in a 2" ABS pipe that had 15-20 ¼ inch holes drilled out to allow water to through on a constant basis while preventing potential sediment accumulation around the probe (see Figure 2). Stainless steel cable and clamps then attached the ABS

pipe to the rebar to ensure probes were not lost during the sampling period. Once the rebar and pipe were installed, the probe was not noticeable from above the water to prevent tampering. For this reason, photos were taken at every installation location and the sample sites were geo-located utilizing the ArcGIS Field Maps phone app to ensure that the rebar could be found when collecting the probes at the end of the sample season. All site data was also recorded on Field Maps. The installation at Site 1 was slightly different. This logger was installed at the mouth of Kellogg Creek in the fish ladder located at the dam by putting the thermograph in the ABS pipe, affixing that to a 10-pound weight, and then sinking into the fish ladder.

Figure 2 - All temperature loggers are protected in 2" ABS pipes that had 15-20 ¼ inch holes drilled out to allow water to through on a constant basis while preventing potential sediment accumulation around the probe.



At the end of the sampling season, the thermographs were recovered and downloaded. Loggers at Sites 2, 7, 34, and 16 were relaunched to monitor winter temperatures and were picked up in May. The data was summarized based on a 7-day average maximum (7dAM), which is calculated by averaging the daily maximum instream water temperatures for 7 consecutive days. Because the criteria apply to every 7-day period, it is often referred to as the rolling 7dAM. For example, one 7-day period is July 1-7, and the next is July 2-8. The 7dAM value for each 7-day period is reported on 7th day of the period. All raw and analyzed data has been backed up in NCWC's Google Drive cloud storage.

Unfortunately, at several sites loggers with either lost/stolen or the logger became corrupted and the data was not recoverable. This occurred at the following locations:

Site 19 - Outlet of River Forest Lake (unknowingly removed by contractor)

- Site 24 Boardman Creek in Stringfield Park (unable to find to beaver-related flooding of site)
- Site 33 Minthorn Creek at SE Mallard Way (logger broken and data not recoverable)

This year we added thermal imaging to some of our project sites. The drone selected for this work was the DJI Mavic 3T, thanks to a grant provided by ODFW. This drone is portable enough for field work and has two cameras, a Zoom camera for the visible light spectrum and an infrared camera for the thermal spectrum. The Mavic 3T's zoom and thermal cameras also support continuous side-by-side views on the controller for easy comparisons. The flight interface allows for pre-programming the flight paths and specifying image overlap, both of which is necessary for the creation of orthomosaic photos.

Figure 3 - Side by side viewfinder on remote controller of DJI Mavic 3T (images from DJI Enterprise)



A "Small UAS Certificate of Registration" was acquired from the Federal Aviation Administration (FAA) to register the drone. All flights were done by a licensed drone pilot to comply with FAA regulations. The project sites were flown twice, collecting images in both the infrared and visual light spectrums. A flight plan was created using the flight planning software on the drone remote. All flights were flown at 300 feet above ground level (AGL). Front and side overlap for flights was set to 85%. The drone speed was slowed down to approximately 60% of max speed to minimize blur in the photos.





The site photos were converted to .tiff files to be processed in Pix4D Mapper. The resulting orthomosaics were exported in .tiff format, allowing comparison of the visible light images with the infrared images.

# Temperature Standards

The Council is not a regulatory entity, and cannot use temperature data in a regulatory capacity. Temperature standards are simply a way that we can reflect on a waterbody's capacity to provide habitat for cold-water fish species. This data will predominately be used for the purpose of strategic watershed planning, with the goal of identifying and prioritizing cold-water areas for restoration and protection. The data will be provided to DEQ annually as per our Sampling and Analysis Plan (SAP) through DEQ's Volunteer Water Quality Monitoring Program.

#### Beneficial Uses

The objective of a water quality standard, as required by the Clean Water Act, is to protect the beneficial uses of the waters of the State. In the case of temperature, the most sensitive beneficial use is Oregon's native cold-water aquatic species such as salmon and trout. The DEQ established temperature standards for specific life history stages of salmon and steelhead (as seen below in Table 2). The standards are used in establishment for Total maximum Daily Load (TMDL) criteria for water quality limited streams in Oregon (DEQ, 2008), and are based on 7dAM.

Table 2 - List of designated beneficial uses and associated temperatures.

Beneficial use	7dAM
Salmon & steelhead spawning (during spawning use)	55.4 °F / 13 °C
2. Core coldwater habitat (year round)	60.8 °F / 16 °C
3. Salmon & trout rearing & migration (year round)	64.4 °F / 18 °C
4. Migration corridor for salmon & steelhead (year round)	68.0 °F / 20 °C

- Salmon & steelhead spawning Waters that are or could be used for salmon and steelhead spawning, egg incubation, and fry emergence
- Core coldwater habitat Waters that are expected to maintain temperatures within the range generally considered optimal for salmon and steelhead rearing
- Salmon & trout rearing & migration Waters that are thermally suitable rearing habitat for salmon, steelhead, rainbow trout, and cutthroat trout.
- Migration corridor for salmon & steelhead Waters that are predominantly used for salmon and steelhead migration during the summer and have little or no anadromous salmonid rearing in the months of July and August.

The creeks studied here are primarily limited to rearing habitat since very few spawners are able to access Kellogg Creek due to the existing dam, so the ideal 7dAM threshold would be 18°C. Once Kellogg Dam is removed, there is potential for the Kellogg-Mt. Scott watershed to be utilized by salmonids and Pacific lamprey for spawning in the future. For this reason, this year we targeted some areas with spawning gravels in Kellogg-Mt. Scott Creek for year-round monitoring to consider temperatures during potential spawning seasons (fall through spring), as well as the summer months when thermal loading is a problem.

# Cold-Water Refugia

DEQ also establishes standards for identifying cold-water refuge (CWR) along the Lower Willamette. The CWR provision supplements the migration criterion in the Lower Willamette of 20°C to protect migrating populations of salmon and steelhead. The criterion states that these water bodies must have sufficiently distributed CWR that allow salmon and steelhead migration without significant adverse effects from 7dAM temperatures up to 20°C (DEQ, 2020). Candidates as cold-water refuge from tributaries was defined as having at least a 2°C colder temperature than the daily maximum temperature of the adjacent well-mixed flow of the water body. Therefore, at creek confluences with the Willamette we will be assessing the differences between average daily maximum temperatures during the months of July and August, which is slightly different than the 7-day rolling average temperatures (7dAM) that we will be assessing outside of the Lower Willamette confluence CWR analysis.

#### Wetlands

Oregon has no unique temperature criteria for wetlands at this time. However, wetlands with direct connections to creeks and rivers have the potential to impact water temperatures. For example, in this study the Minthorn Springs wetland acts as the headwaters of Minthorn Creek and directly impacts water temperatures flowing into that system.

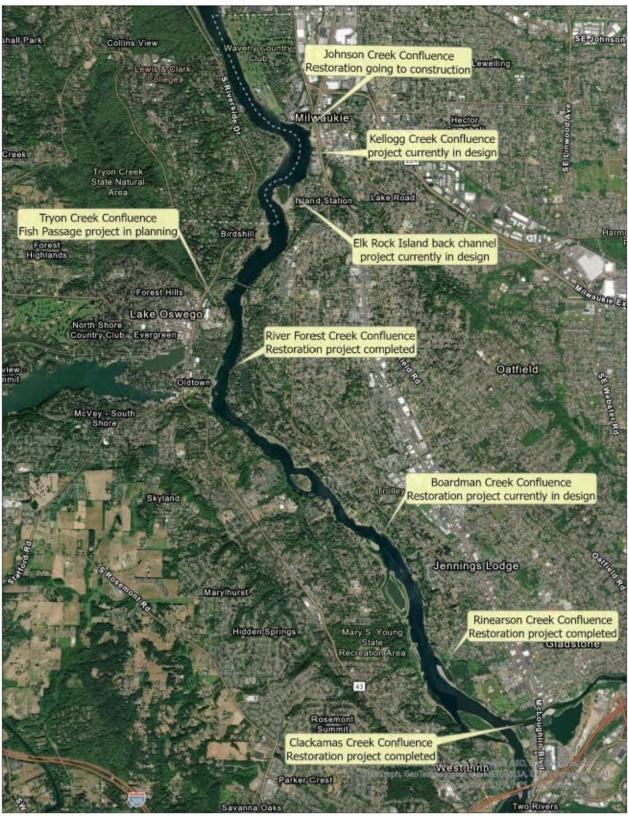
# Results: Lower Willamette Confluences as CWR

Evaluating creek confluences that flow into migration corridors as potential CWR is important, particularly in the Lower Willamette where side channels and backwater habitats are limited by the area's geology. Migration corridors are often channels that are too large to be cooled by shading vegetation and groundwater inflow. Because of the importance of CWR in the Lower Willamette, NCWC and its partners in the Clackamas Partnership have developed a confluence strategy to prioritize protecting and enhancing potential cold-water inputs into the Willamette River (see Figure 5). As part of that strategy, the need for confluence temperature monitoring was identified, and loggers were placed at the mouths of all confluences within NCWC's service area.

Any identified CWR habitat may be enhanced and protected by:

- maintaining or enhancing vegetation for shade,
- creating instream cover with large wood,
- 3. protecting cold tributaries from development in riparian areas,
- 4. reducing heat impacts from stormwater,
- protecting and creating channel features that create cold water flows through hyporheic exchange,
- 6. protecting sources of groundwater inflows,
- 7. reducing heat impacts from stormwater inputs through detention and treatment, and
- 8. removing physical and thermal barriers to fish accessing areas of cold water.

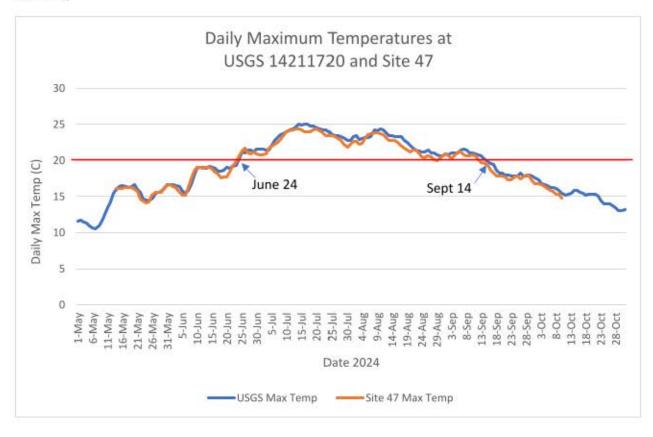
Figure 5 - Potential CWR along the lower Willamette River located in creek confluences.



The USGS gaging station for the Willamette River at Portland (USGS 14211720 at the Morrison Bridge) was used as the reference temperature for the mainstem Lower Willamette. This same gage station was also used last year during the temperature study, and during the DEQ 2020 study. To confirm that the USGS gaging station adequately reflected temperatures throughout the Oswego reach of the lower Willamette River, a temperature logger was also installed this year in the Willamette near the confluence of River Forest Creek, off a landowner's private dock (Site 47). The daily maximum temperatures at Site 47 were on average 0.39 C lower than those found at the USGS gage station as seen in Figure 6. This reflects relatively gradual warming as water flows from the confluence of River Forest Creek 7.7 miles downriver to the Morrison Bridge (where the USGS gage is located) through the urbanized portions of Portland.

In 2024, the lower Willamette River exceeded the DEQ 20°C temperature standard for migration corridors from June 24, 2024 to September 14, 2024, as seen below in Figure 6. The 2012 EPA study identified July and August as the season of concern for quantifying CWR in the lower Willamette River. The 2022 temperature studies (NCWC 2023) concurred with that assessment. However, in 2023 and 2024 the season of concern extended much further into September. This longer season of high temperatures should be tracked over time to see how it impacts fish in context of climate change. For consistency, we will continue to focus on July and August as the limiting season, however, after five years of data collection we will do an analysis for to look at trends over time. One of the variables that should be looked at closer is the persistence/longevity of the high summer temperatures.

Figure 6 - Summer daily maximum water temperatures in the lower Willamette River at USGS gage station 14211720.



It is important to reiterate that by definition CWR is identified as having at least a 2°C colder temperature than the daily maximum temperature of the adjacent well-mixed flow of the water body. Therefore, for this analysis, we will be looking at the averages of daily maximum temperatures, NOT the 7dAM.

### Kellogg Creek Confluence

One temperature logger was installed at the mouth of Kellogg Creek in the fish ladder (Site 1). A second logger was installed on private property upstream of the impoundment behind Kellogg dam (Site 2) to determine how water temperatures were specifically affected by the widened, shallow impoundment formed behind the dam. This year a third logger was added in a back channel in the middle of the impoundment to investigate the temperatures of a spring in that area.

Figure 7 - Location of Kellogg Creek confluence temperature loggers at the Kellogg fish ladder (Site 1), upstream of the dam impoundment (Site 2), and in the impoundment back channel (Site 42).



During DEQ's CWR study (DEQ, 2020) Kellogg Creek was identified as a coldwater refuge during the summer months. However, the temperature data collected at Kellogg's mouth and upstream of the dam's impoundment show that the potential of Kellogg's confluence to provide CWR is not only impacted by the dam blocking fish access into the creek, but the impoundment behind the dam is significantly increasing water temperatures to levels similar to the Willamette mainstem.

When comparing daily maximum temperatures in Kellogg Creek versus the Lower Willamette, we found that on average the daily maximums were actually higher in the Kellogg fish ladder in than in the Willamette mainstem for the months of July and August by 0.9 °C (see Table 3). However, we know that the dam's impoundment is wide and shallow and affects the water temperature through that reach. In fact, the temperature logger upstream of the impoundment shows water temperatures 1.8 °C cooler than the Willamette, indicating that the water is heating up 2.7 °C (4.9 °F) as it flows through the impoundment and into the fish ladder. This is consistent with the temperature increases we saw in the impoundment in previous years. In Kellogg Creek, the continual infill of the dam impoundment by sediment may be causing the channel to become shallower and wider over the years, increasing the water's exposure to the warming effects of convection and radiation.

This temperature analysis supports the efforts by the Council, American Rivers, ODOT, and the City of Milwaukie to create volitional fish passage at Kellogg Dam and remove the warming effect that is created by the upstream impoundment behind the dam. Once the dam and impoundment are removed then Kellogg Creek will be able to function as CWR habitat for migrating fish. Additional design considerations for the new creek channel through this reach includes design elements that will help protect and potentially improve water temperatures at the confluence. To better facilitate this climate resiliency work, the impoundment behind the dam was flown with the Council's infrared drone and a logger was installed at Site 42, where NCWC suspected there was a cold-water spring. The resultant aerial photos corroborated the continuous temperature monitoring that was done at Site 42, which showed a significant input of cold water and temperatures that stayed around 14-15 °C all summer long. This data was forwarded to the Kellogg design team to determine how this cold water could be captured and maximized for fish use, as an element of project climate resiliency.

Table 3 - Average daily maximum temperatures of Kellogg Creek both upstream and downstream of the dam impoundment as compared with lower Willamette River temperatures.

Location	July 20	024 (°C)	August 2	2024 (°C)	July & August 2024 (°C)		
	July Mean Daily Max Temp	Change from Willamette	August Mean Daily Max Temp	Change from Willamette	Summer Mean Daily Max Temp	Change from Willamette	
Willamette (USGS 14211720)	23.6	25	22.6	8	23.1	5	
Mouth of Kellogg Creek (Site 1)	25.0	1.4	22.9	0.3	24.0	0.9	
Upstream of Kellogg Impoundment (Site 2)	22.1	-1.5	20.4	-2.2	21.3	-1.8	
Spring in impoundment (Site 42)	15.1	-8.5	14.7	-7.9	14.9	-8.2	

Figure 8 - Average daily maximum temperatures of Kellogg Creek both upstream and downstream of the dam impoundment as compared with lower Willamette River temperatures.

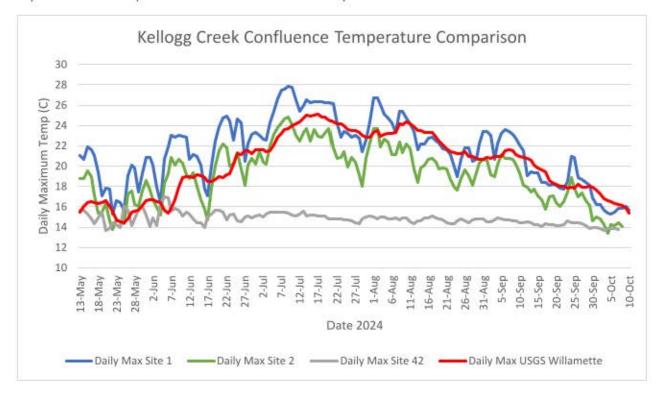
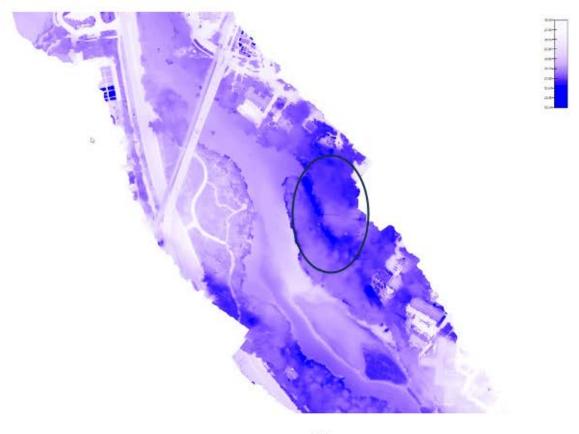


Figure 9 - Thermal aerial imagery of lower Kellogg impoundment showing cold water spring input.



One of the challenges of utilizing daily maximums when looking at CWR habitat is that maximums do not take into account daily temperature variations. The Lower Willamette is a large well-mixed water body. Larger, deeper water bodies are less influenced by daily fluctuations due to ambient air temperatures and solar radiation. Smaller, shallower creeks like Kellogg Creek are much more susceptible to these factors. When we plot daily temperature fluctuations at the four sites mentioned above, we see that diurnal flux is much larger in Kellogg Creek than the Willamette. These daily temperature fluctuations are a more accurate representation of the temperature variations facing a fish migrating through the Lower Willamette and potentially utilizing the mouth of Kellogg Creek as CWR. The daily temperatures in the cold water spring shows a relatively low diurnal fluctuations, showing the benefit of the cold ground water springs in regulating temperatures during the warm summer months.

Diurnal temperature fluctuations: Kellogg Creek vs. Willamette 28 26 24 Temperature in C 22 20 18 16 Hatther of the control of the contro 14 12 10 5/13/2024 0:00 6/13/2024 0:00 7/13/2024 0:00 8/13/2024 0:00 9/13/2024 0:00 Date 2024 Site 1 ——Site 2 ——Site 42 ——Willamette

Figure 10 - Diurnal temperature fluctuations at the Kellogg Creek confluence as compared with the Lower Willamette in 2024.

#### River Forest Creek Confluence

Two temperature loggers were installed associated with River Forest Creek this year:

- Site 19 at the confluence downstream of River Forest Lake
- Site 20 upstream of River Forest Lake

These study sites were chosen to determine if the water from River Forest Lake was significantly impacting water temperatures and the ability of the River Forest Creek

confluence to act as CWR for the Lower Willamette. Unfortunately, the logger at Site 19 was lost this year when it was removed and disposed of by a construction contractor.

Figure 11 - Location of River Forest Creek confluence temperature loggers.

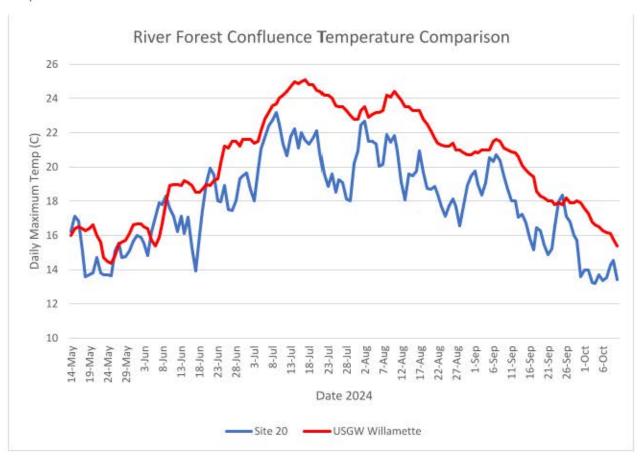


In previous monitoring years, summer water temperatures found at the mouth of River Forest Creek were higher than the Lower Willamette River as a result of the high temperature water flowing out of River Forest Lake. Water temperatures upstream of the lake at Site 20 continued to be cooler than the Willamette River, this year by an average of 3.0 °C.

Table 4 - Average daily maximum temperatures of River Forest Creek as compared with lower Willamette River temperatures.

Location	July 20	24 (°C)	August 2	2024 (°C)	July & August 2024 (°C)		
	July Mean Daily Max Temp	Change from Willamette	August Mean Daily Max Temp	Change from Willamette	Summer Mean Daily Max Temp	Change from Willamette	
Willamette (USGS 14211720)	23.6		22.6	-	23.1	*	
Upstream of River Forest Lake (Site 20)	20.6	-3.0	19.6	-3.0	20.1	-3.0	

Figure 12 - Average daily maximum temperatures of River Forest Creek as compared with lower Willamette River temperatures.



This data continues to show that River Forest Creek has the potential to function as CWR habitat if the channel could be disconnected from River Forest Lake. This also supports the findings of the Council's 2022 Watershed Action Plan, which recommends the disconnection of the River Forest Creek channel from the River Forest Lake impoundment as a priority action. Because the lake is not an in-line impoundment, it's disconnection from the creek

may be possible, and further study should be conducted to determine its feasibility. NCWC also completed a habitat enhancement project at the confluence that went to construction Summer 2024. This project targeted winter and spring rearing habitat in the Willamette River as we know this reach of River Forest Creek below the culvert typically dries up in the summer.

### Boardman Creek Confluence

There was one logger installed at the confluence of Boardman Creek with the Willamette River. Site 22 was at the Oak Lodge pump station and the site was selected because the temperatures there are not influenced by the backwater effects of the lower Willamette River.

Figure 13 - Location of Boardman Creek confluence temperature logger.

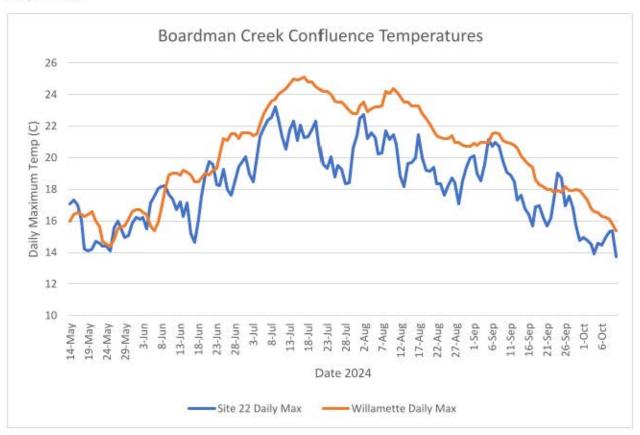


Summer water temperatures at the Boardman Creek confluence were cooler than the Willamette, and the average daily maximum temperature for the months of July and August was 2.6 °C lower than at Site 22 (see Table 5).

Table 5 - Average daily maximum temperatures of Boardman Creek as compared with lower Willamette River temperatures.

Location	July 20	24 (°C)	August 2	2024 (°C)	July & August 2024 (°C)		
	July Mean Daily Max Temp	Change from Willamette	August Mean Daily Max Temp	Change from Willamette	Summer Mean Daily Max Temp	Change from Willamette	
Willamette (USGS 14211720)	23.6		22.6	8	23.1	-	
Mouth of Boardman Creek (Site 22)	20.8	-2.8	19.9	-2.7	20.5	-2.6	

Figure 14 - Average daily maximum temperatures of Boardman Creek as compared with lower Willamette River temperatures.



The results from this year and last year (NCWC, 2023) show that Boardman Creek currently functions as CWR habitat in the Lower Willamette in the summer months. Although summer flows out of Boardman Creek are low, they are perennial, and the confluence provides thermal refuge for fish. The Council currently is designing a habitat restoration project to create pools and install large wood to provide instream cover at this site. Construction of the project will be dependent on securing landowner agreements and funding.

## Rinearson Creek Confluence

This year, two temperature loggers were installed in the natural area near the mouth of Rinearson Creek. One was located downstream end of the beaver pond (Site 45) and one was located upstream of the beaver pond (Site 46).

Figure 15 - Average daily maximum temperatures of Rinearson Creek as compared with lower Willamette River



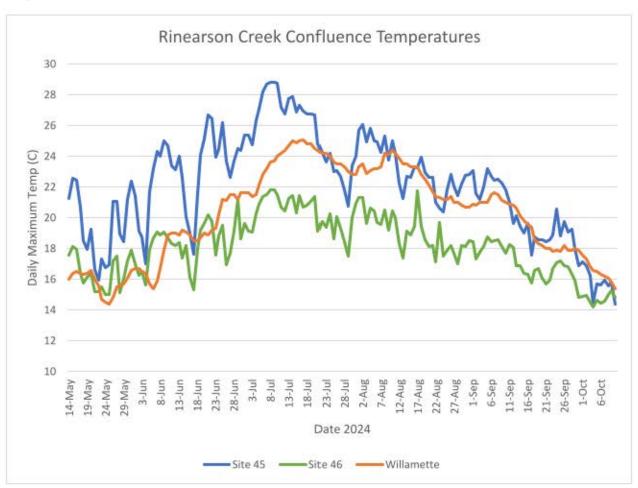
The warm temperatures coming out of the beaver pond do not allow the confluence of Rinearson Creek to function as cold water refugia for fish in the summer months as seen in Table 6. Any woody vegetation around the pond gets significantly pruned by the beavers, preventing the pond from having much shade from direct sun. The pond is also wide and shallow, which makes it susceptible to warming.

Table 6 - Average daily maximum temperatures of Rinearson Creek as compared with lower Willamette River temperatures.

Location	July 20	23 (°C)	August 2	(°C)	July & August 2023 (°C)		
	July Mean Daily Max Temp	Change from Willamette	August Mean Daily Max Temp	Change from Willamette	Summer Mean Daily Max Temp	Change from Willamette	
Willamette (USGS 14211720)	23.6	350	22.6	*	23.1		
Mouth of Rinearson Creek (Site 45)	25.8	+2.2	23.2	+0.6	24.5	+1.4	
Rinearson upstream of pond (Site 46)	20.3	-3.3	19.1	-3.5	19.7	-3.4	

This significant warming seen through this site makes it a good candidate for flights with the thermal imaging drone.

Figure 16 - Average daily maximum temperatures of Site 41 as compared with lower Willamette River temperatures.



## Results: 3-Creeks Natural Area

The 3-Creeks Natural Area is approximately 89 acres of streams, wetlands, and upland habitat that encompasses Mt. Scott Creek and its confluences with Phillips and Dean Creeks. The site is wedged in between industrial and commercial properties, a set of active railroad tracks, and private homes. The site is also owned by Clackamas Water Environment Services (WES) and is home to a flood control facility which stores water during the heaviest rains to protect businesses and infrastructure. There were two thermographs installed in 3-Creeks Natural Area and one just upstream at Site 12. The temperature study of the confluences of Phillips Creek and Dean Creek with Mt. Scott Creek is discussed in the previous section, and shows how those two tributaries contributed colder water to the Mt. Scott mainstem.



Figure 17 - Location of 3-Creeks Natural Area temperature loggers.

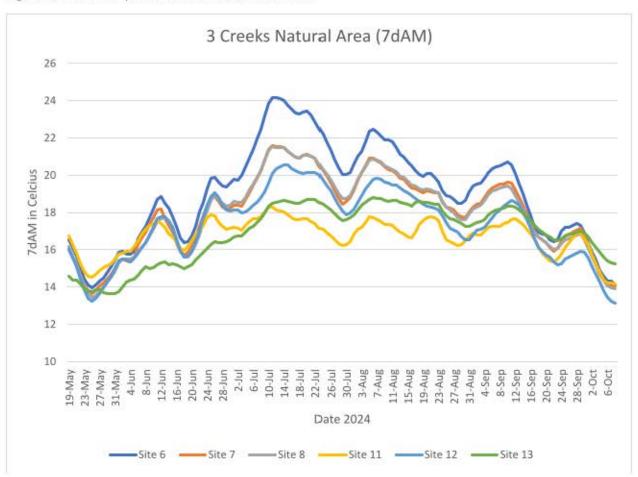
As seen in previous years, there appeared to be very little change in temperature between Site 8 and Site 7. This particular stretch of creek is scheduled for a large instream restoration project in 2025, and it will be interesting to see how much this work impacts stream temperatures.

- Average 7dAM at Site 6 (July August) = 21.3 °C
- Average 7dAM at Site 7 (July August) = 19.7 °C

- Average 7dAM at Site 8 (July August) = 19.8 °C
- Average 7dAM at Site 11 (July August) = 17.2°C
- Average 7dAM at Site 12 (July August) = 18.9 °C
- Average 7dAM at Site 13 (July August) = 18.1 °C

Dean Creek (Site 11) continues to show the coolest water during the months of July - August at 17.2 °C, and continues to be one of the few places recording temperatures below the DEQ temperature standard of 18°C for rearing. This means the Dean Creek is most likely a temperature refugia for fish rearing in this watershed during the summer. Because of this, the Council will prioritize protection, restoration, and research efforts in Dean Creek. During a 2023 fish passage barrier assessment (NCWC, 2023) a culvert was identified at the mouth of Dean Creek that functions as a partial barrier to fish. Phillips Creek also shows some lower temperatures in this part of the watershed, with a 7dAM of 18.1°C, showing the lower reach could work as a cold-water habitat in the summer.





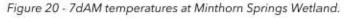
In previous monitoring years we saw a similar heating effect between Sites 6 and 7 in 2022 as well (NCWC, 2023). It is potentially the result of the wide and shallow pond that exists downstream of the water control structure. As WES considers management of their flood control structure, design considerations should take into account the potential heating that occurs in that pond. Consideration should also be given to looking for other potential warm

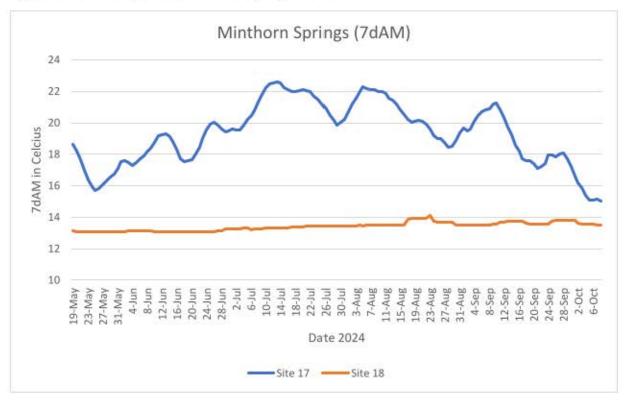
water inputs through that stretch of creek to ensure that significant commercial or industrial inputs are not occurring. This may be another opportunity to fly the thermal imaging drone to get more spatial data.

## Results: Minthorn Springs Wetland

Minthorn Springs Preserve is a 6.5-acre nature preserve owned by The Wetlands Conservancy that was created as a nature and water sanctuary when nearby wetlands were filled for development. The Wetlands Conservancy Urban Wetlands State-of-the-Catchments Summary (Labbe and Scully-Engelmeyer, 2016) noted that the water quality in Minthorn Springs Wetland is considered poor. For this investigation, we assessed the difference between water temperatures coming directly out of the spring seep at the inlet of the wetland (Site 18), versus water temperatures exiting the wetlands into Minthorn Creek (Site 17). The location of these temperature loggers can be seen below.

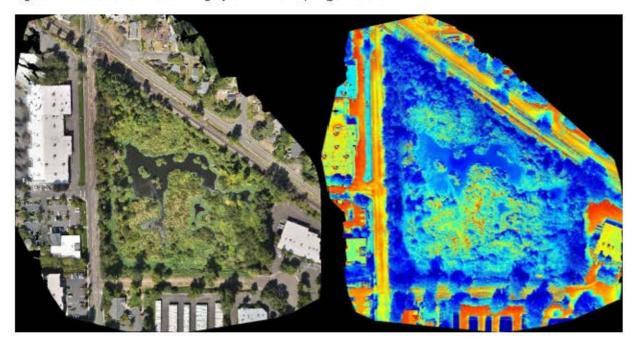






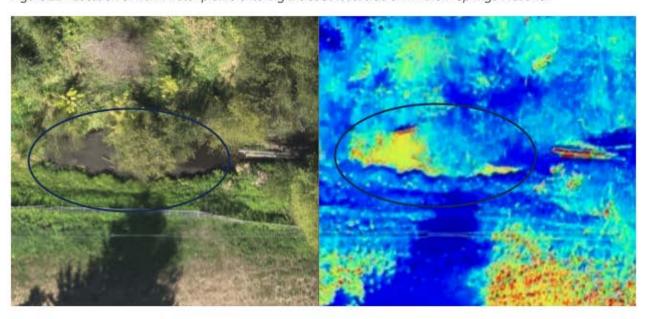
The spring-fed inlet to the wetlands maintained a consistent 13-14 °C all summer long, providing some of the coolest water seen during this study. Every year, the logger placed at the outlet of the wetlands has shown significant heating in the wetland. Because of the interesting temperature dynamics in Minthorn Wetlands, this site was selected to collect infrared drone imagery. The drone flights were conducted to try to determine if the increased temperatures are simply a function of solar radiation due to lack of shade and shallow water, or whether there are point source inputs of warm water into the wetland. The site was flown the afternoon of Friday, September 13, 2024. As expected, we see water heating in the center of the wetland where the water is shallow and the soils are saturated, making it difficult to establish woody vegetation for shade coverage.

Figure 21 - Visible and infrared imagery of Minthorn Springs Wetland.



On the south side of the property where water drains out of the wetland into the southern culvert, we identified a plume of warm water mixing into the cooler water of the channel (see Figure 10). This mixing area could be seen in both the RGB and infrared images. It is uncertain at this time what the source of this plume might be; however, the Council will work with the Wetlands Conservancy and agency partners to take a closer look at this site and determine the source of the warm water. The high temperatures recorded at Site 17 may be influenced by the location of this warm water plume, making this temperature monitoring location problematic. Consideration will be given to moving the location of this temperature logger in successive monitoring years.

Figure 22 - Location of warm water plume entering the southeast side of Minthorn Springs Wetland.



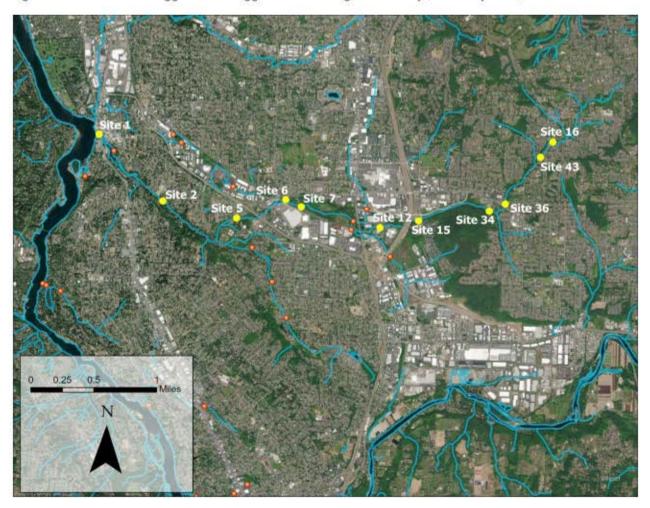
# Results: Longitudinal study of Mt. Scott Creek into Lower Kellogg

There were many loggers installed throughout the Kellogg-Mt. Scott watershed and we wanted to conduct a longitudinal study of water temperatures from Mt. Scott Creek down to confluence of Kellogg Creek with the Lower Willamette River. For this study we pulled data from the following locations:

- Site 1 Kellogg Creek at the dam
- Site 2 Kellogg Creek upstream of impoundment
- Site 31 Mt. Scott Creek at SE Lake Road
- Site 6 Mt. Scott Creek upstream of flood structure in 3-Creeks Natural Area
- Site 12 Mt. Scott Creek at SE 84th Avenue
- Site 15 Mt. Scott Creek at SE 97th Avenue
- Site 16 Presumed end of anadromy at 129th Avenue bridge

These locations were selected because the other loggers either had corrupted datasets, were stolen, or showed no temperature variations to nearby loggers.

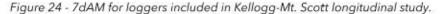
Figure 23 - Location of Kellogg-Mt. Scott loggers used for longitudinal study (shown in yellow).

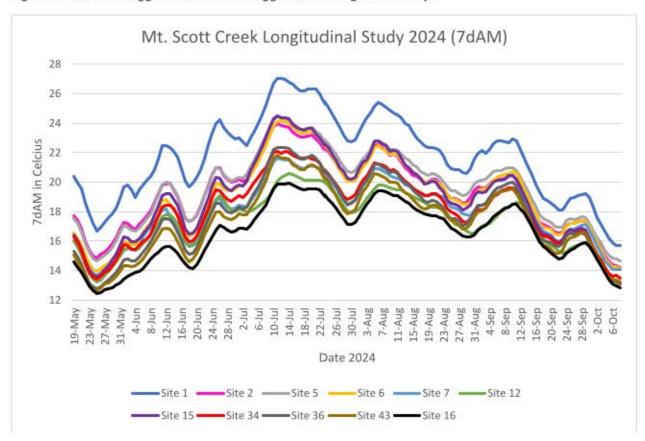


Looking at the mean summer 7dAM in July through August, we see a gradual warming of temperatures as we move from the upper parts of Mt. Scott Creek down to the outlet into the Willamette River.

- Average 7dAM at Site 1 = 24.0 °C
- Average 7dAM at Site 2 = 21.3 °C
- Average 7dAM at Site 5 = 21.8 °C
- Average 7dAM at Site 6 = 21.3 °C
- Average 7dAM at Site 7 = 19.7 °C
- Average 7dAM at Site 12 = 18.9 °C
- Average 7dAM at Site 15 = 21.4 °C
- Average 7dAM at Site 34 = 20.0 °C
- Average 7dAM at Site 36 = 19.8 °C
- Average 7dAM at Site 43 = 19.3 °C
- Average 7dAM at Site 16 = 18.3 °C

We saw the same increase in temperatures between Site 16 and Site 15 through the Sunnyside corridor that we saw in 2022, with a 3.1 °C increase in average 7dAM in 2024. The monitoring sites in between Sites 15 and 16 show a gradual warming of water temperatures. Although this reach is well shaded, there are opportunities to increase habitat complexity and hyporheic exchange that could decrease water temperatures. As the creek runs through Mt. Talbert Nature Park, there are an abundance of dead and dying cedars that could potentially be pushed into the channel to meet these goals.





Unfortunately, most sites exceed DEQ's 18 °C temperature standard for rearing salmonids during the summer months. For this reason, protection of cold-water inputs into this watershed such as Kellogg Creek, Philips Creek and Dean Creek is even more important.

# Results: Longitudinal study of Kellogg Creek upstream of confluence

Last year's temperature study (NCWC, 2023) showed some cold water coming from Kellogg Creek at its confluence with Mt. Scott Creek. This year, temperatures in Kellogg Creek were investigated further to look at the temperature profile of Kellogg upstream of the confluence with Mt. Scott Creek. Four temperature loggers were deployed along its length:

- Site 28 Kellogg Creek at SE Rusk Road
- Site 44 Upstream of Parmenter Ponds
- Site 29 Kellogg Creek at SE Clackamas Road

Site 28

Site 28

Site 28

Site 29

Site 29

The cooler water seen coming from Kellogg Creek in 2022 was evident again this year at both Site 4 and 28. These two sites are located downstream of Parmenter Wetland, a beaver

wetland that appears to be fed by Lovawalla Spring. Parmenter Wetland also has good connectivity to the floodplain, allowing for floodplain storage in the wet season and increased cool water availability in the summer. Further study should investigate Parmenter Wetland to confirm that it is in fact the source of cool water that we see between Site 28 and 29. The wetland would be a good candidate for imagery using the infrared drone.

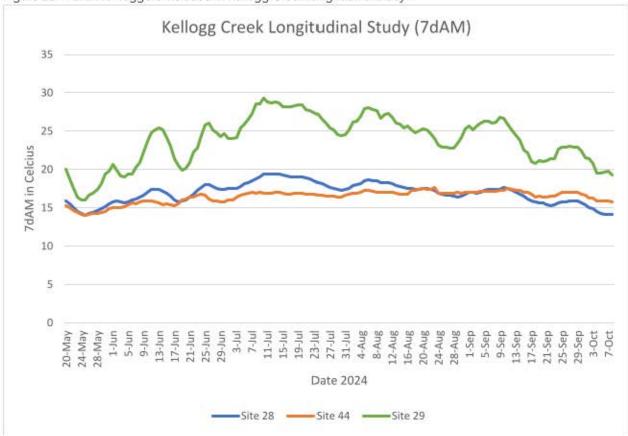


Figure 26 - 7dAM for loggers included in Kellogg Creek longitudinal study.

Looking at the mean summer 7dAM in July through August, we see some consistently good temperatures for rearing fish in Kellogg Creek

- Average 7dAM at Site 28 = 18.0 °C
- Average 7dAM at Site 44 = 16.9°C
- Average 7dAM at Site 29 = 26.2 °C

What is interesting about this data is that Site 29 is only 0.5 river miles upstream of Site 44 and in that stretch of creek water temperatures drop about 9.3 based on the average 7dAM during the months of July and August.

# Results: Year-round Temperatures in Kellogg-Mt. Scott

This year, sites were selected in the Kellogg-Mt. Scott watershed to conduct year-round temperature monitoring to look at the potential for spawning use. Once Kellogg Dam is removed, the hope is that the Kellogg-Mt. Scott Creek watershed will become potential spawning habitat. Egg mortality, alevin development, and egg maturation are negatively affected by exposure to temperatures above approximately 12-15 °C (Richter and Kolmes, 2005). A spawning temperature range of 5.6 to 12.8 °C (maximum) appears to be a reasonable recommendation for Pacific salmon (Richter and Kolmes, 2005). We also know that high temperatures can impact adult salmon migration by acting as a thermal blockage. Migration blockages occur consistently in the temperature range of 19-23 °C (McCullough et al., 2001).

Four sites were selected for this study. Temperature loggers were downloaded in October and re-installed to capture year-round temperatures, to see what temperatures look like during the spawning season. These locations included:

- Site 2 Kellogg Creek on private property near Rowe Middle School
- Site 7 Mt. Scott Creek in 3 Creeks Nature Area
- Site 34 Mt. Scott Creek in Mt. Talbert Nature Park
- Site 16 Mt. Scott Creek at the assumed upper most end of anadromy (as identified by ODFW)

The logger at Site 7 broke and the data was not recoverable from this site. The results from the other three sites are summarized in the figure below, showing the resultant 7dAM temperatures graphed against the maximum beneficial use temperatures identified by the DEQ. As mentioned before, the DEQ established temperature standards for salmon and steelhead spawning is 13 °C, which includes the spawning season during spawning, egg incubation, and fry emergence.

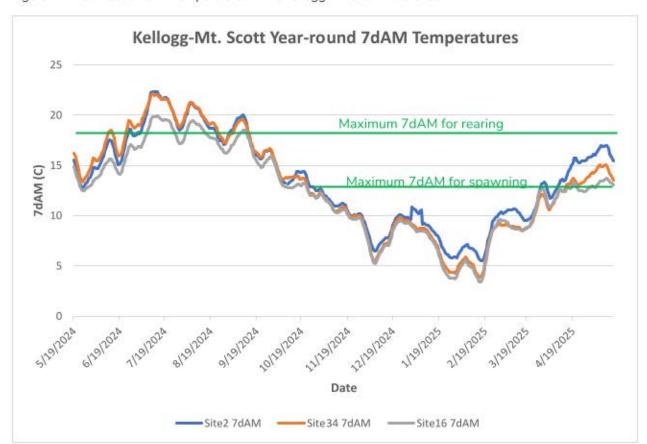


Figure 27 - Year-round 7dAM temperatures in the Kellogg-Mt. Scott Watershed.

Smaller rivers like Kellogg-Mt. Scott tend to be most suitable for coho and steelhead spawning. Coho salmon typically enter the Willamette River from October through December to spawn, with spawning generally occurring from November to January. Steelhead spawn during the spring months, from late winter to early summer, specifically March through June. These are often the "ocean-maturing" steelhead, meaning they enter the river's freshwater from late winter to early spring and spawn shortly after, and the eggs then incubate in the stream gravels through mid-summer. Because of these different run timing strategies, the temperature profiles in the Kellogg-Mt. Scott Watershed seem to be a better fit for coho salmon spawning. By mid-April, we are already seeing temperatures exceeding the maximum 7dAM for spawning, which would create an exceedance for steelhead.

Pacific lamprey spawning occurs between March and July (USFWS, 2019). According to USFWS, optimal embryo development for Pacific Lamprey occurs at water temperatures between 10 and 18 degrees °C. This temperature range is met in the Kellogg-Mt. Scott watershed during lamprey spawning months, making it a candidate for Pacific lamprey spawning once Kellogg Dam is removed. We also know that there is an existing population

of Western Brook Lamprey (Lampetra richardsoni) in the watershed, which indicates there is some level of resident lamprey spawning occurring.

## Results: Longitudinal Study of Rinearson Creek

Temperature loggers were installed in Rinearson Creek in four locations. Sites 45 and 46 were new monitoring locations upstream and downstream of the pond located at the Rinearson mitigation site. Site 26 was located on the west side of River Road and Site 27 was located upstream adjacent to Olsen Wetlands (see Figure 29).

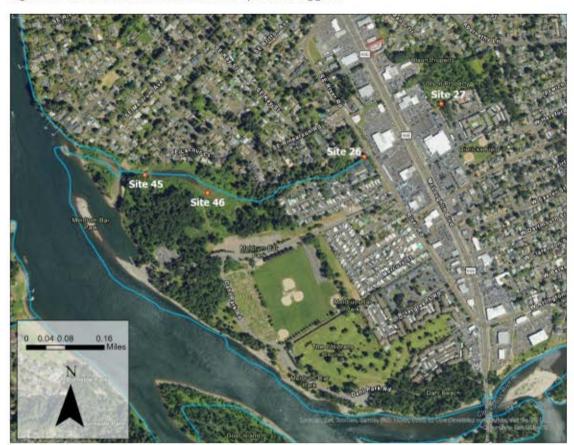


Figure 28 - Location of Rinearson Creek temperature loggers.

In 2022 we saw a significant temperature increase as water flowed from Site 27 to Site 26 (NCWC, 2023). We did not see that heating through the McLoughlin corridor this year or the previous. This year, the average summer 7dAM (July-August) decreased 3.7 °C between these sites. This drop in temperature may be because Rinearson Creek diverted into an underground pipe between these two monitoring locations. This shows the importance of collecting multiple years of data over successive years.

- Average 7dAM at Site 45 (July August) = 24.6 °C
- Average 7dAM at Site 46 (July August) = 19.8 °C
- Average 7dAM at Site 26 (July August) = 18.4 °C
- Average 7dAM at Site 27 (July August) = 22.1 °C

We also saw significant warming between Site 46 and Site 45, with an increase of average summer 7dAM (July-August) of 4.8 °C. This increase in temperature is probably due to the large beaver pond at this mitigation site. This result is also consistent with what was found in the Rinearson Natural Area Restoration Year 5 (2023) Monitoring Draft Report (Waterways Consulting, Inc, 2023). That report showed that the pond temperatures increased significantly over those recorded just upstream in the emergent marsh. This site may also be a good candidate for imagery collection utilizing the infrared drone.

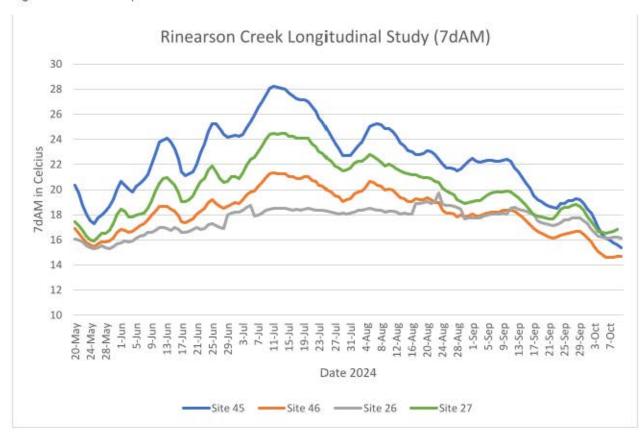


Figure 29 - 7dAM temperatures in Rinearson Creek.

# Results: Longitudinal study of Boardman Creek

Four temperature loggers were installed in Boardman Creek, one of which (Site 24) we were unable to retrieve due to the creation of a large beaver pond. This is the second year that we have been able to collect the logger at Stringfield Park due to beaver activity, which indicates to use that this logger should be located elsewhere to avoid conflict with wildlife.

- Site 22 Confluence of Boardman Creek with the Willamette River
- Site 23 North Fork of Boardman Creek
- Site 24 Boardman Creek at Stringfield Park (unretrievable)
- Site 40 Boardman Creek at Boardman Avenue

Figure 30 - Location of Boardman Creek temperature loggers.



Similar to last year's finding, we see that the coolest water in this watershed was recorded in the North Fork of Boardman Creek (NCWC, 2023).

- Average 7dAM at Site 22 (July -August) = 20.3 °C
- Average 7dAM at Site 23 (July -August) = 19.6 °C
- Average 7dAM at Site 40 (July -August) = 20.8 °C

Boardman Creek Study (7dAM)

24

25

20

28-Way

28-Way

28-Way

28-Way

29-Jun

19-Jun

11-Jun

11-Jun

11-Jun

11-Jun

11-Jun

12-Jun

13-Jun

14-Jun

15-Jun

16-Jun

17-Jun

18-Jun

19-Jun

19-Ju

Figure 31 - 7dAM temperatures in Boardman Creek.

## Conclusions and Recommendations

## **Findings**

There are several key findings that we can surmise from this year's temperature monitoring data.

- 1. Several Willamette River confluences are potential cold water refugia Boardman Creek was identified as CWR. Both Kellogg Creek and River Forest Creek were warmer than the Lower Willamette River. However, loggers placed above Kellogg and River Forest Lakes showed that those impoundments significantly increased water temperatures. If Kellogg Dam and its associated impoundment could be removed then the mouth of Kellogg Creek would function as CWR habitat. And if River Forest Lake could be hydraulically disconnected from River Forest Creek, that confluence could also function as CWR habitat. Rinearson Creek however does not seem to be functioning as CWR because of the warm water in the beaver pond.
- Kellogg Creek, Dean Creek, the North Fork of Boardman Creek, and Philips Creek
  continue to provide cold water
   We were able to identify several cold-water sources in the North Clackamas watersheds.
  The water flowing from Dean Creek and Kellogg Creek upstream of its confluence with
  Mt. Scott Creek was significantly cooler than Mt. Scott Creek. Phillips Creek was also

slightly cooler than Mt. Scott Creek. The coldest water found was at Minthorn Springs, however, this water warmed significantly to become the warmest water studied as it travelled through Minthorn Springs Wetland. In Boardman Creek, the temperatures in the North Fork of Boardman Creek were significantly cooler and may function as a thermal refuge in the summer.

- Thermal imaging of restoration projects sites gives insight into capturing cold water for climate resiliency.
  - The thermal drone imagery has proven to be helpful to identify cold water seeps. This imagery identified a significant spring in the Kellogg impoundment and is driving the design process to maximize this cold water. Some additional cold water seeps were identified at the Elk Rock Island project area, informing the restoration design process.
- The south fork of Kellogg Creek seems to be significantly cooler due to the presence of springs and beaver wetlands at Parmenter Ponds.
   Parmenter Ponds seem to have a significant cooling effect on the south fork of Kellogg Creek.
- The year-round temperatures are cool enough to support spawning by coho and Pacific Lamprey, but not Steelhead.

### Implications for Restoration, Protection, and Management

The Council is utilizing these results to prioritize their restoration, protection, and management efforts in the watersheds in our service area.

- 4. Fix heat-loading effects at impoundments Water temperatures increased significantly through water impoundments. Potential treatments vary at each site:
  - When Kellogg Dam is removed, the associated impoundment will be dewatered and the channel will be restored to a sinuous flowing creek.
  - River Forest Lake could potentially be disconnected hydraulically from River Forest Creek, while maintaining the lake for its surrounding residents. Further study should be conducted to determine the feasibility of accomplishing this.
  - Minthorn Springs Wetland heats up considerably in the summer and restoration of that wetland should focus on controlling summer temperatures.
  - As Clackamas WES implements restoration of their 3-Creeks property, consideration should be given to the pool downstream of the water diversion structure to determine how best to mitigate the temperature impacts at that site.
  - The pond in the Rinearson Natural Area was maintained in the mitigation project at the request of adjacent landowners who wanted to be able to see the open water. However, the heat loading that occurs in this pond during the summer is problematic. Consideration should be given to restoring this area to a beavermanaged wetland complex that would allow the creek to access the floodplain.

and the Council will focus on removing any barriers to fish accessing these reaches, especially during summer low flows. There are two large passage barriers upstream of the Boardman Creek confluence at Walta Vista and River Roads that currently block passage of anadromous fish past that point.

6. Identify restoration projects that can trap spawning gravels for coho and Pacific Lamprey in the Kellogg-Mt. Scott Watershed, in preparation for removal of Kellogg Dam.
Restoring spawning gravel beds involves replenishing and trapping quality gravel in rivers and streams to provide suitable habitat for fish to lay their eggs. Adding habitat complexity through additions of large wood slows down the water and traps these gravels for fish. Sometimes additional gravels are placed behind wood structures to speed up the process. The stability of added gravels is dependent on gravel size and on the hydrology of the reach. One potential site for these large wood additions is Mt. Scott Creek through Mt. Talbert Nature Park. NCWC is discussing the potential for a large wood project at this location with Metro.

### **Further Study**

As with any research project, this study has generated several more questions that need answering. Future monitoring years should study the following in more depth:

- Repeat temperature monitoring in the upper reaches of Mt. Scott Creek to verify potential cold-water sources and determine why it heats up so much as water flows down to Mt. Talbert.
- Continue long-term trend monitoring to track changes in watershed temperature impacts from climate change, development, and restoration actions.
- Compare the results of this study with the Council's fish passage barrier and eDNA studies to better understand fish utilization.
- Study harmful algae blooms (HAB's) in the impoundment behind Kellogg dam and
  potentially other sites with warming stagnant water. As temperatures increase, and
  the impoundment continues to fill in with sediment, we are seeing increased growth in
  algae. There is a desire to better understand that growth and the potential impact to
  the surrounding community.
- Utilize drone technology mounted with an infrared camera to look at temperature dynamics such as point-sources for heating and cooling, and the management of these impacts in restoration sites. Sites for consideration include Parmenter Ponds and the Rinearson beaver pond.

Despite the association between warm summer water temperatures and reduced salmonid survivorship, there is often little consistent long-term temperature data collected year after year in smaller streams. The Council plans on continuing our temperature monitoring program annually. Funding for repeated annual monitoring programs can be difficult to secure, and it is our hope that granting agencies recognize the importance of utilizing empirical data to inform our protection and restoration efforts. We currently have funding to complete five years of temperature monitoring.

## References

Clackamas Partnership. 2018. Watershed Restoration for Native Fish Populations: Strategic Restoration Action Plan. July 2018.

Department of Environmental Quality. 2008. Temperature Water Quality Standard Implementation - A DEQ Internal Management Directive. Written by Debra Sturdevant, Water Quality Standards Coordinator. April 2008.

Department of Environmental Quality. 2020. Lower Willamette River Cold-Water Refuge Narrative Criterion Interpretation Study. Submitted to NOAA - March 2020.

Environmental Protection Agency. 2001. Issue Paper 1: Salmonid Behavior and Water Temperature. Prepared by Sally T. Sauter, John McMillan, and Jason Dunham. May 2001.

Environmental Protection Agency. 2012. Primer for Identifying Cold-Water Refuges to Protect and Restore Thermal Diversity in Riverine Landscapes. Prepared by Christian Torgersen, Joseph Ebersole, and Druscilla Keenan. February 2012.

Leinenbach, P. 2017. Evaluation of the potential CWR by tributaries in the Willamette based on NorWeST modeling.

Labbe, Ted and Kaegan Scully-Engelmeyer. 2016. The Wetlands Conservancy Urban Wetlands State-of-the-Catchments Summary. August 22, 2016.

McCullough, D. A., S. Spalding, D. Sturdevant, and M. Hicks. 2001. Issue Paper 5. Summary of technical

literature examining the physiological effects of temperature on salmonids. EPA-910-D-01-005.

prepared as part of U.S. EPA Region 10 Temperature Water Quality Criteria Guidance Development Project (2001).

North Clackamas Watersheds Council. 2023. North Clackamas Watersheds Temperature Study. Prepared by Amy van Riessen, Watershed Restoration Manager. January 2023,

North Clackamas Watersheds Council. 2022. North Clackamas Watersheds Action Plan 2022-2032. Prepared by Samara Group, LLC & GeoEngineers. July 2022.

North Clackamas Watersheds Council. 2020. Rapid Bio-Assessment Report: North Clackamas Watersheds. Prepared by Inter-fluve, Inc. May 2020.

Richter, Ann and Steven Kolmes. 2005. Maximum Temperature Limits for Chinook, Coho, and Chum Salmon, and Steelhead Trout in the Pacific Northwest. Reviews in Fisheries Science, 13:23-49.

U.S. Fish & Wildlife Service. 2019. Pacific Lamprey Entosphenus tridentatus Assessment from February 1, 2019. <a href="https://www.pacificlamprey.org/wp-content/uploads/2022/02/Pacific-Lamprey-Entosphenus-tridentatus-Assessment---2018-Revision.pdf">https://www.pacificlamprey.org/wp-content/uploads/2022/02/Pacific-Lamprey-Entosphenus-tridentatus-Assessment---2018-Revision.pdf</a>

U.S. Geological Survey. 2018. Mangano, J.F., Piatt, D.R., Jones, K.L, and Rounds, S.A. Water temperature in tributaries, off-channel features, and main channel of the lower Willamette River, Northwestern Oregon, summers 2016 and 2017: U.S. Geological Survey Open-File Report 2018-1184, 33 p., <a href="https://doi.org/10.3133/ofr20181184">https://doi.org/10.3133/ofr20181184</a>.

Waterways Consulting, Inc. 2023. Rinearson Natural Area Restoration Year 5 (2023) Monitoring Draft Report. Prepared for Columbia Restoration Group, LLC. December, 2023.

LC 2 2025 1st Special Session 8/19/25 (HE/ASD/ps)

# DRAFT

#### **SUMMARY**

Digest: The Act increases and adds taxes related to roads, cars, trucks and buses and says how revenue must be used. The Act would make the per-mile road usage charge mandatory over time. The Act would let a person pay a yearly fee instead of the per-mile road usage charge. The Act tells the Division of Audits to do performance audits of ODOT. (Flesch Readability Score: 71.0).

Directs the Division of Audits to conduct performance audits of the Department of Transportation. Alters the duties of the Joint Committee on Transportation and the Continuous Improvement Advisory Committee. Provides that the Governor shall appoint the Director of Transportation.

Increases and adds transportation-related fees and taxes. Provides uses of revenues.

Imposes a mandatory per-mile road usage charge for electric and hybrid vehicles. Allows an annual fee in lieu of the mandatory per-mile road usage charge.

Repeals the mandatory toll program.

1

Provides for diesel fuel to be taxed in the same manner as gasoline.

Revises the formula for weight-mile taxes.

Takes effect on the 91st day following adjournment sine die.

## A BILL FOR AN ACT

Relating to transportation; creating new provisions; amending ORS 171.861, 2 184.620, 184.623, 184.659, 184.665, 295.103, 319.010, 319.020, 319.390, 319.520, 3 319.530, 319.550, 319.671, 319.700, 319.883, 319.885, 319.915, 320.550, 366.506, 4 366.772, 366.805, 367.095, 377.841, 383.009, 801.041, 801.042, 803.090, 803.420, 5 6 803.422, 803.445, 810.530, 818.225, 818.400, 823.012, 823.023, 823.027, 823.085, 825.005, 825.104, 825.141, 825.250, 825.326, 825.450, 825.474, 825.476, 825.480, 7 825.492, 825.555 and 825.990 and section 6, chapter 491, Oregon Laws 2019; 8 repealing ORS 319.665, 319.890, 383.150 and 825.486 and section 2, chapter 9

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1	428, C	regon	Laws	2019;	and p	rescribing	an	effective	date;	and	providin
2	for rev	enue i	aising	that	requir	es approva	al by	a three	-fifths	majo	ority.

## Be It Enacted by the People of the State of Oregon:

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## ACCOUNTABILITY AND HIGHWAY COST ALLOCATION STUDY

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- SECTION 1. (1) As used in this section, "performance audit" has the meaning given that term in ORS 297.070.
- (2) The Division of Audits shall conduct a biennial performance audit of the Department of Transportation relating to the following:
  - (a) The responsible use of moneys in the State Highway Fund; and
- (b) Capital projects carried out by the department.
- (3) The Division of Audits shall present the results of the audits described in subsection (2) of this section to an appropriate standing or interim committee of the Legislative Assembly.
- SECTION 2. ORS 184.620 is amended to read:
- 17 184.620. (1) The Department of Transportation shall be under the super-
- vision of a Director of Transportation who shall be appointed by and shall
- 19 hold office at the pleasure of the Governor. [The Oregon Transportation
- 20 Commission shall appoint the director, after consultation with the Governor.
- 21 The director serves at the pleasure of the commission.]
- 22 (2) The appointment of the director shall be subject to confirmation by 23 the Senate in the manner provided in ORS 184.623.
- 24 (3) The director may appoint:
- 25 (a) Deputy directors with full authority to act for the director, but subject 26 to the director's control. The appointment of a deputy director shall be by 27 written order filed with the Secretary of State. A deputy director shall be in 28 the unclassified services for purposes of the State Personnel Relations Law.
- 29 (b) All subordinate officers and employees of the department and may 30 prescribe their duties, assignments and reassignments and fix their compen-31 sation, subject to any applicable provisions of the State Personnel Relations

- 1 Law.
- 2 (4) Subject to the approval of the [commission] Oregon Transportation
- 3 Commission, the director may organize and reorganize the department as
- 4 the director considers necessary to properly conduct the work of the de-
- 5 partment. As directed by the chairperson of the commission, the director
- 6 shall assign employees of the department to staff the commission.
- 7 (5) When service of summons or other process is required by statute to
- 8 be served on the Director of Transportation, the Department of Transporta-
- 9 tion or the Oregon Transportation Commission, such service shall be made
- 10 upon the office of the director.
- SECTION 3. ORS 184.623 is amended to read:
- 184.623. (1) The executive appointment of the Director of Transportation
- 13 by the [Oregon Transportation Commission] Governor under ORS 184.620 is
- 14 subject to confirmation by the Senate. Confirmation requires the affirmative
- vote of a majority of the members of the Senate.
- 16 (2) If an appointment made under ORS 184.620 is not confirmed by the
- 17 Senate, the [commission] Governor shall make another appointment, subject
- 18 to confirmation by the Senate.
- 19 (3) The name of the individual to be appointed or reappointed shall be
- 20 submitted to the Senate by the [commission] Governor under ORS 184.620.
- 21 The Senate shall take up the question of confirmation as soon after the
- 22 convening of a regular or special session as is appropriate. The question of
- 23 confirmation may be referred to committee or may be acted upon without a
- 24 referral.
- 25 (4) If the name of an individual to be appointed or reappointed submitted
- 26 by the [commission] Governor is not acted upon during the term of the
- 27 Legislative Assembly to which it is submitted, the name may be resubmitted
- 28 to the subsequent term by the [commission] Governor on or after the date
- 29 the Legislative Assembly convenes in the subsequent regular session.
- 30 SECTION 4. (1) The amendments to ORS 184.620 and 184.623 by
- sections 2 and 3 of this 2025 special session Act apply to appointments

- 1 made on or after the effective date of this 2025 special session Act.
- 2 (2) The Director of Transportation who is serving on the effective
- 3 date of this 2025 special session Act continues to be governed by ORS
- 4 184.620 as in effect immediately before the effective date of this 2025
- 5 special session Act.
- 6 **SECTION 5.** ORS 184.665 is amended to read:
- 7 184.665. [(1) The Oregon Transportation Commission shall appoint a Con-
- 8 tinuous Improvement Advisory Committee composed of members of the com-
- 9 mission, employees of the Department of Transportation and transportation
- 10 stakeholders. The committee shall be of such size and representation as the
- 11 commission determines appropriate.]
- 12 (1) As used in this section:
- (a) "Chief engineer" means the person appointed by the Director
   of Transportation under ORS 184.628.
- 15 (b) "Major project" means a transportation project that costs \$250 16 million or more to complete.
- 17 (2) The Oregon Transportation Commission shall appoint a Contin-
- 18 uous Improvement Advisory Committee. The members of the com-
- 19 mittee shall include, but are not limited to, the following:
- 20 (a) Members of the commission;
- 21 **(b) The Director of Transportation;**
- 22 (c) The chief engineer;
- 23 (d) Individuals with demonstrated expertise in planning, executing
- 24 and delivering major projects; and
- 25 (e) At least one individual with demonstrated knowledge and expe-
- 26 rience in the application and implementation of the National Envi-
- 27 ronmental Policy Act.
- [(2)] (3) The committee shall:
- 29 (a) Advise the commission on ways to maximize the efficiency of the De-
- 30 partment of Transportation to allow increased investment in the transpor-
- 31 tation system over the short, medium and long term.

- (b) Develop key performance measures, based on desired outcomes, for each division of the department. The committee shall submit key performance measures to the commission for its approval. The committee shall report quarterly to the commission [at least once per year] and to the Joint Committee on Transportation on the status of key performance measures and what steps are being taken by the department to achieve the goals of the key performance measures.
- 8 [(3)] (4) The [committee] Continuous Improvement Advisory Commit-9 tee shall [periodically] report quarterly to the commission and to the Joint 10 Committee on Transportation. The reports must include recommendations 11 on ways the commission and the department may execute their duties more 12 efficiently.
- [(4) Each odd-numbered year, the commission shall submit a report, in the manner provided by ORS 192.245, to the Joint Committee on Transportation established under ORS 171.858. The report must include information on the activities and recommendations of the committee and information on any actions taken by the commission or the department to implement recommendations of the committee.]
- 19 (5) The [committee] Continuous Improvement Advisory Committee 20 shall meet [regularly] at least once a month, at times and places fixed by 21 the chairperson of the committee or a majority of members of the committee.
- 22 **(6)** The department shall provide office space and personnel to assist the 23 committee as requested by the chairperson, within the limits of available 24 funds.
- [(6)] (7) Members of the committee are entitled to compensation and expenses as provided under ORS 292.495.
- 27 <u>SECTION 6.</u> The amendments to ORS 184.665 by section 5 of this 28 2025 special session Act become operative on January 1, 2026.
- 29 **SECTION 7.** ORS 171.861 is amended to read:
- 171.861. (1) As used in this section, "major project" means a transportation project that costs \$250 million or more to complete.

- 1 (2) The Joint Committee on Transportation shall:
- 2 (a) Examine transportation related policy [and];
- 3 **(b) Review** transportation project expenditures;
- 4 (c) Review the scope, schedule, changes and budget updates to ma-5 jor projects on a quarterly basis;
- 6 (d) Review requests for project scope expansion requests submitted 7 by a city or a county under section 8 of this 2025 special session Act; 8 and
- 9 (e) Make recommendations related to transportation and appropriation 10 of funding to the Joint Committee on Ways and Means during the period 11 when the Legislative Assembly is in session, or to the Emergency 12 Board or the Joint Interim Committee on Ways and Means during the 13 interim period between sessions.
- (3) The Joint Committee on Transportation shall provide general legislative oversight of the Department of Transportation and the Oregon Department of Aviation.
- SECTION 8. (1) As used in this section, "highway improvement project" means a state highway project for which the Department of Transportation may use federal transportation funds.
- (2) If a city or county proposes to expand the scope of a highway 20 21 improvement project, but does not provide funding, the city or county shall submit the proposed change to the Oregon Transportation Com-22 mission. If the commission approves the proposed change, the com-23 mission shall submit a report the Joint Committee 24 to Transportation that informs the committee about the proposed change 25 and cost associated with the expanded scope. After reviewing the re-26 port, the committee may submit recommendations for appropriations 27 that may be made in the future to cover the costs of the expanded 28 scope of the highway improvement project. 29
- 30 (3) This section applies to highway improvement projects when a 31 city or county is not covering the costs of the expanded scope and:

- 1 (a) The project costs less than \$25 million and the changes in scope 2 the city or county is requesting increase the project costs by 10 percent 3 or more; or
- (b) The project costs \$25 million or more and the changes in scope the city or county is requesting increase the project costs by five percent or more.
- SECTION 9. The Legislative Policy and Research Director shall en-8 ter into a professional services contract for a performance audit of the 9 operations of the Department of Transportation, to include examina-10 tion of:
- 11 (1) The management of the department; and
- 12 (2) Whether and how the department addresses recommendations 13 from the management review conducted pursuant to section 203, 14 chapter 7, Oregon Laws 2025 (Enrolled Senate Bill 5550).
- SECTION 10. Section 9 of this 2025 special session Act is repealed on January 2, 2027.
- 17 **SECTION 11.** ORS 366.506 is amended to read:
- 366.506. (1) Once every two years, the Oregon Department of Administrative Services shall conduct a highway cost allocation study. The purpose of the study is to determine:
- 21 (a) The proportionate share that the users of each class of vehicle should 22 pay for the costs of maintenance, operation and improvement of the high-23 ways, roads and streets in the state; and
- 24 (b) Whether the users of each class are paying that share.
- 25 (2) Each study must include:
- 26 (a) An examination of the most recent study period for which actual data 27 are available for the purpose of determining the accuracy of the most re-28 cently published study results; and
- (b) An examination of the prospective study period based on projected data for the purpose described in subsection (1) of this section and that incorporates the results of the examination described in paragraph (a)

## 1 of this subsection.

- (3) The department may use any study design the department determines will best accomplish the purposes stated in subsection (1) of this section. In designing the study, the department may make decisions that include, but are not limited to, the methodology to be used for the study, what constitutes a class of vehicle for purposes of collection of data under subsections (1) to (5) of this section and the nature and scope of costs that will be included in the study.
- 9 (4) The department may appoint a study review team to participate in the 10 study required by subsection (1) of this section. The team may perform any 11 functions assigned by the department, including, but not limited to, consult-12 ing on the design of the study.
- 13 (5) A report on the results of the study shall be submitted to the legisla-14 tive revenue committees and the Joint Committee on Transportation by 15 January 31 of each odd-numbered year.
- (6) The Legislative Assembly shall use the report described in subsection (5) of this section to determine whether adjustments to revenue sources described in Article IX, section 3a (3), of the Oregon Constitution, are needed in order to carry out the purposes of Article IX, section 3a (3), of the Oregon Constitution. If such adjustments are needed, the Legislative Assembly shall enact whatever measures are necessary to make the adjustments.
- SECTION 12. ORS 366.506, as amended by section 11 of this 2025 special session Act, is amended to read:
- 366.506. (1) Once every two years, the Oregon Department of Administrative Services shall conduct a highway cost allocation study. The purpose of the study is to determine:
- 27 (a) The proportionate share that the users of each class of vehicle should 28 pay for the costs of maintenance, operation and improvement of the high-29 ways, roads and streets in the state; and
- 30 (b) Whether the users of each class are paying that share.
- 31 (2) Each study must include:

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- (a) An examination of the most recent study period for which actual data are available for the purpose of determining the accuracy of the most recently published study results; and
- 4 (b) An examination of the prospective study period based on projected data for the purpose described in subsection (1) of this section and that incorporates the results of the examination described in paragraph (a) of this subsection.
- 8 (3) The department may use any study design the department determines 9 will best accomplish the purposes stated in subsection (1) of this section. In 10 designing the study, the department may make decisions that include, but 11 are not limited to, the methodology to be used for the study, what constitutes 12 a class of vehicle for purposes of collection of data under subsections (1) to 13 (5) of this section and the nature and scope of costs that will be included in 14 the study.
  - (4) The department may appoint a study review team to participate in the study required by subsection (1) of this section. The team may perform any functions assigned by the department, including, but not limited to, consulting on the design of the study.
- 19 (5) A report on the results of the study shall be submitted to the legisla-20 tive revenue committees and the Joint Committee on Transportation by 21 January 31 of each odd-numbered year.
- (6) The Legislative Assembly shall use the report described in subsection (5) of this section to determine whether adjustments to revenue sources described in Article IX, section 3a (3), of the Oregon Constitution, are needed in order to carry out the purposes of Article IX, section 3a (3), of the Oregon Constitution. If such adjustments are needed, the Legislative Assembly shall enact whatever measures are necessary to make the adjustments.

## 28 (7)(a) This subsection applies if:

(A) The highway cost allocation report indicates that the equity ratio for the heavy vehicle class or the light vehicle class is at least 1.05; and

- (B) The Legislative Assembly has not complied with subsection (6) of this section within 120 days following the date on which the Joint Committee on Transportation received the report submitted under subsection (5) of this section.
- (b)(A) On or after September 1 of each odd-numbered year, the department shall adopt rules that adjust the fee rates per mile set forth in ORS 825.476 and the fuel tax rates set forth in ORS 319.020 (1)(b) and 319.530 (1) as necessary so that whichever class has an equity ratio of 1.05 or greater will have an equity ratio of 1.045.
- 10 **(B)** Adjustments made pursuant to this paragraph shall maintain 11 revenue neutrality to the extent possible.
- 12 (C) Adjustments to the fuel tax rates shall be rounded to the near-13 est 0.1 cents per gallon.
- 14 (8) The department shall repeal any rule adopted pursuant to sub-15 section (7) of this section if the department determines that, after the 16 rule was adopted, the Legislative Assembly adjusted revenue sources 17 to carry out the purposes of Article IX, section 3a (3), of the Oregon 18 Constitution.
- 19 <u>SECTION 13.</u> The amendments to ORS 366.506 by section 12 of this 20 <u>2025</u> special session Act become operative on January 1, 2030.
- SECTION 14. (1) In consultation with the study review team described in ORS 366.506, the Oregon Department of Administrative Services shall undertake a review of the methodology for the highway cost allocation study required under ORS 366.506.
- 25 (2) The department shall examine all aspects of the methodology for 26 the highway cost allocation study, including but not limited to the 27 following:
- 28 (a) The revenues and expenditures included in the highway cost al-29 location study;
- 30 (b) How costs are allocated across different classes of vehicles;
  - (c) What constitutes a class of vehicle;

- (d) The data used in the highway cost allocation study;
- (e) The level of granularity to which cost responsibility is calculated for potential rate changes; and
- (f) Whether equity should be analyzed based on an estimate of the future biennium's revenue and expenditures or a retrospective analysis of past actual revenue and expenditures.
- (3) The department may provide recommendations for updating the methodology for the study, including any changes in statute needed to improve the outcome of the study and ensure fairness and proportionate revenue and costs for each class of vehicle.
- (4) The department shall submit a report in the manner provided by ORS 192.245, and may include recommendations for legislation, to the Joint Committee on Transportation no later than June 30, 2026.
- SECTION 15. Section 14 of this 2025 special session Act is repealed on January 2, 2027.

#### FUEL TAXES AND REGISTRATION AND TITLE FEES

#### **SECTION 16.** ORS 319.020 is amended to read:

- 319.020. (1) Subject to subsections (2) to (4) of this section, in addition to the taxes otherwise provided for by law, every dealer engaging in the dealer's own name, or in the name of others, in the first sale, use or distribution of motor vehicle fuel or aircraft fuel or withdrawal of motor vehicle fuel or aircraft fuel for sale, use or distribution within areas in this state within which the state lacks the power to tax the sale, use or distribution of motor vehicle fuel or aircraft fuel, shall:
- (a) Not later than the 25th day of each calendar month, render a statement to the Department of Transportation of all motor vehicle fuel or aircraft fuel sold, used, distributed or so withdrawn by the dealer in the State of Oregon as well as all such fuel sold, used or distributed in this state by a purchaser thereof upon which sale, use or distribution the dealer has as-

- sumed liability for the applicable license tax during the preceding calendar month. The dealer shall render the statement to the department in the man-
- 3 ner provided by the department by rule.
- (b) Except as provided in ORS 319.270, pay a license tax computed on the basis of [34] **46** cents per gallon on the first sale, use or distribution of such motor vehicle fuel or aircraft fuel so sold, used, distributed or withdrawn as shown by such statement in the manner and within the time provided in ORS
- 8 319.010 to 319.430.

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- 9 (2) When aircraft fuel is sold, used or distributed by a dealer, the license tax shall be computed on the basis of 11 cents per gallon of fuel so sold, used or distributed, except that when aircraft fuel usable in aircraft operated by turbine engines (turbo-prop or jet) is sold, used or distributed, the tax rate shall be three cents per gallon.
  - (3) In lieu of claiming refund of the tax paid on motor vehicle fuel consumed by such dealer in nonhighway use as provided in ORS 319.280, 319.290 and 319.320, or of any prior erroneous payment of license tax made to the state by such dealer, the dealer may show such motor vehicle fuel as a credit or deduction on the monthly statement and payment of tax.
  - (4) The license tax computed on the basis of the sale, use, distribution or withdrawal of motor vehicle or aircraft fuel may not be imposed wherever such tax is prohibited by the Constitution or laws of the United States with respect to such tax.
- 23 **SECTION 17.** ORS 319.530 is amended to read:
- 319.530. (1) To compensate this state partially for the use of its highways, an excise tax hereby is imposed at the rate of [34] **46** cents per gallon on the use of fuel in a motor vehicle.
- (2) Except as otherwise provided in subsections (3) to (6) of this section, 100 cubic feet of fuel used or sold in a gaseous state, measured at 14.73 pounds per square inch of pressure at 60 degrees Fahrenheit, is taxable at the same rate as a gallon of liquid fuel.
  - (3) 123.57 cubic feet, or 5.66 pounds, of compressed natural gas used or

- 1 sold in a gaseous state is taxable at the same rate as one gasoline gallon.
- 2 (4) 1.353 gallons, or 5.75 pounds, of liquefied petroleum gas is taxable at 3 the same rate as one gasoline gallon.
- 4 (5) 1.71 gallons, or 6.059 pounds, of liquefied natural gas is taxable at the same rate as one diesel gallon.
- 6 (6) One kilogram of hydrogen is taxable at the same rate as one gasoline 7 gallon.

## 8 **SECTION 18.** ORS 803.420 is amended to read:

- 803.420. (1) The vehicle registration fees imposed under this section shall be based on the classifications determined by the Department of Transportation by rule. The department may classify a vehicle to ensure that registration fees for the vehicle are the same as for other vehicles the department determines to be comparable.
- (2) Except as otherwise provided in this section, or unless the vehicle is registered quarterly, the fees described in this section are for an entire registration period for the vehicle as described under ORS 803.415. For a vehicle registered for a quarterly registration period under ORS 803.415, the department shall apportion any fee under this section to reflect the number of quarters registered.
- 20 (3) Vehicle registration fees are due when a vehicle is registered and 21 when the registered owner renews the registration.
- 22 (4) In addition to the registration fees listed in this section, a county or 23 a district may impose an additional registration fee as provided under ORS 24 801.041 and 801.042.
- (5) A rental or leasing company, as defined in ORS 221.275, that elects to initially register a vehicle for an annual or biennial registration period shall pay a fee of \$2 in addition to the vehicle registration fee provided under this section.
- 29 (6) The registration fees for each year of the registration period for ve-30 hicles subject to biennial registration are as follows:
- 31 (a) Passenger vehicles not otherwise provided for in this section or ORS

- 1 821.320, [*\$43*] **\$85**.
- 2 (b) Utility trailers or light trailers, as those terms are defined by rule by
- 3 the department, [\$63] **\$105**.
- 4 (c) Mopeds and motorcycles, [\$44] **\$86**.
- 5 (d) Low-speed vehicles, [\$63] **\$105**.
- 6 (e) Medium-speed electric vehicles, [\$63] \$105.
- 7 (7) The registration fees for vehicles that are subject to biennial regis-
- 8 tration and that are listed in this subsection are as follows:
- 9 (a) State-owned vehicles registered under ORS 805.045 and undercover
- vehicles registered under ORS 805.060, \$10 upon registration or renewal.
- 11 (b) Fixed load vehicles:
- 12 (A) If a declaration of weight described under ORS 803.435 is submitted
- establishing the weight of the vehicle at 3,000 pounds or less, \$61.
- 14 (B) If no declaration of weight is submitted or if the weight of the vehi-
- cles is in excess of 3,000 pounds, \$82.
- 16 (c) Travel trailers, special use trailers, campers and motor homes, based
- on length as determined under ORS 803.425:
- (A) Trailers or campers that are 6 to 10 feet in length, \$81.
- 19 (B) Trailers or campers over 10 feet in length, \$81 plus \$7 a foot for each
- 20 foot of length over the first 10 feet.
- (C) Motor homes that are 6 to 14 feet in length, \$86.
- (D) Motor homes over 14 feet in length, \$126 plus \$8 a foot for each foot
- 23 of length over the first 10 feet.
- 24 (8) The registration fee for trailers for hire that are equipped with pneu-
- 25 matic tires made of an elastic material and that are not travel trailers or
- 26 trailers registered under permanent registration is \$30.
- 27 (9) The registration fees for vehicles subject to ownership registration are
- 28 as follows:
- 29 (a) Government-owned vehicles registered under ORS 805.040, \$5.
- 30 (b) Vehicles registered with special registration for disabled veterans un-
- der ORS 805.100 or for former prisoners of war under ORS 805.110, \$15.

- 1 (c) School vehicles registered under ORS 805.050, \$5.
- 2 (10) The registration fees for vehicles subject to permanent registration 3 are as follows:
- 4 (a) Antique vehicles registered under ORS 805.010, \$100.
- 5 (b) Vehicles of special interest registered under ORS 805.020, \$100.
- 6 (c) Racing activity vehicles registered under ORS 805.035, \$100.
- 7 (d) Trailers, \$10.

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- 8 (e) State-owned vehicles registered under ORS 805.045 and undercover 9 vehicles registered under ORS 805.060, \$10.
  - (11) The registration fee for trailers registered as part of a fleet under an agreement reached pursuant to ORS 802.500 is the same fee as the fee for vehicles of the same type registered under other provisions of the Oregon Vehicle Code.
- 14 (12) The registration fee for vehicles with proportional registration under ORS 826.009, or proportional fleet registration under ORS 826.011, is the same fee as the fee for vehicles of the same type under this section except that the fees shall be fixed on an apportioned basis as provided under the agreement established under ORS 826.007.
- (13) In addition to any other registration fees charged for registration of vehicles in fleets under ORS 805.120, the department may charge the following fees:
  - (a) Service charge for each vehicle entered into a fleet, \$3.
- 23 (b) Service charge for each vehicle in the fleet at the time of renewal, \$2.
  - (14)(a) The registration fee for motor vehicles required to establish a registration weight under ORS 803.430 or 826.013, tow vehicles used to transport property for hire other than as described in ORS 822.210 and commercial buses is as provided in the following chart, based upon the weight submitted in the declaration of weight prepared under ORS 803.435 or 826.015:

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Weight in Pounds

1	8,000	or	less	\$ 74
2	8,001	to	10,000	464
3	10,001	to	12,000	528
4	12,001	to	14,000	591
5	14,001	to	16,000	655
6	16,001	to	18,000	718
7	18,001	to	20,000	801
8	20,001	to	22,000	864
9	22,001	to	24,000	949
10	24,001	to	26,000	1,031
11	26,001	to	28,000	375
12	28,001	to	30,000	391
13	30,001	to	32,000	422
14	32,001	to	34,000	438
15	34,001	to	36,000	468
16	36,001	to	38,000	485
17	38,001	to	40,000	515
18	40,001	to	42,000	532
19	42,001	to	44,000	562
20	44,001	to	46,000	578
21	46,001	to	48,000	593
22	48,001	to	50,000	625
23	50,001	to	52,000	656
24	52,001	to	54,000	672
25	54,001	to	56,000	686
26	56,001	to	58,000	717
27	58,001	to	60,000	750
28	60,001	to	62,000	780
29	62,001	to	64,000	811
30	64,001	to	66,000	827
31	66,001	to	68,000	857

1	68,001	to	70,000	874
2	70,001	to	72,000	904
3	72,001	to	74,000	921
4	74,001	to	76,000	951
5	76,001	to	78,000	967
6	78,001	to	80,000	998
7	80,001	to	82,000	1,014
8	82,001	to	84,000	1,045
9	84,001	to	86,000	1,061
10	86,001	to	88,000	1,092
11	88,001	to	90,000	1,108
12	90,001	to	92,000	1,139
13	92,001	to	94,000	1,155
14	94,001	to	96,000	1,185
15	96,001	to	98,000	1,202
16	98,001	to	100,000	1,218
17	100,001	to	102,000	1,249
18	102,001	to	104,000	1,265
19	104,001	to	105,500	1,295
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21 (b)(A) The registration fee for motor vehicles with a registration weight 22 of more than 8,000 pounds that are described in ORS 825.015, that are oper-

ated by a charitable organization as defined in ORS 825.017 (13), is as pro-

vided in the following chart:

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26	Weigh	nt in	Pounds	Fee
27	8,001	to	10,000	\$ 71
28	10,001	to	12,000	85
29	12,001	to	14,000	92
30	14,001	to	16,000	107
31	16,001	to	18,000	114

1	18,001	to	20,000	128
2	20,001	to	22,000	135
3	22,001	to	24,000	149
4	24,001	to	26,000	156
5	26,001	to	28,000	170
6	28,001	to	30,000	178
7	30,001	to	32,000	192
8	32,001	to	34,000	199
9	34,001	to	36,000	213
10	36,001	to	38,000	220
11	38,001	to	40,000	234
12	40,001	to	42,000	241
13	42,001	to	44,000	256
14	44,001	to	46,000	263
15	46,001	to	48,000	270
16	48,001	to	50,000	284
17	50,001	to	52,000	298
18	52,001	to	54,000	305
19	54,001	to	56,000	312
20	56,001	to	58,000	327
21	58,001	to	60,000	341
22	60,001	to	62,000	355
23	62,001	to	64,000	369
24	64,001	to	66,000	376
25	66,001	to	68,000	391
26	68,001	to	70,000	398
27	70,001	to	72,000	412
28	72,001	to	74,000	419
29	74,001	to	76,000	433
30	76,001	to	78,000	440
31	78,001	to	80,000	454

1	80,001	to	82,000	462	
2	82,001	to	84,000	476	
3	84,001	to	86,000	483	
4	86,001	to	88,000	497	
5	88,001	to	90,000	504	
6	90,001	to	92,000	518	
7	92,001	to	94,000	525	
8	94,001	to	96,000	540	
9	96,001	to	98,000	547	
10	98,001	to	100,000	554	
11	100,001	to	102,000	568	
12	102,001	to	104,000	575	
13	104,001	to	105,500	589	
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(B) The registration fee for motor vehicles that are certified under ORS 822.205, unless the motor vehicles are registered under paragraph (a) of this subsection, or that are used exclusively to transport manufactured structures, is as provided in the following chart:

8,000 or less \$ 63  8,001 to 10,000 145  10,001 to 12,000 173  112,001 to 14,000 187  114,001 to 16,000 217  115  116,001 to 18,000 231  118,001 to 20,000 260  118  119  119  119  119  119  119  11	10					
2 8,001 to 10,000 145 3 10,001 to 12,000 173 4 12,001 to 14,000 187 5 14,001 to 16,000 217 6 16,001 to 18,000 231 7 18,001 to 20,000 260 8 20,001 to 22,000 274 9 22,001 to 24,000 304 0 24,001 to 26,000 318	20	Weigh	nt in	Pounds	F	?ee
3 10,001 to 12,000 173 4 12,001 to 14,000 187 5 14,001 to 16,000 217 6 16,001 to 18,000 231 7 18,001 to 20,000 260 8 20,001 to 22,000 274 9 22,001 to 24,000 304 0 24,001 to 26,000 318	21	8,000	or	less	\$	63
12,001 to 14,000 187 14,001 to 16,000 217 15 16,001 to 18,000 231 17 18,001 to 20,000 260 18 20,001 to 22,000 274 19 22,001 to 24,000 304 10 24,001 to 26,000 318	22	8,001	to	10,000		145
5 14,001 to 16,000 217 6 16,001 to 18,000 231 7 18,001 to 20,000 260 8 20,001 to 22,000 274 9 22,001 to 24,000 304 0 24,001 to 26,000 318	23	10,001	to	12,000		173
3 16,001 to 18,000 231 7 18,001 to 20,000 260 8 20,001 to 22,000 274 9 22,001 to 24,000 304 0 24,001 to 26,000 318	24	12,001	to	14,000		187
7 18,001 to 20,000 260 8 20,001 to 22,000 274 9 22,001 to 24,000 304 0 24,001 to 26,000 318	25	14,001	to	16,000		217
3 20,001 to 22,000 274 9 22,001 to 24,000 304 0 24,001 to 26,000 318	26	16,001	to	18,000		231
22,001 to 24,000 304 24,001 to 26,000 318	27	18,001	to	20,000		260
24,001 to 26,000 318	28	20,001	to	22,000		274
	29	22,001	to	24,000		304
26,001 to 28,000 346	30	24,001	to	26,000		318
	31	26,001	to	28,000		346

1	28,001	to	30,000	362
2	30,001	to	32,000	391
3	32,001	to	34,000	405
4	34,001	to	36,000	435
5	36,001	to	38,000	449
6	38,001		40,000	477
7	40,001	to		
	,	to	42,000	491
8	42,001	to	44,000	521
9	44,001	to	46,000	535
10	46,001	to	48,000	550
11	48,001	to	50,000	578
12	50,001	to	52,000	608
13	52,001	to	54,000	622
14	54,001	to	56,000	636
15	56,001	to	58,000	665
16	58,001	to	60,000	694
17	60,001	to	62,000	723
18	62,001	to	64,000	753
19	64,001	to	66,000	767
20	66,001	to	68,000	795
21	68,001	to	70,000	809
22	70,001	to	72,000	839
23	72,001	to	74,000	853
24	74,001	to	76,000	882
25	76,001	to	78,000	896
26	78,001	to	80,000	926
27	80,001	to	82,000	940
28	82,001	to	84,000	968
29	84,001	to	86,000	983
30	86,001	to	88,000	1,012
31	88,001	to	90,000	1,027

1	90,001	to	92,000	1,055
2	92,001	to	94,000	1,071
3	94,001	to	96,000	1,099
4	96,001	to	98,000	1,113
5	98,001	to	100,000	1,127
6	100,001	to	102,000	1,157
7	102,001	to	104,000	1,172
8	104,001	to	105,500	1,200

(C) The owner of a vehicle described in subparagraph (A) or (B) of this paragraph must certify at the time of initial registration, in a manner determined by the department by rule, that the motor vehicle will be used exclusively to transport manufactured structures or exclusively as described in ORS 822.210, unless the motor vehicle is registered under paragraph (a) of this subsection, or as described in ORS 825.015 or 825.017 (13). Registration of a vehicle described in subparagraph (A) or (B) of this paragraph is invalid if the vehicle is operated in any manner other than that described in the certification under this subparagraph.

(c) Subject to paragraph (d) of this subsection, the registration fee for motor vehicles registered as farm vehicles under ORS 805.300 is as provided in the following chart, based upon the registration weight given in the declaration of weight submitted under ORS 803.435:

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24	Weigh	nt in	Pounds	Fee
25	8,000	or	less	\$ 50
26	8,001	to	10,000	65
27	10,001	to	12,000	75
28	12,001	to	14,000	97
29	14,001	to	16,000	108
30	16,001	to	18,000	129
31	18,001	to	20,000	141

1	20,001	to	22,000	162
2	22,001	to	24,000	172
3	24,001	to	26,000	195
4	26,001	to	28,000	204
5	28,001	to	30,000	226
6	30,001	to	32,000	237
7	32,001	to	34,000	258
8	34,001	to	36,000	270
9	36,001	to	38,000	291
10	38,001	to	40,000	302
11	40,001	to	42,000	324
12	42,001	to	44,000	334
13	44,001	to	46,000	356
14	46,001	to	48,000	366
15	48,001	to	50,000	388
16	50,001	to	52,000	399
17	52,001	to	54,000	409
18	54,001	to	56,000	432
19	56,001	to	58,000	453
20	58,001	to	60,000	463
21	60,001	to	62,000	474
22	62,001	to	64,000	496
23	64,001	to	66,000	517
24	66,001	to	68,000	528
25	68,001	to	70,000	540
26	70,001	to	72,000	561
27	72,001	to	74,000	571
28	74,001	to	76,000	594
29	76,001	to	78,000	604
30	78,001	to	80,000	625
31	80,001	to	82,000	636

1	82,001	to	84,000	657	
2	84,001	to	86,000	669	
3	86,001	to	88,000	690	
4	88,001	to	90,000	700	
5	90,001	to	92,000	723	
6	92,001	to	94,000	733	
7	94,001	to	96,000	754	
8	96,001	to	98,000	765	
9	98,001	to	100,000	787	
10	100,001	to	102,000	798	
11	102,001	to	104,000	819	
12	104,001	to	105,500	831	
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(d) For any vehicle that is registered under a quarterly registration period, the registration fee is a minimum of \$15 for each quarter registered plus an additional fee of \$2.

(15) The registration and renewal fees for vehicles specified in this subsection that are required to establish a registration weight under ORS 803.430 or 826.013 are as follows:

- (a) State-owned vehicles registered under ORS 805.045, \$10.
- 21 (b) Undercover vehicles registered under ORS 805.060, \$10.
- 22 **SECTION 19.** ORS 803.090 is amended to read:

803.090. (1) Except as provided in subsection (2) of this section, the fee to issue a certificate of title under ORS 803.045 or 803.140, to transfer title under ORS 803.092, to issue a duplicate or replacement certificate of title under ORS 803.065 or to issue a new title due to name or address change under ORS 803.220 is as follows:

28 (a) For a salvage title, \$27.

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(b) For a vehicle title for trailers eligible for permanent registration under ORS 803.415 (1) and motor vehicles with a gross vehicle weight rating over 26,000 pounds, excluding motor homes, \$90.

- 1 (c) For a vehicle title for vehicles other than those vehicles described in paragraph (b) of this subsection, [\$77] **\$216**.
- 3 (2) If an application for a duplicate or replacement certificate of title is 4 filed at the same time as an application for a transfer of title for the same 5 vehicle, the applicant is required to pay only the transfer of title fee.
- 6 (3) The fee for late presentation of certificate of title under ORS 803.105 7 is \$25 from the 31st day after the transfer through the 60th day after the 8 transfer and \$50 thereafter.
- 9 (4) The fees for title transactions involving a form of title other than a 10 certificate shall be the amounts established by the Department of Transpor-11 tation by rule under ORS 803.012.
- 12 <u>SECTION 20.</u> (1) Notwithstanding ORS 366.739, the following 13 amounts shall be distributed in the manner prescribed in this section:
- 14 (a) The amount attributable to the increase in tax rates by the 15 amendments to ORS 319.020 and 319.530 by sections 16 and 17 of this 16 2025 special session Act.
- 17 (b) The amount attributable to the increase in taxes and fees by the 18 amendments to ORS 803.090, 803.420 and 803.422 by sections 18, 19 and 19 46 of this 2025 special session Act.
- 20 (2) Each year, the moneys described in subsection (1) of this section 21 shall be allocated as follows:
- 22 (a) 50 percent to the Department of Transportation.
- 23 (b) 30 percent to counties as follows:
- 24 (A) 1.37 percent of the 30 percent for distribution to small counties 25 as provided in ORS 366.772 (3); and
- 26 (B) The remainder of the amount after the distribution described 27 in subparagraph (A) of this paragraph, to counties as provided in ORS 28 366.762.
- 29 (c) 20 percent to cities for distribution as provided in ORS 366.800.
- 30 **SECTION 21.** ORS 366.772 is amended to read:
- 366.772. (1) Not later than July 31 in each calendar year, the sum of

- 1 \$5,500,000 shall be withdrawn from the appropriation specified in ORS 366.762
- 2 and the sum of \$250,000 shall be withdrawn from moneys available to the
- 3 Department of Transportation from the State Highway Fund. The sums
- 4 withdrawn shall be transferred to a separate account to be administered by
- 5 the Department of Transportation.
- 6 (2) Not later than July 31 in each calendar year, the sum of \$5,750,000
- 7 shall be withdrawn from the separate account described in subsection (1) of
- 8 this section and distributed to counties as follows:
- 9 (a) An amount of \$750,000 shall be distributed to the following counties in the following amounts:
- 11 (A) Harney County...... \$ 271,909
- 12 (B) Malheur County...... \$ 187,947
- 13 (C) Morrow County...... \$ 108,073
- 14 (D) Gilliam County...... \$ 94,036
- 15 (E) Sherman County ...... \$ 79,700
- 16 (F) Wheeler County...... \$ 8,335
- (b) An amount of \$5,000,000 shall be distributed proportionally to counties

with fewer than 200,000 registered vehicles based on a ratio of road miles

- 19 maintained by each county to registered vehicles.
- 20 (3) Not later than July 31 in each calendar year, moneys received
  - under section 20 of this 2025 special session Act shall be distributed
- 22 proportionally to counties with fewer than 200,000 registered vehicles
- 23 based on a ratio of road miles maintained by each county to registered
- 24 vehicles.

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- 25 [(3)] (4) Moneys allocated as provided in this section may be used only
- 26 for maintenance, repair and improvement of existing roads that are:
- 27 (a) Not a part of the state highway system;
- 28 (b) Within counties with fewer than 200,000 registered vehicles; and
- 29 (c) Inadequate for the capacity the roads serve or are in a condition det-
- 30 rimental to safety.
- 31 [(4)] (5) All moneys in the account shall be allotted each year.

## **SECTION 22.** ORS 366.805 is amended to read:

- 2 366.805. (1) Except as provided in subsection (2) of this section, the ap-
- 3 propriation specified in ORS 366.800 shall be allocated to the cities as pro-
- 4 vided in this subsection. The moneys subject to allocation under this
- 5 subsection shall be distributed by the Department of Transportation accord-
- 6 ing to the following:

- 7 (a) The moneys shall be distributed to all the cities.
- 8 (b) Each city shall receive such share of the moneys as its population 9 bears to the total population of the cities.
- 10 (2) Each year, the sum of [\$2,500,000] **\$3,000,000** shall be withdrawn from
- 11 the appropriation specified in ORS 366.800 and [\$2,500,000] **\$3,000,000** shall
- 12 be withdrawn from moneys available to the Department of Transportation
- 13 from the State Highway Fund. The sums withdrawn shall be transferred to
- 14 a separate account to be administered by the Department of Transportation.
- 15 The following apply to the account described in this subsection:
- 16 (a) Money from the account shall be used only on roads:
- 17 (A) That are not a part of the state highway system, with the exception
- of project elements that are required to comply with federal or state law;
- 19 (B) That are within, or under the jurisdiction of, cities with popu-
- 20 lations of 5,000 or fewer persons; and
- (C) That are inadequate for the capacity the roads serve or are in a con-
- 22 dition detrimental to safety.
- 23 (b) To the extent moneys are available to fund whole projects, all moneys
- 24 in the account shall be allocated each year.
- 25 (c) Subject to paragraph (d) of this subsection, the department shall de-
- 26 termine annual allocation after considering applications, including project
- 27 budgets, submitted by the cities to the department.
- 28 (d) The department may enter into agreements with cities upon the advice
- 29 and counsel of the small city advisory committee to determine allocation
- 30 based on those applications.
- 31 (3) The Director of Transportation shall establish a small city advisory

- 1 committee. The small city advisory committee shall review department rec-
- 2 ommendations and approve applications submitted by small cities to the di-
- 3 rector. In consultation with the League of Oregon Cities, the director shall
- 4 appoint to the small city advisory committee one representative of a small
- 5 city in each of the five regions of this state.
- 6 (4) For purposes of this section:
- 7 (a) Region one consists of Clackamas, Hood River, Multnomah and 8 Washington Counties.
- 9 (b) Region two consists of Benton, Clatsop, Columbia, Lane, Lincoln, 10 Linn, Marion, Polk, Tillamook and Yamhill Counties.
- 11 (c) Region three consists of Coos, Curry, Douglas, Jackson and Josephine 12 Counties.
- (d) Region four consists of Crook, Deschutes, Gilliam, Jefferson, Klamath,
   Lake, Sherman, Wasco and Wheeler Counties.
- 15 (e) Region five consists of Baker, Grant, Harney, Malheur, Morrow, 16 Umatilla, Union and Wallowa Counties.
- SECTION 23. The amendments to ORS 319.020, 319.530, 803.090, 803.420 and 803.422 by sections 16 to 19 and 46 of this 2025 special session
  Act apply to taxes and fees imposed on or after the effective date of this 2025 special session Act.

22 TRANSIT

- **SECTION 24.** ORS 320.550 is amended to read:
- 25 320.550. (1) As used in this section:
- 26 (a) "Employer" has the meaning given that term in ORS 316.162.
- (b) "Resident of this state" has the meaning given that term in ORS 316.027.
- 29 (c) "Wages" has the meaning given that term in ORS 316.162.
- 30 (2) A tax is imposed at the rate of [one-tenth] **two-tenths** of one percent of the wages of an employee who is:

- 1 (a) A resident of this state, regardless of where services are performed.
- (b) Not a resident of this state, for services performed in this state. 2
- (3) Every employer at the time of the payment of wages shall deduct and 3 withhold from the total amount of the wages paid for services described under subsection (2) of this section an amount equal to the total amount of 5 wages multiplied by the rate of tax imposed under subsection (2) of this 6 section. 7
- (4) An employer shall report and pay the tax imposed under this section 8 to the Department of Revenue at the time and in the manner determined by 9 the department by rule. 10
  - (5) For purposes of the tax imposed under this section, an employer is considered a taxpayer.

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- (6) If a lender, surety or other person who supplies funds to or for the 13 account of an employer for the purpose of paying wages of the employees of such employer has actual notice or knowledge that such employer does not intend to or will not be able to make timely payment or deposit of the tax required to be deducted and withheld, such lender, surety or other person shall be liable to the State of Oregon in a sum equal to the taxes, together with interest, that are not timely paid over to the Department of Revenue. Such liability shall be limited to the principal amount supplied by the lender, surety or other person, and any amounts so paid to the department shall be credited against the liability of the employer.
- (7)(a) An employer shall submit an annual return pursuant to ORS 316.202 23 to the Department of Revenue. The amounts deducted from the wages during 24 any calendar year in accordance with this section shall be considered to be 25 in payment of the tax imposed under subsection (2) of this section. 26
- (b) The return submitted by the employer shall be accepted by the De-27 partment of Revenue as evidence in favor of the employee of the amounts so 28 deducted from the employee's wages. 29
- (8) Nothing in this section prohibits the Department of Revenue from in-30 cluding the tax imposed under this section in the combined quarterly tax 31

- 1 report required under ORS 316.168.
  - (9) An employer that fails to deduct and withhold the tax required under this section:
  - (a) Is deemed responsible for the payment of the tax obligation in an amount equal to the amount required to be withheld from the employee's wages and remitted to the Department of Revenue; and
  - (b) Is subject to a penalty of \$250 per employee, up to a maximum penalty of \$25,000, if the employer knowingly fails to deduct and withhold the tax.
  - (10) Residents subject to the tax imposed under this section on wages earned outside this state from an employer not doing business within this state shall report and pay the tax in an amount not to exceed [one-tenth] two-tenths of one percent of the wages earned outside this state, and at the time and in the manner, as determined by the Department of Revenue by rule.
  - SECTION 25. The amendments to ORS 320.550 by section 24 of this 2025 special session Act become operative on January 1, 2026.

### ROAD USAGE CHARGE

SECTION 26. Section 27 of this 2025 special session Act is added to and made a part of ORS 319.883 to 319.946.

SECTION 27. The recording, reporting and payment provisions of ORS 319.883 to 319.946 do not apply to a registered owner or lessee voluntarily participating in the per-mile road usage charge program for reporting periods beginning on or after July 1, 2031, until such reporting period, if any, for which the registered owner or lessee is required to participate in the per-mile road usage charge program under ORS 319.883, as amended by sections 30 and 32 of this 2025 special session Act.

SECTION 28. Section 27 of this 2025 special session Act is repealed on January 2, 2037.

- SECTION 29. ORS 319.890 and section 2, chapter 428, Oregon Laws 2 2019, are repealed on July 1, 2031.
- 3 **SECTION 30.** ORS 319.883 is amended to read:
- 4 319.883. As used in ORS 319.883 to 319.946:
- 5 (1) "Electric vehicle" means a motor vehicle that uses electricity 6 as its only source of motive power.
- [(1)] (2) "Fuel taxes" means motor vehicle fuel taxes imposed under ORS 319.010 to 319.430 and taxes imposed on the use of fuel in a motor vehicle under ORS 319.510 to 319.880.
- [(2)] (3) "Highway" has the meaning given that term in ORS 801.305.
- 11 (4)(a) "Hybrid electric vehicle" means a motor vehicle that:
- 12 (A) Is powered by an internal combustion engine in combination 13 with one or more electric motors that use energy stored in batteries; 14 and
- 15 (B) Is not recharged from an external electric power source.
- 16 (b) The Department of Transportation may adopt rules that clarify 17 the definition in paragraph (a) of this subsection to account for 18 changes in the technology or nomenclature of hybrid electric vehicles.
- [(3)] (5) "Lessee" means a person that leases a motor vehicle that is required to be registered in Oregon.
- [(4)(a)] (6)(a) "Motor vehicle" has the meaning given that term in ORS 801.360.
- 23 (b) "Motor vehicle" does not mean a motor vehicle designed to travel with 24 fewer than four wheels in contact with the ground.
- 25 (7) "Motor vehicle rental company" means a person whose primary 26 business is renting motor vehicles to consumers under rental agree-27 ments for terms of 90 days or less.
- 28 (8)(a) "Plug-in hybrid electric vehicle" means a motor vehicle that:
- 29 (A) Is powered by an electric motor that uses batteries as well as 30 motor vehicle fuel, as defined in ORS 319.010, to power an internal 31 combustion engine or other source of propulsion;

- 1 (B) Is equipped with an onboard charger; and
- 2 (C) Is rechargeable from a connection to an external electric power 3 source.
- 4 (b) The Department of Transportation may adopt rules that clarify 5 the definition in paragraph (a) of this subsection to account for 6 changes in the technology or nomenclature of plug-in hybrid electric 7 vehicles.
- 8 [(5)] (9) "Registered owner" means a person, other than a vehicle dealer 9 that holds a certificate issued under ORS 822.020, that is required to register 10 a motor vehicle in Oregon.
- [(6)] (10) "Subject vehicle" means a motor vehicle that is [the subject of an application approved pursuant to ORS 319.890.] or will be classified as a passenger vehicle by the Department of Transportation and that is:
- 14 (a) For reporting periods beginning on or after July 1, 2027, an 15 electric vehicle that is not a new electric vehicle;
- 16 (b) For reporting periods beginning on or after January 1, 2028:
- 17 (A) A motor vehicle described in paragraph (a) of this subsection; 18 or
- 19 (B) A new electric vehicle;
- 20 (c) For reporting periods beginning on or after July 1, 2028:
- 21 (A) A motor vehicle described in paragraph (a) or (b) of this sub-22 section; or
- 23 (B) A hybrid electric vehicle or a plug-in hybrid electric vehicle; or
- 24 (d) For reporting periods beginning before July 1, 2031:
- 25 (A) A motor vehicle described in paragraph (a), (b) or (c) of this 26 subsection; or
- 27 (B) The subject of an application approved pursuant to ORS 319.890.
- [(7)] (11) "Vehicle dealer" means a person engaged in business in this state that is required to obtain a vehicle dealer certificate under ORS 822.005.
- 31 SECTION 31. The amendments to ORS 319.883 by section 30 of this

# 2025 special session Act become operative on July 1, 2027.

- 2 **SECTION 32.** ORS 319.883, as amended by section 30 of this 2025 special
- 3 session Act, is amended to read:
- 4 319.883. As used in ORS 319.883 to 319.946:
- 5 (1) "Electric vehicle" means a motor vehicle that uses electricity as its 6 only source of motive power.
- 7 (2) "Fuel taxes" means motor vehicle fuel taxes imposed under ORS 8 319.010 to 319.430 and taxes imposed on the use of fuel in a motor vehicle
- 9 under ORS 319.510 to 319.880.
- 10 (3) "Highway" has the meaning given that term in ORS 801.305.
- 11 (4)(a) "Hybrid electric vehicle" means a motor vehicle that:
- (A) Is powered by an internal combustion engine in combination with one
- 13 or more electric motors that use energy stored in batteries; and
- (B) Is not recharged from an external electric power source.
- 15 (b) The Department of Transportation may adopt rules that clarify the
- 16 definition in paragraph (a) of this subsection to account for changes in the
- 17 technology or nomenclature of hybrid electric vehicles.
- 18 (5) "Lessee" means a person that leases a motor vehicle that is required
- 19 to be registered in Oregon.
- 20 (6)(a) "Motor vehicle" has the meaning given that term in ORS 801.360.
- (b) "Motor vehicle" does not mean a motor vehicle designed to travel with
- 22 fewer than four wheels in contact with the ground.
- 23 (7) "Motor vehicle rental company" means a person whose primary busi-
- 24 ness is renting motor vehicles to consumers under rental agreements for
- 25 terms of 90 days or less.
- 26 (8)(a) "Plug-in hybrid electric vehicle" means a motor vehicle that:
- 27 (A) Is powered by an electric motor that uses batteries as well as motor
- vehicle fuel, as defined in ORS 319.010, to power an internal combustion en-
- 29 gine or other source of propulsion;
- 30 (B) Is equipped with an onboard charger; and
- 31 (C) Is rechargeable from a connection to an external electric power

- 1 source.
- 2 (b) The Department of Transportation may adopt rules that clarify the
- 3 definition in paragraph (a) of this subsection to account for changes in the
- 4 technology or nomenclature of plug-in hybrid electric vehicles.
- 5 (9) "Registered owner" means a person, other than a vehicle dealer that
- 6 holds a certificate issued under ORS 822.020, that is required to register a
- 7 motor vehicle in Oregon.
- 8 (10) "Subject vehicle" means a motor vehicle that is or will be classified
- 9 as a passenger vehicle by the Department of Transportation and that is:
- 10 (a) [For reporting periods beginning on or after July 1, 2027,] An electric
- 11 vehicle; **or** [that is not a new electric vehicle;]
- 12 [(b) For reporting periods beginning on or after January 1, 2028:
- [(A) A motor vehicle described in paragraph (a) of this subsection; or]
- 14 [(B) A new electric vehicle;]
- [(c) For reporting periods beginning on or after July 1, 2028:]
- 16 [(A) A motor vehicle described in paragraph (a) or (b) of this subsection;
- 17 *or*]
- [(B)] (b) A hybrid electric vehicle or a plug-in hybrid electric vehicle.[;
- 19 *or*]
- 20 [(d) For reporting periods beginning before July 1, 2031:]
- 21 [(A) A motor vehicle described in paragraph (a), (b) or (c) of this sub-
- 22 section; or]
- 23 [(B) The subject of an application approved pursuant to ORS 319.890.]
- 24 (11) "Vehicle dealer" means a person engaged in business in this state
- 25 that is required to obtain a vehicle dealer certificate under ORS 822.005.
- SECTION 33. The amendments to ORS 319.883 by section 32 of this 2025
- 27 special session Act become operative on July 1, 2031.
- SECTION 34. ORS 319.885 is amended to read:
- 29 319.885. (1)(a) Except as provided in paragraph (b) of this subsection, the
- 30 registered owner of a subject vehicle shall pay a per-mile road usage charge
- 31 for metered use by the subject vehicle of the highways in Oregon.

- 1 (b) During the term of a lease, the lessee of a subject vehicle shall pay 2 the per-mile road usage charge for metered use by the subject vehicle of the 3 highways in Oregon.
- 4 (2)(a) The rate of the per-mile road usage charge is five percent of the rate of the per-gallon license tax provided in ORS 319.020 (1)(b) in effect at the time the charge becomes due.
  - (b) Notwithstanding paragraph (a) of this subsection, instead of paying the per-mile rate under paragraph (a) of this subsection, a registered owner or lessee may elect to pay a flat annual fee of \$340.
- 10 (3) A subject vehicle is not subject to the additional amount of 11 registration fees imposed under ORS 803.422.
- SECTION 35. The amendments to ORS 319.885 by section 34 of this 2025 special session Act become operative on July 1, 2027.
- NOTE: Sections 36 and 37 were deleted. Subsequent sections were not renumbered.
- SECTION 38. Section 39 of this 2025 special session Act is added to and made a part of ORS 319.883 to 319.946.
- SECTION 39. An agreement between a motor vehicle rental company and a consumer for the rental of a subject vehicle may not contain a surcharge for the per-mile road usage charge imposed under ORS 319.885 that exceeds a reasonable estimate of the company's costs in paying the charge with respect to the subject vehicle.
- NOTE: Sections 40 and 41 were deleted. Subsequent sections were not renumbered.
- 25 **SECTION 42.** ORS 319.915 is amended to read:
- 26 319.915. (1) As used in this section:

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(a) "Certified service provider" means an entity that has entered into an agreement with the Department of Transportation under ORS 367.806 for reporting metered use by a subject vehicle or for administrative services related to the collection of per-mile road usage charges and authorized employees of the entity.

- (b) "Personally identifiable information" means any information that identifies or describes a person, including, but not limited to, the person's travel pattern data, per-mile road usage charge account number, address, telephone number, electronic mail address, driver license or identification card number, registration plate number, photograph, recorded images, bank account information and credit card number.
- (c) "VIN summary report" means a monthly report by the department or a certified service provider that includes a summary of all vehicle identification numbers of subject vehicles and associated total metered use during the month. The report may not include location information.
  - (2) Except as provided in subsections (3) and (4) of this section, personally identifiable information used for reporting metered use or for administrative services related to the collection of the per-mile road usage charge imposed under ORS 319.885 is confidential within the meaning of ORS 192.355 (9)(a) and is a public record exempt from disclosure under ORS 192.311 to 192.478.
- (3)(a) The department, a certified service provider or a contractor for a certified service provider may not disclose personally identifiable information used or developed for reporting metered use by a subject vehicle or for administrative services related to the collection of per-mile road usage charges to any person except:
- 21 (A) The registered owner or lessee;

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- 22 (B) A financial institution, for the purpose of collecting per-mile road 23 usage charges owed;
- 24 (C) Employees of the department;
- 25 (D) A certified service provider;
- 26 (E) A contractor for a certified service provider, but only to the extent 27 the contractor provides services directly related to the certified service 28 provider's agreement with the department;
- (F) An entity expressly approved to receive the information by the registered owner or lessee of the subject vehicle; or
- 31 (G) A police officer pursuant to a valid court order based on probable

- 1 cause and issued at the request of a federal, state or local law enforcement
- 2 agency in an authorized criminal investigation involving a person to whom
- 3 the requested information pertains.
- 4 (b) Disclosure under paragraph (a) of this subsection is limited to per-
- 5 sonally identifiable information necessary to the respective recipient's func-
- 6 tion under ORS 319.883 to 319.946.
- 7 (4)(a) Not later than 30 days after completion of payment processing,
- 8 dispute resolution for a single reporting period or a noncompliance investi-
- 9 gation, whichever is latest, the department and certified service providers
- 10 shall destroy records of the location and daily metered use of subject vehi-
- 11 cles.
- 12 (b) Notwithstanding paragraph (a) of this subsection:
- 13 (A) For purposes of traffic management and research, the department and
- 14 certified service providers may retain, aggregate and use information in the
- 15 records after removing personally identifiable information.
- 16 (B) A certified service provider may retain the records if the registered
- 17 owner or lessee consents to the retention. Consent under this subparagraph
- does not entitle the department to obtain or use the records or the informa-
- 19 tion contained in the records.
- 20 (C) Monthly summaries of metered use by subject vehicles may be re-
- 21 tained in VIN summary reports by the department and certified service pro-
- 22 viders.
- 23 [(5) The department, in any agreement with a certified service provider,
- 24 shall provide for penalties if the certified service provider violates this
- 25 section.
- 26 (5) In any agreement with a certified service provider, the depart-
- 27 ment:
- 28 (a) May not agree to the certified service provider retaining for
- 29 administrative costs more than 10 percent of any per-mile road usage
- 30 charges the certified service provider collects under the agreement;
- 31 **and**

- 1 (b) Shall provide for penalties if the certified service provider vio-
- 2 lates this section.
- NOTE: Sections 43 to 45 were deleted. Subsequent sections were not re-
- 4 numbered.
- 5 **SECTION 46.** ORS 803.422 is amended to read:
- 6 803.422. (1) As used in this section[,]:
- 7 (a) "Electric vehicle" means a motor vehicle that uses electricity 8 as its only source of motive power.
- 9 **(b)** "Miles per gallon" or "MPG" means the distance traveled in a vehicle powered by one gallon of fuel.
- 11 (2) The Department of Transportation shall determine the combined MPG 12 ratings for each motor vehicle pursuant to a method determined by the de-13 partment.
- 14 (3) Except as provided in ORS **319.885 and** 319.890 (3), in addition to the 15 registration fees prescribed under ORS 803.420 (6)(a), there shall be paid for 16 each year of the registration period, an additional amount as follows:
- 17 (a) For vehicles that have a **combined** rating of 0-19 MPG, \$20.
- 18 (b) For vehicles that have a **combined** rating of 20-39 MPG, \$25.
- 19 (c) For vehicles that have a **combined** rating of 40 MPG or greater, 20 [\$35] **\$65**.
- 21 (d) For electric vehicles, [\$115] **\$145**.
- 22 **SECTION 47.** ORS 803.422, as amended by section 46 of this 2025 special session Act, is amended to read:
- 24 803.422. (1) As used in this section[:],
- [(a) "Electric vehicle" means a motor vehicle that uses electricity as its only source of motive power.]
- [(b)] "miles per gallon" or "MPG" means the distance traveled in a vehicle powered by one gallon of fuel.
- 29 (2) The Department of Transportation shall determine the combined MPG 30 ratings for each motor vehicle pursuant to a method determined by the de-31 partment.

- 1 (3) Except as provided in ORS 319.885 [and 319.890 (3)], in addition to the registration fees prescribed under ORS 803.420 (6)(a), there shall be paid for each year of the registration period, an additional amount as follows:
- 4 (a) For vehicles that have a combined rating of 0-19 MPG, \$20.
- 5 (b) For vehicles that have a combined rating of 20-39 MPG, \$25.
- 6 (c) For vehicles that have a combined rating of 40 MPG or greater, \$65.
- 7 [(d) For electric vehicles, \$145.]

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- 8 SECTION 48. The amendments to ORS 803.422 by section 47 of this 9 2025 special session Act become operative on July 1, 2031.
- SECTION 49. ORS 803.445 is amended to read:
- 803.445. (1) The governing body of a county may impose registration fees for vehicles as provided in ORS 801.041.
- 13 (2) The governing body of a district may impose registration fees for ve-14 hicles as provided in ORS 801.042.
- 15 (3) The Department of Transportation shall provide by rule for the ad-16 ministration of laws authorizing county and district registration fees and for 17 the collection of those fees.
- 18 (4) Any registration fee imposed under this section shall be imposed in a 19 manner consistent with ORS 803.420.
- (5) A county or district may not impose a vehicle registration fee that 20 would by itself, or in combination with any other vehicle registration fee 21 imposed under this section, exceed the sum of the fee imposed under ORS 22 803.420 (6)(a) and the fee applicable to the registered vehicle under ORS 23 803.422. The owner of any vehicle subject to multiple fees under this section 24 shall be allowed a credit or credits with respect to one or more of such fees 25 so that the total of such fees does not exceed the sum of the fee imposed 26 under ORS 803.420 (6)(a) and the fee applicable to the registered vehicle un-27 der ORS 803.422. 28
  - (6) A subject vehicle exempt under ORS 319.885 from the fees imposed under ORS 803.422 shall remain liable for any amount of vehicle registration fee imposed by a county or a district under this section

- 1 that would be required if the exemption did not exist. As used in this
- 2 subsection, "subject vehicle" has the meaning given that term in ORS
- 3 **319.883.**
- 4 **SECTION 50.** ORS 801.041 is amended to read:
- 801.041. The following apply to the authority granted to counties by ORS 801.040 to establish registration fees for vehicles:
- 7 (1) An ordinance establishing registration fees under this section must be enacted by the county imposing the registration fee and filed with the 8 Notwithstanding ORS 203.055 or any pro-Department of Transportation. 9 vision of a county charter, the governing body of a county with a population 10 of 350,000 or more may enact an ordinance establishing registration fees. The 11 12 governing body of a county with a population of less than 350,000 may enact an ordinance establishing registration fees after submitting the ordinance to 13 the electors of the county for their approval. The governing body of the 14 county imposing the registration fee shall enter into an intergovernmental 15 agreement under ORS 190.010 with the department by which the department 16 shall collect the registration fees, pay them over to the county and, if nec-17 essary, allow the credit or credits described in ORS 803.445 (5). The inter-18 governmental agreement must state the date on which the department shall 19 begin collecting registration fees for the county. 20
- 21 (2) The authority granted by this section allows the establishment of 22 registration fees in addition to those described in ORS 803.420 and 803.422. 23 There is no authority under this section to affect registration periods, qual-24 ifications, cards, plates, requirements or any other provision relating to ve-25 hicle registration under the vehicle code.
- (3) Except as otherwise provided for in this subsection, when registration fees are imposed under this section, they must be imposed on all vehicle classes. Registration fees as provided under this section may not be imposed on the following:
- 30 (a) Snowmobiles and Class I all-terrain vehicles.
- 31 (b) Fixed load vehicles.

- 1 (c) Vehicles registered under ORS 805.100 to disabled veterans.
- 2 (d) Vehicles registered as antique vehicles under ORS 805.010.
- 3 (e) Vehicles registered as vehicles of special interest under ORS 805.020.
- 4 (f) Government-owned or operated vehicles registered under ORS 805.040 5 or 805.045.
- 6 (g) School buses or school activity vehicles registered under ORS 805.050.
- 7 (h) Law enforcement undercover vehicles registered under ORS 805.060.
- 8 (i) Vehicles registered on a proportional basis for interstate operation.
- 9 (j) Vehicles with a registration weight of 26,001 pounds or more described in ORS 803.420 (14)(a) or (b).
- 11 (k) Vehicles registered as farm vehicles under the provisions of ORS 12 805.300.
- 13 (L) Travel trailers, campers and motor homes.

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- 14 (m) Vehicles registered to an employment address as provided in ORS
  15 802.250 when the eligible public employee or household member's residence
  16 address is not within the county of the employment address. The department
  17 may adopt rules it considers necessary for the administration of this para18 graph.
- 19 (n) Vehicles registered under ORS 805.110 to former prisoners of war.
- 20 (4)(a) Any registration fee imposed by a county must be a fixed amount not to exceed, with respect to any vehicle class, the sum of the registration fee established under ORS 803.420 (6)(a) and the fee applicable to the registered vehicle under ORS 803.422. For vehicles on which a flat fee is imposed under ORS 803.420, the fee must be a whole dollar amount.
  - (b) A subject vehicle exempt under ORS 319.885 from the fees imposed under ORS 803.422 shall remain liable for any amount of vehicle registration fee imposed by a county under this section that would be required if the exemption did not exist. As used in this subsection, "subject vehicle" has the meaning given that term in ORS 319.883.
- 30 (5) Moneys from registration fees established under this section must be 31 paid to the county establishing the registration fees as provided in ORS

1 802.110.

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- 2 (6) Except as provided in ORS 801.044, or unless a different distribution 3 is agreed upon by the county and the cities within the jurisdiction of the 4 county, the county ordinance shall provide for payment of at least 40 percent 5 of the moneys from registration fees established under this section to cities 6 within the county.
  - (7) The moneys for the cities and the county shall be used for any purpose for which moneys from registration fees may be used, including the payment of debt service and costs related to bonds or other obligations issued for such purposes.
- 11 (8) Two or more counties may act jointly to impose a registration fee 12 under this section. The ordinance of each county acting jointly with another 13 under this subsection must provide for the distribution of moneys collected 14 through a joint registration fee.
  - **SECTION 51.** ORS 801.042 is amended to read:
- 801.042. The following apply to the authority granted to a district by ORS 801.040 to establish registration fees for vehicles:
- (1) Before the governing body of a district can impose a registration fee 18 under this section, it must submit the proposal to the electors of the district 19 for their approval and, if the proposal is approved, enter into an intergov-20 ernmental agreement under ORS 190.010 with the governing bodies of all 21 counties, other districts and cities with populations of over 300,000 that 22 overlap the district. The intergovernmental agreement must state the regis-23 tration fees and, if necessary, how the revenue from the fees shall be appor-24 tioned among counties and the districts. Before the governing body of a 25 county can enter into such an intergovernmental agreement, the county shall 26 consult with the cities in its jurisdiction. 27
- (2) If a district raises revenues from a registration fee for purposes related to highways, roads, streets and roadside rest areas, the governing body of that district shall establish a Regional Arterial Fund and shall deposit in the Regional Arterial Fund all such registration fees.

- (3) Interest received on moneys credited to the Regional Arterial Fund shall accrue to and become a part of the Regional Arterial Fund.
- (4) The Regional Arterial Fund must be administered by the governing body of the district referred to in subsection (2) of this section and such governing body by ordinance may disburse moneys in the Regional Arterial Fund. Moneys within the Regional Arterial Fund may be disbursed only for a program of projects recommended by a joint policy advisory committee on transportation consisting of local officials and state agency representatives designated by the district referred to in subsection (2) of this section. The projects for which the joint policy advisory committee on transportation can recommend funding must concern arterials, collectors or other improvements designated by the joint policy advisory committee on transportation.
- (5) Ordinances establishing registration fees under this section must be filed with the Department of Transportation. The governing body of the district imposing the registration fee shall enter into an intergovernmental agreement under ORS 190.010 with the department by which the department shall collect the registration fees, pay them over to the district and, if necessary, allow the credit or credits described in ORS 803.445 (5). The intergovernmental agreement must state the date on which the department shall begin collecting registration fees for the district.
- 21 (6) The authority granted by this section allows the establishment of 22 registration fees in addition to those described in ORS 803.420 and 803.422. 23 There is no authority under this section to affect registration periods, qual-24 ifications, cards, plates, requirements or any other provision relating to ve-25 hicle registration under the vehicle code.
- (7) Except as otherwise provided for in this subsection, when registration fees are imposed under this section, the fees must be imposed on all vehicle classes. Registration fees as provided under this section may not be imposed on the following:
  - (a) Snowmobiles and Class I all-terrain vehicles.
- 31 (b) Fixed load vehicles.

- 1 (c) Vehicles registered under ORS 805.100 to disabled veterans.
- 2 (d) Vehicles registered as antique vehicles under ORS 805.010.
- 3 (e) Vehicles registered as vehicles of special interest under ORS 805.020.
- 4 (f) Government-owned or operated vehicles registered under ORS 805.040 5 or 805.045.
- 6 (g) School buses or school activity vehicles registered under ORS 805.050.
- 7 (h) Law enforcement undercover vehicles registered under ORS 805.060.
- 8 (i) Vehicles registered on a proportional basis for interstate operation.
- 9 (j) Vehicles with a registration weight of 26,001 pounds or more described in ORS 803.420 (14)(a) or (b).
- 11 (k) Vehicles registered as farm vehicles under the provisions of ORS 12 805.300.
- 13 (L) Travel trailers, campers and motor homes.

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- 14 (m) Vehicles registered to an employment address as provided in ORS
  15 802.250 when the eligible public employee or household member's residence
  16 address is not within the county of the employment address. The department
  17 may adopt rules it considers necessary for the administration of this para18 graph.
- (n) Vehicles registered under ORS 805.110 to former prisoners of war.
- 20 (8) Any registration fee imposed by the governing body of a district must 21 be a fixed amount not to exceed, with respect to any vehicle class, the reg-22 istration fee established under ORS 803.420 (6)(a) and the fee applicable to 23 the registered vehicle under ORS 803.422. For vehicles on which a flat fee 24 is imposed under ORS 803.420, the fee must be a whole dollar amount.
  - (9) A subject vehicle exempt under ORS 319.885 from the fees imposed under ORS 803.422 shall remain liable for any amount of vehicle registration fee imposed by a district under this section that would be required if the exemption did not exist. As used in this subsection, "subject vehicle" has the meaning given that term in ORS 319.883.
- SECTION 52. Section 6, chapter 491, Oregon Laws 2019, is amended to read:

- Sec. 6. (1) Notwithstanding ORS 803.445 (5), a metropolitan service district established under ORS chapter 268 may impose a vehicle registration fee that does not exceed the sum of the fee imposed under ORS 803.420 (6)(a) and the fee applicable to the registered vehicle under ORS 803.422, if the vehicle registration fee is approved by the electors of the district before December 31, 2022.
  - (2) A subject vehicle exempt under ORS 319.885 from the fees imposed under ORS 803.422 shall remain liable for any amount of vehicle registration fee imposed by a district under this section that would be required if the exemption did not exist. As used in this section, "subject vehicle" has the meaning given that term in ORS 319.883.
  - SECTION 53. (1) The amendments to ORS 801.041, 801.042 and 803.445 and section 6, chapter 491, Oregon Laws 2019, by sections 49 to 52 of this 2025 special session Act become operative on July 1, 2027.
  - (2) The amendments to ORS 319.915 by section 42 of this 2025 special session Act become operative on July 1, 2030.

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### REPEAL OF TOLL PROGRAM

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- SECTION 54. ORS 383.150 is repealed.
- 21 **SECTION 55.** ORS 367.095 is amended to read:
- 22 367.095. (1) The following amounts shall be distributed in the manner 23 prescribed in this section:
- (a) The amount attributable to the increase in tax rates by section 45, chapter 750, Oregon Laws 2017, and the amendments to ORS 319.020 and 319.530 by sections 40 to 43, chapter 750, Oregon Laws 2017.
- 27 (b) The amount attributable to the vehicle registration and title fees im-28 posed under ORS 803.091 and 803.422.
- 29 (c) The amount attributable to the increase in taxes and fees by the 30 amendments to ORS 803.420, 803.645, 818.225, 825.476, 825.480 and 826.023 by 31 sections 34, 35, 48, 49, 51, 52, 63, 64, 66, 67 and 70, chapter 750, Oregon Laws

- 1 2017.
- 2 (2) The amounts described in subsection (1) of this section shall be dis-
- 3 tributed in the following order and for the following purposes:
- 4 (a)(A) \$30 million per year shall be used to pay for:
- 5 (i) The Interstate 5 Rose Quarter Project;
- 6 (ii) The Interstate 205 Improvements: Stafford Road to Oregon Route 213
- 7 Project; and
- 8 (iii) The Interstate 5 Boone Bridge and Seismic Improvement Project[;
- 9 *and*]
- 10 [(iv) The implementation of the toll program established under ORS
- 11 *383.150*].
- 12 (B) The amount described in subparagraph (A) of this paragraph shall be
- 13 used to pay for costs, including project costs on a current basis and paying
- 14 for debt service on bonds issued to finance the projects [or toll program], only
- until the later of the date on which the projects [or toll program] is com-
- 16 pleted or on which all bonds issued to fund the projects [or toll program]
- 17 have been repaid. Any remaining moneys shall be distributed as described in
- 18 subsection (3) of this section.
- (b) \$15 million per year shall be deposited into the Safe Routes to Schools
- 20 Fund for the purpose of providing Safe Routes to Schools matching grants
- 21 under ORS 184.742. The remainder of the moneys shall be distributed as de-
- 22 scribed in subsection (3) of this section.
- 23 (3) The moneys described in subsection (1) of this section that remain af-
- 24 ter the allocation of moneys described in subsection (2) of this section shall
- 25 be allocated as follows:
- 26 (a) 50 percent to the Department of Transportation.
- (b) 30 percent to counties for distribution as provided in ORS 366.762.
- 28 (c) 20 percent to cities for distribution as provided in ORS 366.800.
- 29 (4) The moneys described in subsection (3)(a) of this section or equivalent
- 30 amounts that become available to the Department of Transportation shall
- 31 be allocated as follows:

- 1 (a) \$10 million for safety.
- 2 (b) Of the remaining balance:
- 3 (A) Forty percent for bridges.
- 4 (B) Thirty percent for seismic improvements related to highways and 5 bridges.
- 6 (C) Twenty-four percent for state highway pavement preservation and 7 culverts.
- 8 (D) Six percent for state highway maintenance and safety improvements.
- 9 **SECTION 56.** ORS 184.659 is amended to read:
- 184.659. (1) As used in this section, "transportation project" means a 11 project:
- 12 (a) That is a highway modernization transportation project or capacity
- 13 building transportation project proposed for construction in the Statewide
- 14 Transportation Improvement Program; and
- 15 (b) That is estimated to cost at least \$15 million.
- 16 (2) As a part of the project scoping phase, the Department of Transpor-
- 17 tation shall prepare a written analysis of the costs and benefits of a trans-
- 18 portation project. The analysis must state:
- 19 (a) The scope of the project;
- 20 (b) The period of analysis;
- 21 (c) The discount rate used in the analysis;
- 22 (d) The estimated costs to the department to undertake the project, in-
- 23 cluding any costs for design, purchasing highway right-of-way and con-
- 24 struction;
- 25 (e) The future costs to the department to preserve and maintain the
- 26 project, discounted to present value;
- 27 (f) Any other costs to the department;
- 28 (g) The costs to highway users that are associated with the project, in-
- 29 cluding loss of safety, delays in the time of travel and additional expenses
- 30 for operating vehicles;
- 31 (h) The costs of any environmental impacts, including vehicle emissions

- 1 and noise; and
- 2 (i) The value of the benefits of the project, including the value of any:
- 3 (A) Savings in the time of travel;
- 4 (B) Improvements to safety;
- 5 (C) Savings in the cost of operating vehicles; and
- 6 (D) Other social, economic or environmental benefits of the project.
- 7 (3) The analysis required by this section:
- 8 (a) Must include a discussion of increases in costs that would result from
- 9 delays in the performance of routine maintenance scheduled by the depart-
- 10 ment;
- 11 (b) May include a discussion of:
- 12 (A) The costs of the project for any other persons and governmental
- 13 agencies; and
- 14 (B) Any costs or benefits which may result from the use of alternative
- 15 design, construction or financing practices; and
- 16 (c) Must be prepared in a format that allows for the comparison of pro-
- 17 posed transportation projects.
- 18 (4) The analysis required by this section must be made available to the
- 19 commission and the public when the agenda is posted for the meeting at
- 20 which the proposal will be submitted to the commission for its approval.
- 21 (5) This section does not apply to transportation projects listed in ORS
- 22 367.095 [or 383.150] or section 71d or 71f, chapter 750, Oregon Laws 2017.
- 23 **SECTION 57.** ORS 383.009 is amended to read:
- 383.009. (1) There is hereby established the Toll Program Fund as a sep-
- 25 arate and distinct fund from the State Highway Fund. The Toll Program
- 26 Fund shall consist of:
- 27 (a) All moneys and revenues received by the Department of Transporta-
- 28 tion from or made available by the federal government to the department for
- 29 any tollway project or for the operation or maintenance of any tollway;
- 30 (b) Any moneys received by the department from any other unit of gov-
- 31 ernment or any private entity for a tollway project or from the operation or

- 1 maintenance of any tollway;
- 2 (c) All moneys and revenues received by the department from any agree-
- 3 ment entered into or loan made by the department for a tollway project
- 4 pursuant to ORS 383.005, and from any lease, agreement, franchise or license
- 5 for the right to the possession and use, operation or management of a tollway
- 6 project;
- 7 (d) All tolls and other revenues received by the department or tollway
- 8 operator from the users of any tollway project;
- 9 (e) The proceeds of any bonds authorized to be issued for tollway projects;
- 10 (f) Any moneys that the department has legally transferred from the State
- 11 Highway Fund to the Toll Program Fund for tollway projects;
- 12 (g) All moneys and revenues received by the department from all other
- 13 sources that by gift, bequest, donation, grant, contract or law from any
- 14 public or private source are for deposit in the Toll Program Fund;
- 15 (h) All interest earnings on investments made from any of the moneys
- 16 held in the Toll Program Fund;
- 17 (i) All civil penalties and administrative fees paid to the department from
- 18 the enforcement of tolls;
- 19 (j) Fees paid to the department for information provided under ORS
- 20 383.075;
- 21 (k) Moneys appropriated for deposit in or otherwise transferred to the
- 22 Toll Program Fund by the Legislative Assembly; and
- 23 (L) Moneys received from federal sources or other state or local sources,
- 24 excluding proceeds of Highway User Tax Bonds issued under ORS 367.615
- 25 that finance projects other than toll projects.
- 26 (2) Moneys in the Toll Program Fund may be used by the department for
- 27 the following purposes:
- 28 (a) To finance preliminary studies and reports for any tollway project;
- 29 (b) To acquire land to be owned by the state for tollways and any related
- 30 facilities therefor;
- 31 (c) To finance the construction, renovation, operation, improvement,

- 1 maintenance or repair of any tollway project;
- 2 (d) To make grants or loans to a unit of government for tollway projects;
- 3 (e) To make loans to private entities for tollway projects;
- 4 (f) To pay the principal, interest and premium due with respect to, and
- 5 to pay the costs connected with the issuance or ongoing administration of,
- 6 any bonds or other financial obligations authorized to be issued by, or the
- 7 proceeds of which are received by, the department for any tollway project,
- 8 including capitalized interest and any rebates or penalties due to the United
- 9 States in connection with the bonds;
- 10 (g) To provide a guaranty or other security for any bonds or other fi-
- 11 nancial obligations, including but not limited to financial obligations with
- 12 respect to any bond insurance, surety or credit enhancement device issued
- or incurred by the department, a unit of government or a private entity, for
- 14 the purpose of financing a single tollway project or any related group or
- 15 system of tollway projects or related facilities;
- 16 (h) To pay the costs incurred by the department in connection with its
- 17 oversight, operation and administration of the Toll Program Fund, the pro-
- 18 posals and projects submitted under ORS 383.015 and the tollway projects
- 19 financed under ORS 383.005; and
- 20 [(i) To develop, implement and administer the toll program established un-
- 21 der ORS 383.150, including the cost of consultants, advisors, attorneys or other
- 22 professional service providers appointed, retained or approved by the depart-
- 23 ment; and
- (i) To make improvements or fund efforts on the tollway and on ad-
- 25 jacent, connected or parallel highways to the tollway to reduce traffic con-
- 26 gestion as a result of a tollway project, improve safety as a result of a
- 27 tollway project and reduce impacts of diversion as a result of a tollway
- 28 project.
- 29 (3) For purposes of paying or securing bonds or providing a guaranty,
- 30 surety or other security authorized by this section, the department may:
- 31 (a) Irrevocably pledge all or any portion of the amounts that are credited

- 1 to, or are required to be credited to, the Toll Program Fund;
  - (b) Establish subaccounts in the Toll Program Fund, and make covenants regarding the credit to and use of amounts in those subaccounts; and
  - (c) Establish separate trust funds or accounts and make covenants to transfer to those separate trust funds or accounts all or any portion of the amounts that are required to be deposited in the Toll Program Fund.
  - (4) Notwithstanding any other provision of ORS 383.001 to 383.245, the department shall not pledge any funds or amounts at any time held in the Toll Program Fund as security for the obligations of a unit of government or a private entity unless the department has entered into a binding and enforceable agreement that provides the department reasonable assurance that the department will be repaid, with appropriate interest, any amounts that the department is required to advance pursuant to that pledge.
  - (5) Moneys in the Toll Program Fund are continuously appropriated to the department for purposes authorized by this section.
  - (6) Notwithstanding subsection (1) of this section, a city, county, district, port or other public corporation organized and existing under statutory law or under a voter-approved charter is not required to deposit into the Toll Program Fund tolls, or other revenues are received from the users of any tollway, that are assessed by a city, county, district, port or other public corporation organized and existing under statutory law or under a voter-approved charter.
  - (7) Moneys in the Toll Program Fund that are transferred from the State Highway Fund or are derived from any revenues under Article IX, section 3a, of the Oregon Constitution, may be used only for purposes permitted by Article IX, section 3a, of the Oregon Constitution.

### ROADSIDE REST AREAS

**SECTION 58.** ORS 377.841 is amended to read:

377.841. (1) For the purposes of this section, "roadside rest areas" includes

### LC 2 8/19/25

- 1 the following roadside rest areas in this state:
- 2 (a) Suncrest, Interstate 5, near milepost 22.
- 3 (b) Manzanita, Interstate 5, near milepost 63.
- 4 (c) Cabin Creek, Interstate 5, near milepost 143.
- 5 (d) Gettings Creek, Interstate 5, near milepost 178.
- 6 (e) Oak Grove, Interstate 5, near milepost 206.
- 7 (f) Santiam River, Interstate 5, near milepost 241.
- 8 (g) French Prairie, Interstate 5, near milepost 282.
- 9 (h) Memaloose, Interstate 84, near milepost 73.
- (i) Boardman, Interstate 84, near milepost 161.
- 11 (j) Stanfield, Interstate 84, near milepost 187.
- 12 (k) Deadman Pass, Interstate 84, near milepost 229.
- 13 (L) Charles Reynolds, Interstate 84, near milepost 269.
- (m) Baker Valley, Interstate 84, near milepost 295.
- (n) Weatherby, Interstate 84, near milepost 336.
- 16 (o) Ontario, Interstate 84, near milepost 377.
- 17 (p) The Maples, State Highway 22, near milepost 35.
- 18 (q) Tillamook River, U.S. Highway 101, near milepost 71.
- 19 (r) Sunset, U.S. Highway 26, near milepost 29.
- 20 (s) Cow Canyon, U.S. Highway 97, near milepost 69.
- 21 (t) Beaver Marsh, U.S. Highway 97, near milepost 207.
- 22 (u) Midland, U.S. Highway 97, near milepost 282.
- 23 (v) Government Camp, U.S. Highway 26, near milepost 54.
- (w) Van Duzer Corridor State Park, State Highway 18, near milepost 10.
- 25 (x) Ellmaker Wayside State Park, U.S. Highway 20, near milepost 32.
- (y) Peter Skene Ogden State Park, U.S. Highway 97, near milepost 113.
- 27 (2) The Travel Information Council shall manage, maintain, improve and
- 28 develop for local economic development and other purposes identified in ORS
- 29 377.705 the roadside rest areas listed in subsection (1) of this section.
- 30 (3) The Department of Transportation and the State Parks and Recreation
- 31 Department shall:

- 1 (a) Maintain ownership of the roadside rest areas, except for the Gov2 ernment Camp roadside rest area listed in subsection (1)(v) of this section,
  3 that the council manages, maintains, improves and develops pursuant to
  4 subsection (2) of this section; and
  - (b) Enter into intergovernmental agreements with the council under which the council has the authority to manage, maintain, improve and develop those roadside rest areas owned by the departments.
  - (4) Under the intergovernmental agreements entered into under subsection (3) of this section, the council shall conduct public contracting activities in accordance with the provisions of ORS 377.836.
  - (5) For the purpose of funding the management, maintenance, improvement and development of roadside rest areas under this section, the Department of Transportation shall allocate to the council, no later than July 1 of each year, [\$9.16] \$12.16 million, from the State Highway Fund.
  - (6) For the purpose of funding the activities described in ORS 377.880, the department shall allocate to the council, no later than January 2 of each year, an amount necessary to carry out the provisions of ORS 377.880, from the Department of Transportation Human Trafficking Awareness Fund established under ORS 377.885.
  - (7) The council may not use any moneys originating from a local transient lodging tax or a state transient lodging tax, as those terms are defined in ORS 320.300, for the purpose of funding the management, maintenance, improvement and development of roadside rest areas under this section.

### DIESEL FUEL TAX ADMINISTRATION

- **SECTION 59.** ORS 319.010 is amended to read:
- 319.010. As used in ORS 319.010 to 319.430, unless the context requires otherwise:
- 30 (1) "Aircraft" means every contrivance now known, or hereafter invented, 31 used or designed for navigation of or flight in the air, operated or propelled

- by the use of aircraft fuel.
- 2 (2) "Aircraft fuel" means any gasoline and any other inflammable or 3 combustible gas or liquid by whatever name [such gasoline, gas or liquid] it
- 4 is known or sold, that is usable as fuel for the operation of aircraft, except
- 5 gas or liquid, the chief use of which, as determined by the Department of
- 6 Transportation is for purposes other than the propulsion of aircraft.
- 7 (3) "Airport" means any area of land or water, except a restricted landing 8 area, which is designed for the landing and takeoff of aircraft.
- 9 (4) "Broker" means [and includes] every person, other than a dealer, en-10 gaged in business as a broker, jobber or wholesale merchant dealing in motor 11 vehicle fuel or aircraft fuel.
- 12 (5) "Bulk transfer" means any change in ownership of motor vehicle fuel 13 or aircraft fuel contained in a terminal storage facility or any physical 14 movement of motor vehicle fuel or aircraft fuel between terminal storage 15 facilities by pipeline or marine transport.
- 16 (6) "Dealer" means any person who:

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- (a) Imports or causes to be imported motor vehicle fuels or aircraft fuels for sale, use or distribution in, and after the same reaches the State of Oregon, but "dealer" does not include any person who imports into this state motor vehicle fuel in quantities of 500 gallons or less purchased from a supplier who is licensed as a dealer under ORS 319.010 to 319.430 and who assumes liability for the payment of the applicable license tax to this state;
  - (b) Produces, refines, manufactures or compounds motor vehicle fuels or aircraft fuels in the State of Oregon for use, distribution or sale in this state;
- (c) Acquires in this state for sale, use or distribution in this state motor vehicle fuels or aircraft fuels with respect to which there has been no license tax previously incurred; or
- 28 (d) Acquires title to or possession of motor vehicle fuels or aircraft fuels 29 in this state and exports the product out of this state.
- 30 (7) "Department" means the Department of Transportation.
  - (8) "Diesel" or "diesel fuel" includes biodiesel and renewable diesel

## fuel and other diesel fuel blends.

- [(8)] (9) "Distribution" means, in addition to its ordinary meaning, the delivery of motor vehicle fuel or aircraft fuel by a dealer to any service station or into any tank, storage facility or series of tanks or storage facilities connected by pipelines, from which motor vehicle fuel or aircraft fuel is withdrawn directly for sale or for delivery into the fuel tanks of motor vehicles whether or not the service station, tank or storage facility is owned, operated or controlled by the dealer.
- [(9)] (10) "First sale, use or distribution of motor vehicle fuel or aircraft 9 fuel" means the first withdrawal, other than by bulk transfer, of motor ve-10 hicle fuel or aircraft fuel from terminal storage facilities for sale, use or 11 12 distribution. "First sale, use or distribution of motor vehicle fuel or aircraft fuel" also means the first sale, use or distribution of motor vehicle fuel or 13 aircraft fuel after import into this state if the motor vehicle fuel or aircraft 14 fuel is delivered other than to the terminal storage facilities of a licensed 15 dealer. 16
- [(10)] (11) "Highway" means every way, thoroughfare and place, of whatever nature, open for use of the public for the purpose of vehicular travel.
- 19 [(11)] (12) "Motor vehicle" means all vehicles, engines or machines, mov-20 able or immovable, operated or propelled by the use of motor vehicle fuel.
- [(12)] (13)(a) "Motor vehicle fuel" means [and includes] gasoline, diesel and any other inflammable or combustible gas or liquid, by whatever name [such gasoline, gas or liquid] it is known or sold, that is usable as fuel for the operation of motor vehicles, except gas or liquid[,] the chief use of which, as determined by the department, is for purposes other than the propulsion of motor vehicles upon the highways of this state.
- 27 (b) "Motor vehicle fuel" does not include dyed diesel as defined in 28 ORS 319.520.
- [(13)] (14) "Person" includes every natural person, association, firm, partnership, corporation or the United States.
- 31 [(14)] (15) "Restricted landing area" means any area of land or water, or

- 1 both, which is used or made available for the landing and takeoff of aircraft,
- 2 the use of which, except in case of emergency, is provided from time to time
- 3 by the department.
- 4 [(15)] (16) "Service station" means [and includes] any place operated for
- 5 the purpose of retailing and delivering motor vehicle fuel into the fuel tanks
- 6 of motor vehicles or aircraft fuel into the fuel tanks of aircraft.
- 7 [(16)] (17) "Terminal storage facility" means any fuel storage facility that
- 8 has marine or pipeline access.
- 9 **SECTION 60.** ORS 295.103 is amended to read:
- 295.103. (1) This section applies to the following moneys:
- 11 (a) Motor **vehicle** fuel taxes, penalties and interest that are:
- 12 (A) Imposed on motor carriers; and
- 13 (B) Payable through a clearinghouse operated under an international fuel
- 14 tax agreement entered into under ORS 825.555; and
- (b) Registration fees and other fixed fees and taxes that are:
- (A) Imposed on motor carriers for motor vehicles proportionally registered
- 17 in this state and other jurisdictions;
- 18 (B) Apportioned to this state; and
- 19 (C) Payable through a clearinghouse operated under an agreement for
- 20 proportional registration entered into under ORS 826.007.
- 21 (2) Moneys described in subsection (1) of this section are not public funds
- 22 for purposes of ORS 295.001 to 295.108 for the period during which the mon-
- 23 eys are held by a clearinghouse described in subsection (1) of this section
- 24 pending disbursement to, or payment on behalf of, the state.
- 25 **SECTION 61.** ORS 319.390 is amended to read:
- 26 319.390. [Every dealer in motor vehicle fuel shall keep a record in such form
- 27 as may be prescribed by the Department of Transportation of all purchases,
- 28 receipts, sales and distribution of motor fuel. The records shall include copies
- 29 of all invoices or bills of all such sales and shall at all times during the
- 30 business hours of the day be subject to inspection by the department or its
- 31 deputies or other officers duly authorized by the department. Upon request

- 1 from the officials to whom is entrusted the enforcement of the motor fuel tax
- 2 law of another state, territory, country or the federal government, the depart-
- 3 ment shall forward to such officials any information which it may have rela-
- 4 tive to the import or export of any motor vehicle fuel by any dealer, provided
- 5 such other state, territory, country or federal government furnishes like infor-
- 6 mation to this state.]

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- (1) As used in this section:
- 8 (a) "Department of Transportation" or "department" includes dep-9 uties or other officers or representatives duly authorized by the de-10 partment.
- 11 (b) "Inspection" means any inspection, audit, examination or test 12 reasonably required in the administration of this section.
  - (c) "Premises" means any premises, equipment, rolling stock or facilities operated or occupied by any dealer or broker.
- 15 (d) "Records" means any records of purchases, receipts, sales and 16 distribution of motor vehicle fuel, including copies of invoices or bills 17 of such sales, and related books, papers, statements and reports.
- 18 (2) The Department of Transportation may, at any time during a 19 dealer's or broker's business hours, upon demand, enter upon the 20 premises in order to:
  - (a) Conduct an inspection of records and equipment;
- 22 (b) Set up and use any apparatus or appliance, and occupy neces-23 sary space, for the inspection;
- 24 (c) Verify the completeness, truth and accuracy of any records; and
- 25 (d) Determine whether the dealer or broker has violated any pro-26 vision of ORS 319.010 to 319.430.
- 27 (3) Any dealer or broker that refuses entry to the department for 28 an inspection, or a demand to furnish records necessary for the in-29 spection, is subject to a civil penalty under section 72 of this 2025 30 special session Act.
  - **SECTION 62.** ORS 825.555 is amended to read:

- 825.555. (1) The Department of Transportation may enter into an interna-
- 2 tional fuel tax agreement with jurisdictions outside [of] this state to provide
- 3 for cooperation and assistance among member jurisdictions in the adminis-
- 4 tration and collection of taxes imposed on motor carriers for the consump-
- 5 tion of all fuels used in vehicles operated interstate.
- 6 (2) An agreement under this section may:
- 7 (a) Provide for determining a base state for motor carriers for purposes 8 of the agreement.
- 9 (b) Impose record keeping requirements.
- 10 (c) Specify audit procedures.

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- 11 (d) Provide for exchange of information among jurisdictions.
- 12 (e) Provide criteria for determining which carriers are eligible to receive 13 the benefits of the agreement.
- 14 (f) Define qualified motor vehicles.
- 15 (g) Specify conditions under which bonds are required.
- 16 (h) Specify reporting requirements and periods, including but not limited 17 to specifying penalty and interest rates for late reporting.
- (i) Determine methods for collecting and forwarding of motor **vehicle** fuel taxes, penalties and interest to another jurisdiction.
- (j) Provide that the Department of Transportation may deny any person further benefits under the agreement until all motor **vehicle** fuel taxes have been paid, if the department determines that additional motor **vehicle** fuel taxes are owed by the person.
- (k) Authorize the department to suspend, [or] cancel **or refuse to renew** benefits under the agreement for any person who violates any term or condition of the agreement or any law or rule of this state relating to motor carriers or vehicles.
- 28 (L) Contain such other provisions as will facilitate the agreement.
  - (m) Authorize the department to deny or revoke an international fuel tax agreement license if the department has reasonable grounds to believe, based on information contained in the department files and

- records or based on evidence presented during an administrative hearing, that the department has authority to deny or revoke an international fuel tax agreement license.
- 4 (3) An agreement may not provide for any benefit, exemption or privilege 5 with respect to any fees or taxes levied or assessed against the use of high-6 ways or use or ownership of vehicles except for motor **vehicle** fuel taxes and 7 requirements related to motor **vehicle** fuel taxes.
- 8 (4) The department may adopt any rules the department deems necessary to **enforce**, effectuate and administer the provisions of an agreement entered into under this section. Nothing in the agreement shall affect the right of the department to adopt rules as provided in ORS chapter 823 and this chapter.
- 13 (5) An agreement shall be in writing and shall be filed with the depart-14 ment within 10 days after execution or on the effective date of the agree-15 ment, whichever is later.
- 16 (6)(a) The department shall adopt rules establishing an annual fee to be 17 paid by each motor carrier receiving benefits from an agreement entered into 18 under this section.
- 19 **(b)** In establishing fees, the department shall consider the size of the 20 motor carrier's fleet.
- (c) Fees established under this subsection shall be designed to recover the full direct and indirect costs to the department that result from participation in the agreement[, but the department may not establish a fee under this subsection that exceeds \$650].
- 25 **SECTION 63.** ORS 810.530 is amended to read:
- 810.530. (1) A weighmaster or motor carrier enforcement officer in whose presence an offense described in this subsection is committed may arrest or issue a citation for the offense in the same manner as under ORS 810.410 as if the weighmaster or motor carrier enforcement officer were a police officer.
- 30 This subsection applies to the following offenses:

(a) Violation of maximum weight limits under ORS 818.020.

- 1 (b) Violation of posted weight limits under ORS 818.040.
- 2 (c) Violation of administratively imposed weight or size limits under ORS 3 818.060.
- 4 (d) Violation of maximum size limits under ORS 818.090.
- 5 (e) Exceeding maximum number of vehicles in combination under ORS 6 818.110.
- 7 (f) Violation of posted limits on use of road under ORS 818.130.
- 8 (g) Violation of towing safety requirements under ORS 818.160.
- 9 (h) Operating with sifting or leaking load under ORS 818.300.
- 10 (i) Dragging objects on highway under ORS 818.320.
- 11 (j) Unlawful use of devices without wheels under ORS 815.155.
- 12 (k) Unlawful use of metal objects on tires under ORS 815.160.
- 13 (L) Operation without pneumatic tires under ORS 815.170.
- (m) Operation in violation of vehicle variance permit under ORS 818.340.
- (n) Failure to carry and display permit under ORS 818.350.
- 16 (o) Failure to comply with commercial vehicle enforcement requirements 17 under ORS 818.400.
- (p) Violation of any provision of ORS chapter 825.
- 19 (q) Operation without proper fenders or mudguards under ORS 815.185.
- 20 [(r) Operating a vehicle without driving privileges in violation of ORS
- 21 807.010 if the person is operating a commercial motor vehicle and the person
- 22 does not have commercial driving privileges.]
- 23 [(s) Violation driving while suspended or revoked in violation of ORS
- 24 811.175 if the person is operating a commercial motor vehicle while the person's
- 25 commercial driving privileges are suspended or revoked.]
- 26 (r) Operating a vehicle without driving privileges in violation of
- ORS 807.010 if the person does not have driving privileges and is oper-
- 28 ating:
- 29 (A) A commercial motor vehicle; or
- 30 (B) A commercial vehicle that has:
- (i) A gross vehicle weight rating of 10,001 pounds or more;

- 1 (ii) A gross combination weight rating of 10,001 pounds or more;
- 2 (iii) A gross vehicle weight of 10,001 pounds or more; or
- 3 (iv) A gross combination weight of 10,001 pounds or more.
- 4 (s) Violation driving while suspended or revoked in violation of ORS 811.175 if the person is operating any of the following vehicles while
- 6 the person's driving privileges are suspended or revoked:
- 7 (A) A commercial motor vehicle; or
- 8 (B) A commercial vehicle that has:
- 9 (i) A gross vehicle weight rating of 10,001 pounds or more;
- 10 (ii) A gross combination weight rating of 10,001 pounds or more;
- (iii) A gross vehicle weight of 10,001 pounds or more; or
- 12 (iv) A gross combination weight of 10,001 pounds or more.
- 13 (t) Failure to use vehicle traction tires or chains in violation of ORS
- 14 815.140 if the person is operating a motor vehicle subject to ORS chapter 825
- 15 or 826.
- (u) Failure to carry vehicle traction tires or chains in violation of ORS
- 17 815.142 if the person is operating a motor vehicle subject to ORS chapter 825
- 18 or 826.
- 19 (v) Illegally altering or displaying registration plate in violation of ORS
- 20 803.550.
- 21 (2) A weighmaster or motor carrier enforcement officer in whose presence
- 22 an offense described in this subsection is committed by a person operating
- 23 a [commercial motor] vehicle described in subsection (3) of this section
- 24 may issue a citation for the offense. A weighmaster or motor carrier
- 25 enforcement officer who finds evidence that an offense described in this
- 26 subsection has been committed by a person operating a [commercial motor]
- 27 vehicle described in subsection (3) of this section or by a motor carrier
- 28 for which the person is acting as an agent may issue a citation for the of-
- 29 fense. A weighmaster or motor carrier enforcement officer issuing a citation
- 30 under this subsection has the authority granted a police officer issuing a
- 31 citation under ORS 810.410. A citation issued under this subsection to the

- operator of a [commercial motor] vehicle described in subsection (3) of this
- 2 **section** shall be considered to have been issued to the motor carrier that
- 3 owns the [commercial motor] vehicle described in subsection (3) of this
- 4 **section** if the operator is not the owner. This subsection applies to the fol-
- 5 lowing offenses, all of which are Class A traffic violations under ORS 825.990
- 6 (1):
- 7 (a) Repeatedly violating or avoiding any order or rule of the Department
- 8 of Transportation.
- 9 (b) Repeatedly refusing or repeatedly failing, after being requested to do
- 10 so, to furnish service authorized by certificate.
- 11 (c) Refusing or failing to file the annual report as required by ORS
- 12 825.320.
- 13 (d) Refusing or failing to maintain records required by the department or
- 14 to produce such records for examination as required by the department.
- (e) Failing to appear for a hearing after notice that the carrier's certif-
- 16 icate or permit is under investigation.
- 17 (f) Filing with the department an application that is false with regard to
- 18 the ownership, possession or control of the equipment being used or the op-
- 19 eration being conducted.
- 20 (g) Delinquency in reporting or paying any fee, tax or penalty due to the
- 21 department under ORS chapter 825 or 826.
- 22 (h) Refusing or failing to file a deposit or bond as required under ORS
- 23 825.506.
- 24 (i) Failing to comply with the applicable requirements for attendance at
- a motor carrier education program as required by ORS 825.402.
- 26 (j) Failure to comply with an international fuel tax agreement un-
- 27 der section 66 of this 2025 special session Act.
- 28 (k) Improper use of dyed diesel under section 67 of this 2025 special
- 29 session Act.
- 30 (3) Subsections (2) and (4) of this section apply to the following ve-
- 31 hicles:

- 1 (a) A commercial motor vehicle; or
- 2 (b) A commercial vehicle that has:
- 3 (A) A gross vehicle weight rating of 10,001 pounds or more;
- 4 (B) A gross combination weight rating of 10,001 pounds or more;
- 5 (C) A gross vehicle weight of 10,001 pounds or more; or
- 6 (D) A gross combination weight of 10,001 pounds or more.
- 7 [(3)] (4) A weighmaster or motor carrier enforcement officer who finds
- 8 evidence that a person operating a [commercial motor] vehicle described in
- 9 subsection (3) of this section has committed the offense of failure to pay
- 10 the appropriate registration fee under ORS 803.315 may issue a citation for
- 11 the offense in the same manner as under ORS 810.410 as if the weighmaster
- 12 or motor carrier enforcement officer were a police officer.
- 13 [(4)] (5) The authority of a weighmaster or motor carrier enforcement of-
- 14 ficer to issue citations or arrest under this section is subject to ORS chapter
- 15 153.
- [(5)(a)] (6)(a) A person is a weighmaster for purposes of this section if the
- 17 person is a county weighmaster or a police officer.
- 18 (b) A person is a motor carrier enforcement officer under this section if
- 19 the person is duly authorized as a motor carrier enforcement officer by the
- 20 Department of Transportation.
- 21 [(6)] (7) A weighmaster or motor carrier enforcement officer may accept
- 22 security in the same manner as a police officer under ORS 810.440 and
- 23 810.450 and may take as security for the offenses, in addition to other secu-
- 24 rity permitted under this section, the sum fixed as the presumptive fine for
- 25 the offense.
- 26 [(7)] (8) A weighmaster or motor carrier enforcement officer may arrest
- 27 a person for the offense of failure to appear in a violation proceeding under
- 28 ORS 153.992 if the violation is based upon a citation for any offense de-
- 29 scribed in subsection (1) or [(3)] (4) of this section except those described in
- 30 subsection (1)(p) of this section.
- 31 [(8)] (9) A weighmaster or motor carrier enforcement officer may exercise

- 1 the same authority as a police officer under ORS 810.490 to enforce vehicle
- 2 requirements and detain vehicles. A person who fails to comply with the
- 3 authority of a weighmaster or motor carrier enforcement officer under this
- 4 subsection is subject to penalty under ORS 818.400.
- 5 <u>SECTION 64.</u> Sections 65 to 67 of this 2025 special session Act are added to and made a part of the Oregon Vehicle Code.
- SECTION 65. "Dyed diesel" has the meaning given that term in ORS
   319.520.
- 9 <u>SECTION 66.</u> (1) A person commits the offense of failure to comply with an international fuel tax agreement if the person is required to comply with the requirements of an international fuel tax agreement entered into under ORS 825.555 or any rule adopted by the Department of Transportation under ORS 825.555, and the person fails to comply.
- 14 (2) The offense described under this section, failure to comply with 15 an international fuel tax agreement, is a Class A traffic violation.
- SECTION 67. (1) A person commits the offense of improper use of dyed diesel if the person operates a motor vehicle on the highways of this state and has dyed diesel in the fuel supply tank of the vehicle in violation of section 71 of this 2025 special session Act.
- 20 **(2)** The offense described under this section, improper use of dyed diesel, is a Class A traffic violation.
- 22 **SECTION 68.** ORS 319.520 is amended to read:
- 319.520. As used in ORS 319.510 to 319.880, unless the context clearly indicates a different meaning:
- 25 (1) "Cardlock card" means a fuel card:
- 26 (a) Capable of generating an electronic invoice or electronic statement 27 that includes the information required by ORS 319.671 and the applicable fuel 28 tax amount;
- 29 (b) Issued for a specific vehicle, a specific piece of equipment or a group 30 of equipment;
- 31 (c) That includes the qualifying information, as designated by the De-

- 1 partment of Transportation by rule, that is printed on the electronic invoice
- 2 or electronic statement;
- 3 (d) That allows the tax status of the cardlock card to be indicated on the
- 4 electronic invoice or electronic statement and includes state tax as a sepa-
- 5 rate item on the invoice or statement; and
- 6 (e) That allows a cardlock card issuer to generate a statement recording,
- 7 by fuel type, gallons of fuel purchased for domestic and foreign customers
- 8 each month.
- 9 (2) "Combined weight" means the total empty weight of all vehicles in a
- 10 combination plus the total weight of the load carried on that combination
- 11 of vehicles.
- 12 (3) "Delinquent" means having failed to pay a tax or penalty within the
- 13 time provided by law.
- 14 (4) "Department" means the Department of Transportation.
- 15 (5) "Diesel" and "diesel fuel" have the meanings given those terms
- 16 in ORS 319.010.
- 17 [(5)] (6) "Domestic customer" means a customer making a purchase at a
- 18 nonretail facility owned by the cardlock card issuer.
- 19 (7) "Dyed diesel" means diesel fuel that is dyed a color and meets
- 20 the dyeing and marking requirements of the Internal Revenue Service.
- 21 [(6)] (8) "Foreign customer" means a customer making a purchase at a
- 22 nonretail facility owned by a seller other than the cardlock card issuer.
- [(7)] (9) "Fuel" means any combustible gas, liquid or material of a kind
- 24 used for the generation of power to propel a motor vehicle on the highways
- 25 except motor vehicle fuel as defined in ORS 319.010.
- 26 [(8)] (10) "Highway" means every way, thoroughfare and place, of what-
- 27 ever nature, open to the use of the public for the purpose of vehicular travel.
- 28 [(9)] (11) "Light weight" means the weight of a vehicle when fully
- 29 equipped for moving over the highway.
- 30 [(10)] (12) "Liquefied petroleum gas" includes propane, pentane and any
- 31 mixture of propane and pentane.

- 1 [(11)] (13) "Motor vehicle" means every self-propelled vehicle operated on
- 2 the highway, except an implement of husbandry used in agricultural oper-
- 3 ations and only incidentally operated or moved upon the highway.
- 4 [(12)] (14) "Nonretail facility" means:
- 5 (a) An unattended facility accessible only by cardlock card and not asso-
- 6 ciated with a retail facility; or
- 7 (b) An unattended portion of a retail facility separate from the retail op-
- 8 erations and accessible only by cardlock card.
- 9 [(13)] (15) "Person" means any individual, firm, copartnership, joint ven-
- 10 ture, association, corporation, trust, receiver or any group or combination
- 11 acting as a unit.
- 12 [(14)] (16) "Seller" means:
- 13 (a) A person that sells fuel to a user; or
- (b) If the fuel is dispensed at a nonretail facility, the person that owns
- 15 the user's accounts and bills the user for fuel purchased at a nonretail fa-
- 16 cility.
- 17 [(15)] (17) "To sell fuel for use in a motor vehicle" means to dispense or
- 18 place fuel for a price into a receptacle on a motor vehicle, from which re-
- 19 ceptacle the fuel is supplied to propel the motor vehicle.
- 20 [(16)] (18) "To use fuel in a motor vehicle" means to receive into any re-
- 21 ceptacle on a motor vehicle, fuel to be consumed in propelling the motor
- 22 vehicle on the highways of this state; and, if the fuel is received into the
- 23 receptacle outside the taxing jurisdiction of the state, "to use fuel in a motor
- 24 vehicle" means to consume in propelling the motor vehicle on the highways
- 25 of this state.
- SECTION 69. ORS 319.550 is amended to read:
- 27 319.550. (1) Except as provided in this section, a person may not use fuel
- 28 in a motor vehicle in this state unless the person holds a valid user's license.
- 29 (2) A nonresident may use fuel in a motor vehicle not registered in
- 30 Oregon for a period not exceeding 30 consecutive days without obtaining a
- 31 user's license or the emblem issued under ORS 319.600, if, for all fuel used

- in a motor vehicle in this state, the nonresident pays to a seller, at the time
- 2 of the sale, the tax provided in ORS 319.530.
- 3 (3) A user's license is not required for a person who uses fuel in a motor
- 4 vehicle if, for all fuel used in a motor vehicle in this state, the person pays
- 5 to a seller, at the time of the sale, the tax provided in ORS 319.530.
- 6 (4) A user's license is not required for a person who is subject to the
- 7 weight-mile tax described in ORS 825.474 and 825.476 or the flat fee rate de-
- 8 scribed in ORS 825.480.
- 9 (5)(a) A user's license is not required for a person who uses fuel as de-
- scribed in ORS 319.520 [(7)] (9) in the vehicles specified in this subsection
- 11 if the person pays to a seller, at the time of the sale, the tax provided in
- 12 ORS 319.530.
- (b) Paragraph (a) of this subsection applies to the following vehicles:
- 14 (A) Motor homes as defined in ORS 801.350.
- (B) Recreational vehicles as defined in ORS 174.101.
- 16 (6) A user's license is not required for a person who uses fuel in a motor
- 17 vehicle:
- 18 (a) Metered use by which is subject to the per-mile road usage charge
- 19 imposed under ORS 319.885; and
- 20 (b) That also uses fuels subject to ORS 319.510 to 319.880.
- 21 (7) A user's license is not required for a person who uses fuel in a motor
- 22 vehicle on which an emblem issued for the motor vehicle pursuant to ORS
- 23 319.535 is displayed.
- 24 SECTION 70. Sections 71 and 72 of this 2025 special session Act are
- 25 added to and made a part of ORS 319.510 to 319.880.
- 26 SECTION 71. Dyed diesel use. (1) A person may operate or maintain
- 27 a motor vehicle on the highways of this state with dyed diesel in the
- 28 fuel supply tank only if the use is authorized by an agency of the
- 29 United States or the person is eligible for a refund under ORS 267.570
- 30 **(2) or 319.831.**
- 31 (2) A person that owns, operates or maintains a fuel storage tank

- 1 or terminal storage facility:
- 2 (a) Shall provide markings consistent with those directed by federal 3 law; and
- (b) May not knowingly store, or cause to be stored, dyed diesel in a fuel storage tank or terminal storage facility if the purpose of the tank or facility is to store undyed diesel.
- 7 (3) A person that violates this section is subject to a civil penalty 8 under section 72 of this 2025 special session Act.
- 9 <u>SECTION 72.</u> <u>Civil penalties.</u> (1) In addition to any other penalty provided by law, the Department of Transportation may impose a civil penalty for failure to comply with section 71 of this 2025 special session Act.
- 13 (2) Any civil penalty imposed under this section shall be imposed 14 in the manner provided by ORS 183.745.
- 15 (3) The department shall adopt rules implementing these provisions, 16 including a schedule of civil penalties.
- 17 (4) The civil penalty for each violation of section 71 of this 2025 18 special session Act may not exceed the amount of \$10 per gallon of 19 capacity of the fuel supply tank of the motor vehicle, or \$1,000, 20 whichever is greater, plus the amount of tax that would have been 21 paid for an equivalent amount of motor vehicle fuel.
- 22 (5) A civil penalty imposed under this section may be remitted or 23 reduced upon such terms and conditions as the department considers 24 proper and consistent with the public health and safety.
- 25 (6)(a) In imposing a penalty pursuant to the schedule adopted pur-26 suant to this section, the department shall consider the following 27 factors:
- 28 (A) Any prior violations of section 71 of this 2025 special session 29 Act.
- 30 **(B)** The extent to which the violation threatens the public health 31 or safety and the immediacy of the threat.

- 1 (b) The penalty imposed under this section may be remitted or 2 mitigated upon such terms and conditions as the department deter-3 mines to be proper and consistent with the public benefit.
  - (7) All penalties recovered under this section shall be paid into the State Treasury and credited to the State Highway Fund.
  - **SECTION 73.** ORS 319.700 is amended to read:

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- 7 319.700. The tax and the penalty imposed upon a user of fuel in a motor vehicle by ORS 319.510 to 319.880 or penalties associated with the im-8 proper use or storage of dyed diesel under sections 71 and 72 of this 9 2025 special session Act shall constitute a lien upon, and shall have the 10 effect of an execution duly levied against, any motor vehicle in connection 11 12 with which the taxable use is made, attaching at the time of such use. The lien shall not be removed until the tax has been paid or the motor vehicle 13 subject to the lien has been sold in payment of such tax. The lien is para-14 mount to all private liens or encumbrances of whatever character upon the 15 motor vehicle and to the rights of any conditional vendor or any other holder 16 of the legal title in or to the motor vehicle. 17
- SECTION 74. ORS 823.012 is amended to read:
- 823.012. (1) If the Director of Transportation determines that an emergency, as defined in ORS 401.025, has occurred or is imminent, the director may suspend operation of one or more of the following statutes involving motor carriers for the purpose of expediting the movement of persons or property:
- 24 (a) ORS 818.400, compliance with commercial vehicle enforcement re-25 quirements related to commercial vehicle weight, size, load, conformation or 26 equipment.
- 27 (b) ORS 825.100, certificate or permit requirement for commercial trans-28 portation of persons or property.
- 29 (c) ORS 825.104, registration requirement for for-hire or private carrier 30 engaged in interstate operations.
- 31 (d) ORS 825.160, requirement for person operating as motor carrier to

- 1 have policy of public liability and property damage insurance.
- 2 (e) ORS 825.162, requirement for person operating as for-hire carrier of 3 freight or express to have cargo insurance.
- 4 (f) ORS 825.250, requirement to stop and submit to an inspection of the driver, the cargo or the vehicle or combination of vehicles or an inspection of the fuel supply tank of the vehicle or combination of vehicles.
- 7 (g) ORS 825.252, safety regulations for for-hire and private carriers.
- 8 (h) ORS 825.258, rules for transportation of hazardous waste, hazardous 9 material and PCB.
- 10 (i) ORS 825.450, [weight identifiers] tax enrollments issued by Depart-11 ment of Transportation.
- 12 (j) ORS 825.470, temporary pass for single trip or short-time operation of vehicle.
- 14 (k) ORS 825.474, assessment of tax for use of highways.

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- 15 (L) ORS 826.031, registration of certain vehicles not already registered 16 with state.
  - (m) Section 71 of this 2025 special session Act and ORS 319.020 and 319.530 related to the payment of motor vehicle fuel taxes or the use of dyed diesel on the highways.
  - (2) A suspension under this section may occur prior to a declaration of a state of emergency under ORS 401.165, but may not exceed 72 hours unless a state of emergency is declared under ORS 401.165. If a state of emergency is declared under ORS 401.165, the suspension shall last until the state of emergency is terminated as provided under ORS 401.204.
- (3) The director may designate by rule a line of succession of deputy directors or other employees of the department who may suspend operations of statutes under this section in the event the director is not available. Any suspension by a person designated by the director under this subsection has the same force and effect as if issued by the director, except that, if the director can be reached, the suspension must be affirmed by the director when the director is reached. If the director does not set aside a suspension within

- 1 24 hours of being reached, the suspension shall be considered affirmed by the 2 director.
- 3 **SECTION 75.** ORS 823.023 is amended to read:

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- 823.023. (1) The Department of Transportation or authorized represen-4 tatives may enter upon any premises, or any equipment, rolling stock, motor 5 vehicles or facilities, operated or occupied by any motor carrier or railroad 6 for the purpose of making any inspection, examination or test reasonably 7 required in the administration of ORS chapters 319, 823, 824, 825 and 826, 8 and to set up and use on such premises, equipment, rolling stock, motor 9 vehicles or facilities any apparatus or appliance and occupy reasonable 10 space therefor. 11
  - (2) The department or authorized representatives shall, upon demand, have the right to inspect the **motor vehicles**, books, accounts, papers, records and memoranda of any motor carrier or railroad and to examine under oath any officer, agent or employee of such motor carrier or railroad in relation to its business and affairs.
- (3) Any person who on behalf of the department makes demand of a motor carrier or railroad for an examination, inspection or test shall, upon request therefor, produce a certificate under the seal of the department showing authority to make such examination, inspection or test.
- 21 (4) The department or authorized representatives shall, upon demand, have the right to enter any premises of a business that the department has 22 reasonable cause to believe tendered for shipment, by motor or rail, any 23 hazardous material and to make any examination, inspection or test reason-24 ably required to determine compliance with the health and safety regulations 25 administered or enforced by the department. Any person, who on behalf of 26 the department demands to make an examination, inspection or test, shall 27 produce upon request a certificate under the seal of the department showing 28 authority to make the examination, inspection or test. 29
- 30 (5) Nothing in this section authorizes the department to use any infor-31 mation developed thereunder for any purpose inconsistent with any statute

- 1 governing motor carriers or railroads and administered by the department
- 2 or to make a disclosure thereof for other than regulatory purposes.
- 3 **SECTION 76.** ORS 823.027 is amended to read:
- 4 823.027. (1) Every motor carrier and railroad shall furnish to the Depart-
- 5 ment of Transportation all information required by the department to carry
- 6 into effect the provisions of ORS chapters 319, 823, 824, 825 and 826 and shall
- 7 make specific answers to all questions submitted by the department.
- 8 (2) If a motor carrier or railroad is unable to furnish any information
- 9 required under subsection (1) of this section for any reason beyond its con-
- 10 trol, it is a good and sufficient reason for such failure. The answer or in-
- 11 formation shall be verified under oath and returned to the department at the
- department's office within the period fixed by the department.
- SECTION 77. ORS 823.085 is amended to read:
- 823.085. (1) Any motor carrier or railroad that does, or causes or permits
- to be done, any matter, act or thing prohibited by ORS chapters 319, 823, 824,
- 16 825 and 826, or omits to do any act, matter or thing required to be done by
- ORS chapters 319, 823, 824, 825 and 826, is liable to the person injured
- 18 thereby in the amount of damages sustained in consequence of such vio-
- 19 lation. If the party seeking damages alleges and proves that the wrong or
- 20 omission was the result of gross negligence or willful misconduct, the motor
- 21 carrier or railroad is liable to the person injured thereby in treble the
- 22 amount of damages sustained in consequence of the violation. The court may
- 23 award reasonable attorney fees to the prevailing party in an action under
- 24 this section.
- 25 (2) Any recovery under this section does not affect recovery by the state
- of the penalty, forfeiture or fine prescribed for such violation.
- 27 (3) This section does not apply with respect to the liability of any motor
- 28 carrier or railroad for personal injury or property damage.
- 29 **SECTION 78.** ORS 825.005 is amended to read:
- 30 825.005. As used in this chapter:
- 31 (1) "Carrier" or "motor carrier" means for-hire carrier or private carrier.

- 1 (2) "Cartage carrier" means any person who undertakes to transport any 2 class of property by motor vehicle for compensation when the transportation 3 is performed wholly within an incorporated city or a commercial zone adja-
- 4 cent to an incorporated city.
- 5 (3) "Certificate" means an authority issued to a for-hire carrier under 6 ORS 825.110.
- (4) "Combined weight" means the [weight of the motor vehicle plus the weight of the maximum load which the applicant has declared such vehicle will carry] total empty weight of all vehicles in a combination plus the total weight of the load carried on that combination of vehicles as listed in the vehicle registration for the time period shown on the registration document. Any declared combined weight is subject to audit and approval by the Department of Transportation.
- 14 (5) "Department" means the Department of Transportation.
  - (6) "Electric vehicle" means a motor vehicle that uses electricity as its only source of motive power.
- [(6)] (7) "Extreme miles" or "extreme mileage" means the total miles operated by a vehicle over the public highways, except the extra miles necessarily operated in traversing detours or temporary routes on account of road blockades in the state.
- 21 [(7)] **(8)** "For-hire carrier" means:

- 22 (a) Any person who transports persons or property for hire or who pub-23 licly purports to be willing to transport persons or property for hire by motor 24 vehicle; or
- (b) Any person who leases, rents or otherwise provides a motor vehicle to the public and who in connection therewith in the regular course of business provides, procures or arranges for, directly, indirectly or by course of dealing, a driver or operator therefor.
- [(8)] (9) "Household goods" means the personal effects or other property used or to be used in a dwelling but does not include property transported from a store or factory or property exclusively for office use.

- 1 [(9)] (10) "Motor vehicle" means any self-propelled vehicle and any such
- 2 vehicle in combination with any trailing units, used or physically capable
- 3 of being used upon any public highway in this state in the transportation
- 4 of persons or property, except vehicles operating wholly on fixed rails or
- 5 tracks and electric trolley buses. "Motor vehicle" includes overdimension
- 6 vehicles or vehicles permitted excessive weights pursuant to a special au-
- 7 thorization issued by a city, county or the Department of Transportation.
- 8 [(10)] (11) "Permit" means an authority issued to a carrier under ORS
- 9 825.102, **825.104,** 825.106, 825.108 or 825.127.
- 10 [(11)] (12) "Private carrier" means any person who operates a motor ve-
- 11 hicle over the public highways of this state for the purpose of transporting
- 12 persons or property when the transportation is incidental to a primary
- 13 business enterprise, other than transportation, in which such person is en-
- 14 gaged.
- 15 [(12)] (13) "Privilege taxes" means the weight-mile tax and fees prescribed
- 16 in this chapter.
- 17 [(13)] (14) "Property" includes, but is not limited to, permanent loads such
- as equipment, appliances, devices, or ballast that are attached to, carried on,
- 19 or made a part of the vehicle and that are designed to serve some functional
- 20 purpose.
- 21 [(14)] (15) "Public highway" means every street, alley, road, highway and
- 22 thoroughfare in this state used by the public or dedicated or appropriated
- 23 to public use.
- 24 [(15)] (16) "Transit-type motor vehicle" means any passenger-carrying ve-
- 25 hicle that does not have a separate space for transporting baggage or ex-
- 26 press.
- [(16)] (17) "Transporter" has the meaning given that term in ORS 466.005.
- 28 SECTION 79. Section 80 of this 2025 special session Act is added to
- 29 and made a part of ORS chapter 825.
- 30 SECTION 80. (1) Before operating a motor vehicle on the public
- 31 highways of this state, an out-of-state motor carrier not licensed un-

- der an international fuel tax agreement shall obtain a valid fuel trip
- 2 permit from the Department of Transportation in accordance with this
- 3 section. A motor carrier shall obtain a fuel trip permit under this
- 4 section if:
- 5 (a) The motor carrier is operating a motor vehicle that is not a 6 recreational vehicle:
- 7 (A) Having two axles and a gross vehicle weight or registered gross 8 vehicle weight exceeding 26,000 pounds;
- 9 (B) Having three or more axles regardless of weight; or
- 10 (C) Used in combination, when the weight of such combination ex-11 ceeds 26,000 pounds; and
- 12 (b) The vehicle is not registered under ORS 826.009 or 826.031.
- 13 (2) This section does not apply to a motor carrier that has a valid 14 international fuel tax agreement license issued by a jurisdiction other 15 than Oregon.
- 16 (3) The Department of Transportation shall develop a standardized 17 application form for a fuel trip permit issued under this section.
- 18 (4) The department may not issue more than three fuel trip permits 19 in a calendar year for any one motor vehicle.
- 20 **(5)** No report of mileage is required for the motor vehicle to which 21 the fuel trip permit relates.
- 22 (6) A fuel trip permit issued under this section is valid:
- 23 (a) For three consecutive days beginning and ending on the dates 24 specified on the face of the fuel trip permit; and
- 25 (b) Only for the motor vehicle for which the fuel trip permit was 26 issued.
- 27 (7) The fee for the fuel trip permit shall be determined by the de-28 partment by rule.
- 29 (8) The department may adopt rules to carry out the provisions of this section.
- 31 **SECTION 81.** ORS 825.326 is amended to read:

- 1 825.326. (1) Except as provided in subsection (2) of this section, all fees, taxes, charges and other sums collected by the Department of Transportation 2 or from international fuel tax agreement member jurisdictions under 3 this chapter shall be paid into the State Treasury and shall be placed to the credit of an account, separate and distinct from the General Fund, to be 5 known as the Motor Carrier Account. Interest earned by the account shall 6 7 be credited to the account.
- (2) Notwithstanding ORS 823.991, all fees collected under ORS 825.247 and 8 all penalties collected under ORS 825.950 for offering to transport or trans-9 porting household goods without a certificate shall be paid into the State 10 Treasury and shall be placed to the credit of an account, separate and dis-11 12 tinct from the General Fund, to be known as the Consumer Protection Household Moves Account. Interest earned by the account shall be credited 13 to the account. Moneys in the account are continuously appropriated to the 14 department for purposes specified in subsection (5) of this section. 15
- (3) The department may purchase the necessary supplies and equipment 16 and provide for all necessary and incidental expenses incurred by the department in administering and enforcing this chapter.
- (4) All claims, duly approved by the department, that have been incurred 19 in pursuance of law, shall be paid by warrants drawn in the manner provided 20 by law, payable out of the Motor Carrier Account or the Consumer Pro-21 tection Household Moves Account. 22
- (5) Moneys in the Consumer Protection Household Moves Account shall 23 be used by the department exclusively for administration and enforcement 24 of provisions of this chapter relating to persons that offer to provide or 25 provide transportation of household goods without a certificate. 26
- **SECTION 82.** ORS 825.104 is amended to read: 27

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825.104. An interstate for-hire carrier or private carrier required to obtain 28 a United States Department of Transportation registration number engaged 29 or to engage in interstate operations may not perform transportation services 30 on the public highways of this state without having first: 31

- 1 (1) Complied with federal registration and financial responsibility requirements; and
- 3 (2) Obtained a certificate or permit under ORS 825.100 or a tempo-4 rary pass under ORS 825.470.
- 5 **SECTION 83.** ORS 825.141 is amended to read:
- 825.141. In addition to any other requirements of this chapter, a carrier whose operating authority **or permit** has been suspended shall pay a reinstatement fee of \$25 to the Department of Transportation before the operating authority **or permit** may be reinstated[, plus \$5 for each vehicle issued a weight identifier under ORS 825.450, and shall demonstrate operational activity at the time of reinstatement].
  - **SECTION 84.** ORS 825.450 is amended to read:

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- 825.450. (1) [Upon application by a carrier,] The Department of Transportation may [issue a weight identifier] utilize a motor carrier's registration card as the tax enrollment document for each eligible vehicle the carrier enrolls with the department[, which]. The tax enrollment document must state the combined weight of the vehicle or combination of vehicles. [The department shall record each weight identifier electronically.] This subsection does not apply to vehicles issued a temporary pass under ORS 825.470.
- 20 (2) A person may not load any motor vehicle in excess of the combined 21 weight stated on the [weight identifier issued] **tax enrollment document** for 22 that motor vehicle under subsection (1) of this section.
- (3) [Weight identifiers issued] Tax enrollments under this section are 23 valid [from the first day of any calendar quarter to the last day of the fourth 24 consecutive calendar quarter. Each carrier may select the calendar quarter in 25 which the period will begin except that, if necessary for administrative con-26 venience, the department may require a carrier to adopt a starting date chosen 27 by the department] based on the dates shown on the motor vehicle's 28 registration card, as issued by the jurisdiction in which the vehicle is 29 registered. 30
  - [(4) All vehicles operating under the carrier's authority shall have the same

- 1 four-quarter period of weight identifier validity. The department may allow a
- 2 carrier to operate with expired weight identifiers for up to one extra quarter
- 3 if the renewal application has been submitted. The extension of time allowed
- 4 by this subsection shall be granted only if the department determines that the
- 5 extension is necessary for the administrative convenience of the department.]
- 6 [(5)] (4) The department may adopt rules necessary to administer the provisions of this section.
- 8 **SECTION 85.** ORS 825.492 is amended to read:
- 9 825.492. [(1) Whenever in the judgment of the Department of Transportation
- 10 the estimated annual tax payable by a carrier will be less than \$100, and the
- 11 vehicles operated by the carrier are of less than 30,000 pounds combined
- 12 weight, the department may authorize the carrier to file reports annually in
- 13 lieu of monthly reports required by ORS 825.490 and 825.515. Annual reports
- 14 and accompanying remittances shall be filed on or before the due date of
- 15 February 28 for the preceding calendar year.]
- [(2)] (1) At the request of a motor carrier, the Department of Transpor-
- 17 **tation** may authorize the carrier to file quarterly reports in lieu of monthly
- 18 reports required by ORS 825.490 and 825.515. Quarterly reports and accom-
- 19 panying remittances due shall be filed on or before the due date as follows:
- 20 First calendar quarter, May 31; second quarter, August 31; third quarter,
- 21 November 30; fourth quarter, February 28.
- 22 [(3)] (2) Such authorizations may be withdrawn at any time upon the
- 23 mailing of notice to the carrier at the last address of record of the carrier
- 24 with the department. Any provisions of ORS 825.490 and 825.515 otherwise
- 25 applicable to reports and remittances shall be applicable to reports and re-
- 26 mittances under this section.
- 27 **SECTION 86.** ORS 319.671 is amended to read:
- 28 319.671. (1) The seller of fuel for any purpose shall make a duplicate in-
- 29 voice for every sale of fuel for any purpose and shall retain one copy and
- 30 give the other copy to the user. The Department of Transportation may pre-
- 31 scribe the form of the invoice. The invoice shall show:

- 1 (a) The seller's name and address;
- (b) The date; 2

- (c) The amount of the sale in gallons; and 3
- (d) The name and address of the user.
- (2) In addition to the invoice entries listed in subsection (1) of this sec-5
- tion, the seller of fuel for use in a motor vehicle shall indicate on the invoice 6
- the amount of the tax collected, if any, and: 7
- (a) The license plate number, if the vehicle bears a license plate issued 8
- by the department or another jurisdiction; 9
- (b) The emblem number, if the vehicle bears a user's emblem; 10
- (c) The temporary pass number, if the vehicle bears no valid user's 11 12 emblem; or
- (d) The license plate number, if the vehicle bears no valid user's emblem 13 or temporary pass number issued by the department. 14
- (3) Notwithstanding subsection (1) of this section, this section does not 15 require any invoice to be prepared for any sale where fuel is delivered into 16 the fuel tank of a vehicle described in this subsection unless the operator 17 of the vehicle requests an invoice. If an invoice is prepared under this sub-18 section, the name and address of a user is not required to be shown on the 19 invoice for sales where the fuel is delivered into the fuel tanks of vehicles 20 described in this subsection. This subsection applies to vehicles:
- (a) That have a combined weight of 26,000 pounds or less; and 22
- (b)[(A) For which the tax under ORS 319.530 must be paid at the time of 23 sale under ORS 319.665; or] 24
- [(B)] For which an emblem has been issued under ORS 319.535. 25
- **SECTION 87.** ORS 825.250 is amended to read: 26
- 825.250. (1) An authorized representative of the Department of Transpor-27 tation may require a person driving a vehicle or combination of vehicles 28 subject to regulation by the department on a street or highway to stop and 29 submit to an inspection of the driver, the cargo or the vehicle or combination 30 of vehicles at any location where representatives of the department are 31

- conducting tests and inspections when signs are displayed requiring such stop.
- (2) An authorized representative of the department may require a person driving a vehicle or combination of vehicles subject to regulation by the department on a street or highway to stop and submit to an inspection of the fuel supply tank of the vehicle or combination of vehicles at any location where representatives of the department are conducting tests and inspections when signs are displayed requiring such stop.
- [(2)] (3) As used in this section, "authorized representative" means a city, county or state employee who has been trained and certified by the department as a commercial vehicle inspector and who is employed either by the department or by an agency that has an agreement with the department to provide inspections of commercial vehicles, drivers, general cargo or hazardous materials.
  - **SECTION 88.** ORS 825.990 is amended to read:

- 825.990. (1) Except as otherwise provided in subsection (2) **or** (5) of this section, every person who violates or procures, aids or abets violation of this chapter and any person who refuses or fails to obey any order, decision or rule, made under or pursuant to this chapter commits a Class A traffic violation.
- 22 (2) Knowingly violating an out-of-service notice issued under authority 23 of the Department of Transportation is a Class A misdemeanor.
- 24 (3) A person is subject to the penalties under subsection (4) of this section 25 if the person knowingly:
- 26 (a) Transports any hazardous waste listed under ORS 466.005 or rules 27 adopted thereunder to a facility that does not have appropriate authority to 28 receive the waste under ORS 466.005 to 466.385 and 466.992.
- (b) Disposes of any hazardous waste listed under ORS 466.005 or rules adopted thereunder without appropriate authority under ORS 466.005 to 466.385 and 466.992.

- 1 (c) Materially violates terms of any permit or authority issued to the 2 person under this chapter or ORS 466.005 to 466.385 and 466.992 in the 3 transporting or disposing of hazardous waste.
- (d) Makes any false material statement or representation in any application, label, manifest, record, report, permit or other document filed, maintained or used for purposes of compliance with requirements under this chapter for the safe transportation of hazardous wastes.
- 8 (e) Fails to include material information required under rules of the De-9 partment of Transportation in any application for any permit or authority 10 to transport hazardous waste under this chapter.
- 11 (f) Violates any rules adopted by the Department of Transportation con-12 cerning the transportation of hazardous wastes.
- 13 (4) Subject to ORS 153.022, violation of subsection (3) of this section is 14 a Class B misdemeanor.
  - (5) Violating ORS 825.250 (2) is a Class B misdemeanor.
- SECTION 89. ORS 818.400 is amended to read:

- 818.400. (1) A person commits the offense of failure to comply with commercial vehicle enforcement requirements if the person is driving a vehicle or combination of vehicles and the person does not comply with any of the following or if the person is the owner of a vehicle or combination of vehicles and the person causes or permits the vehicle or combination not to comply with any of the following:
- 23 (a) A vehicle or combination of vehicles must stop and submit to any 24 enforcement of commercial vehicle weight, size, load, conformation or 25 equipment regulation when directed to do so by an "OPEN" sign displayed 26 at a permanently established truck scale.
- (b) A vehicle or combination of vehicles must stop and submit to any enforcement of commercial vehicle weight, size, load, **dyed diesel use,** conformation or equipment regulation when directed to do so by any sign or signal displayed or given by a police officer, motor carrier enforcement officer or weighmaster acting in accordance with authority granted under ORS

- 1 810.490.
- 2 (c) A vehicle or combination of vehicles must move into the right lane for
- 3 purposes of a weight or size check when instructed to do so by a sign indi-
- 4 cating the presence of a weigh-in-motion scale.
- 5 (d) The directions of any police officer, motor carrier enforcement officer
- 6 or weighmaster that are given in accordance with authority granted under
- 7 ORS 810.490 or 810.530 must be complied with.
- 8 (2) The requirement of subsection (1)(a) of this section does not apply to:
- 9 (a) An empty combination of a log truck and pole trailer if the pole
- 10 trailer is bunked on the log truck and there is no other load; or
- 11 (b) A vehicle or combination of vehicles if:
- 12 (A) The normal route of the vehicle or combination of vehicles requires
- 13 turning off the highway after passing the "OPEN" sign but before reaching
- 14 the scale; and
- 15 (B) The vehicle or combination of vehicles is en route to a terminal or
- 16 other legitimate business.
- 17 (3) Operation of any vehicle or combination of vehicles in violation of this
- 18 section is prima facie evidence that the owner of such vehicle or combination
- 19 caused or permitted it to be so operated and the owner shall be liable for
- 20 any penalties imposed under this section.
- 21 (4) The offense described in this section, failure to comply with commer-
- 22 cial vehicle enforcement requirements, is a Class B misdemeanor. The pen-
- 23 alty provided under this subsection is in addition to any penalty provided for
- 24 violation of any prohibition relating to vehicle weight, size, load, conforma-
- 25 tion or equipment.
- 26 SECTION 90. ORS 319.665 and 825.486 are repealed.
- 27 **SECTION 91.** (1) The amendments to ORS 825.005, 825.141 and 825.450
- 28 by sections 78, 83 and 84 of this 2025 special session Act become oper-
- 29 ative on July 1, 2027.
- 30 (2) Sections 65 to 67, 71, 72 and 80 of this 2025 special session Act
- and the amendments to ORS 295.103, 319.010, 319.390, 319.520, 319.550,

1	319.671, 319.700, 81	0.530, 818.400, 823.012, 823.023, 823.027, 823.085, 825.104,
2	825.250, 825.326, 82	5.492, 825.555 and 825.990 by sections 59 to 63, 68, 69,
3	73 to 77, 81, 82 and	l 85 to 89 of this 2025 special session Act and the re-
4	peal of ORS 319.66	5 and 825.486 by section 90 of this 2025 special session
5	Act become opera	tive on July 1, 2029.
6		
7		HEAVY VEHICLE TAXES
8		
9	SECTION 92. O	RS 825.476 is amended to read:
10	825.476.	
11	[	]
12		MILEAGE TAX RATE TABLE "A"
13	Declared Combined	Fee Rates
14	Weight Groups	Per Mile
15	(Pounds)	(Mills)
16	26,001 to 28,000	76.4
17	28,001 to 30,000	80.9
18	30,001 to 32,000	84.6
19	32,001 to 34,000	88.4
20	34,001 to 36,000	91.8
21	36,001 to 38,000	96.6
22	38,001 to 40,000	100.2
23	40,001 to 42,000	103.8
24	42,001 to 44,000	107.7
25	44,001 to 46,000	111.3
26	46,001 to 48,000	114.9
27	48,001 to 50,000	118.7
28	50,001 to 52,000	123.1
29	52,001 to 54,000	127.7
30	54,001 to 56,000	132.5
31	56 001 to 58 000	138 0

1	58,001 to 60,000		144.3			
2	60,001 to 62,000		151.7			
3	62,001 to 64,000		160.1			
4	64,001 to 66,000		169.3			
5	66,001 to 68,000		181.3			
6	68,001 to 70,000		194.1			
7	70,001 to 72,000		206.9			
8	72,001 to 74,000		218.7			
9	74,001 to 76,000		230.0			
10	76,001 to 78,000		241.1			
11	78,001 to 80,000		251.2			
12	[					 _ ]
13		AXLE-V	WEIGHT	MILEA	$\Lambda GE$	
14		TAXI	RATE T	ABLE "	B"	
15	Declared Combined	Number of Axles				
16	Weight Groups	5 6	7	8	9 or	
17	(Pounds)		(Mills)		more	
18	80,001 to 82,000	259.4 237.3	221.8	210.7	198.7	
19	82,001 to 84,000	267.8 241.1	225.4	213.4	201.4	
20	84,001 to 86,000	275.8 246.6	229.1	216.1	204.2	
21	86,001 to 88,000	285.2 252.0	232.7	219.9	206.9	
22	88,001 to 90,000	296.2 258.4	236.5	223.5	210.7	
23	90,001 to 92,000	309.0 265.9	239.9	227.1	214.4	
24	92,001 to 94,000	323.0 273.1	243.8	230.8	217.2	
25	94,001 to 96,000	337.7 281.5	248.3	234.6	220.7	
26	96,001 to 98,000	353.3 291.7	253.9	238.4	224.5	
27	98,001 to 100,000	302.5	259.4	242.8	228.1	
28	100,001 to 102,000		264.9	248.3	231.9	
29	102,001 to 104,000		270.5	253.9	236.5	
30	104,001 to 105,500		277.7	259.4	241.1	
31	[					 _ ]

1			
2		MILEAGE TAX RATE TABLE "A"	
3	<b>Declared Combined</b>	Fee Rates	
4	Weight Groups	Per Mile	
5	(Pounds)	(Mills)	
6	26,001 to 32,000	76.4	
7	32,001 to 38,000	89.8	
8	38,001 to 44,000	102.7	
9	44,001 to 50,000	114.3	
10	50,001 to 56,000	132.5	
11	56,001 to 62,000	143.1	
12	62,001 to 68,000	166.2	
13	68,001 to 74,000	181.5	
14	74,001 to 80,000	251.2	
15	80,001 to 105,500	263.1	
16			
17	SECTION 93. ORS 825.476, as amended by section 92 of this 2025 special		
18	session Act, is amended to read:		
19	825.476.		
20			
21		MILEAGE TAX RATE TABLE "A"	
22	Declared Combined	Fee Rates	
23	Weight Groups	Per Mile	
24	(Pounds)	(Mills)	
25	26,001 to 32,000	[76.4] <b>55.1</b>	
26	32,001 to 38,000	[89.8] <b>64.8</b>	
27	38,001 to 44,000	[102.7] <b>74.1</b>	
28	44,001 to 50,000	[114.3] <b>82.5</b>	
29	50,001 to 56,000	[132.5] <b>95.6</b>	
30	56,001 to 62,000	[143.1] <b>103.2</b>	
31	62,001 to 68,000	[166.2] <b>119.9</b>	

1	68,001	to 74,000	[181.5] <b>130.9</b>
2	74,001	to 80,000	[251.2] <b>181.2</b>
3	80,001	to 105,500	[263.1] <b>189.8</b>

5		MILEAGE TAX RATE TABLE "E"
6	<b>Declared Combined</b>	Fee Rates
7	Weight Groups	Per Mile
8	(Pounds)	(Mills)
9	26,001 to 32,000	79.6
10	32,001 to 38,000	93.6
11	38,001 to 44,000	107.0
12	44,001 to 50,000	119.1
13	50,001 to 56,000	138.0
14	56,001 to 62,000	149.1
15	62,001 to 68,000	173.2
16	68,001 to 74,000	189.1
17	74,001 to 80,000	261.7
18	80,001 to 105,500	274.1
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# SECTION 94. ORS 825.474 is amended to read:

- 825.474. (1) In addition to other fees and taxes imposed by law upon carriers, there shall be assessed against and collected from every carrier a tax for the use of the highways, to apply to the cost of administration of this chapter and for the maintenance, operation, construction and reconstruction of public highways.
- (2) The tax rate which shall apply to each motor vehicle shall be based 26 upon the declared combined weight of the motor vehicle and in accordance 27 with the weight group tax rates as shown in the tables set forth in ORS 28 825.476. 29
  - (3) For the purpose of computing the tax due:
    - (a) Table "A" in ORS 825.476 applies to motor vehicles subject to the tax

- 1 imposed by this section [that are not issued an annual variance permit under
- 2 ORS 818.200 (1)(a) to (c) to operate with a combined weight of more than 80,000
- 3 pounds].
- 4 [(b) Table "B" applies to motor vehicles subject to the tax imposed by this
- 5 section that are issued or required to obtain an annual variance permit under
- 6 ORS 818.200 (1)(a) to (c) to operate with a combined weight of more than 80,000
- 7 pounds.]
- 8 [(c)] (b) The declared combined weight shall be the combined weight, as
- 9 defined in ORS 825.005, declared in the [application for authority under ORS
- 10 825.100, subject to audit and approval by the Department of Transportation]

## 11 registration weight.

- [(d)] (c) In addition to any tax due under this chapter, motor vehicles that
- 13 exceed the maximum vehicle weight limits for annual variance permits under
- ORS 818.200 (1)(a) to (c) are subject to the road use assessment fee imposed
- under ORS 818.225 for the entire motor vehicle weight, minus the road use
- 16 assessment fee for the maximum vehicle weight allowed under the annual
- 17 variance permit.
- 18 (4) The tax for each motor vehicle [when table "A" or "B" is used] shall
- 19 be computed by multiplying the extreme mileage of travel in Oregon by the
- 20 appropriate weight group tax rate as it appears in the table.
- SECTION 95. ORS 825.474, as amended by section 94 of this 2025 special
- 22 session Act, is amended to read:
- 23 825.474. (1) In addition to other fees and taxes imposed by law upon car-
- 24 riers, there shall be assessed against and collected from every carrier a tax
- 25 for the use of the highways, to apply to the cost of administration of this
- 26 chapter and for the maintenance, operation, construction and reconstruction
- 27 of public highways.
- 28 (2) The tax rate which shall apply to each motor vehicle shall be based
- 29 upon the declared combined weight of the motor vehicle and in accordance
- 30 with the weight group tax rates as shown in the tables set forth in ORS
- 31 825.476.

1 (3) For the purpose of computing the tax due:

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- 2 (a) Table "A" in ORS 825.476 applies to motor vehicles subject to the tax 3 imposed by this section.
  - (b) Table "E" in ORS 825.476 applies to electric vehicles subject to the tax imposed by this section.
- 6 [(b)] (c) The declared combined weight shall be the combined weight, as defined in ORS 825.005, declared in the registration weight.
- [(c)] (d) In addition to any tax due under this chapter, motor vehicles that exceed the maximum vehicle weight limits for annual variance permits under ORS 818.200 (1)(a) to (c) are subject to the road use assessment fee imposed under ORS 818.225 for the entire motor vehicle weight, minus the road use assessment fee for the maximum vehicle weight allowed under the annual variance permit.
  - (4) The tax for each motor vehicle shall be computed by multiplying the extreme mileage of travel in Oregon by the appropriate weight group tax rate as it appears in the table.
- 17 **SECTION 96.** ORS 825.480 is amended to read:
- 825.480. (1)(a) In lieu of other fees provided in ORS 825.474, carriers engaged in operating motor vehicles in the transportation of logs, poles, peeler cores or piling may pay annual fees for such operation computed at the rate of [\$11.60] \$10.50 for each 100 pounds of declared combined weight.
  - (b) Any carrier electing to pay fees under this method may, as to vehicles otherwise exempt from taxation, elect to be taxed on the mileage basis for movements of such empty vehicles over public highways whenever operations are for the purpose of repair, maintenance, servicing or moving from one exempt highway operation to another.
- (2) The annual fees provided in subsections (1)[, (4) and (5)] and (3) of this section may be paid on a monthly basis. Any carrier electing to pay fees under this method may not change an election during the same calendar year in which the election is made, but may be relieved from the payment due for any month during which a motor vehicle is not operated. A carrier electing

- 1 to pay fees under this method shall report and pay these fees on or before
- 2 the 10th of each month for the preceding month's operations. A monthly re-
- 3 port shall be made on all vehicles on the annual fee basis including any ve-
- 4 hicle not operated for the month.
- 5 [(3)(a) In lieu of the fees provided in ORS 825.470 to 825.474, motor vehicles
- 6 described in ORS 825.024 with a combined weight of less than 46,000 pounds
- 7 that are being operated under a permit issued under ORS 825.102 may pay
- 8 annual fees for such operation computed at the rate of \$9.60 for each 100
- 9 pounds of declared combined weight.]
- 10 [(b) The annual fees provided in this subsection shall be paid in advance
- 11 but may be paid on a monthly basis on or before the first day of the month.
- 12 A carrier may be relieved from the fees due for any month during which the
- 13 motor vehicle is not operated for hire if a statement to that effect is filed with
- 14 the Department of Transportation on or before the fifth day of the first month
- 15 for which relief is sought.]
- [(4)(a)] (3)(a) In lieu of other fees provided in ORS 825.474, carriers en-
- 17 gaged in the operation of motor vehicles equipped with dump bodies and used
- in the transportation of sand, gravel, rock, dirt, debris, cinders, asphaltic
- 19 concrete mix, metallic ores and concentrates or raw nonmetallic products,
- 20 whether crushed or otherwise, moving from mines, pits or quarries may pay
- 21 annual fees for such operation computed at the rate of [\$11.50] \$16.98 for
- 22 each 100 pounds of declared combined weight.
- 23 (b) Any carrier electing to pay fees under this method may, as to vehicles
- 24 otherwise exempt for taxation, elect to be taxed on the mileage basis for
- 25 movements of such empty vehicles over public highways whenever operations
- 26 are for the purpose of repair, maintenance, servicing or moving from one
- 27 exempt highway operation to another.
- 28 [(5)(a) In lieu of other fees provided in ORS 825.474, carriers engaged in
- 29 operating motor vehicles in the transportation of wood chips, sawdust,
- 30 barkdust, hog fuel or shavings may pay annual fees for such operation com-
- 31 puted at the rate of \$47 for each 100 pounds of declared combined weight.]

- [(b) Any carrier electing to pay under this method may, as to vehicles otherwise exempt from taxation, elect to be taxed on the mileage basis for movement of such empty vehicles over public highways whenever operations are for the purpose of repair, maintenance, service or moving from one exempt highway operation to another.]
- 6 **SECTION 97.** ORS 825.480, as amended by section 96 of this 2025 special session Act, is amended to read:
- 8 825.480. [(1)(a) In lieu of other fees provided in ORS 825.474, carriers engaged in operating motor vehicles in the transportation of logs, poles, peeler cores or piling may pay annual fees for such operation computed at the rate of \$10.50 for each 100 pounds of declared combined weight.]
  - (1)(a) In lieu of other fees provided in ORS 825.474, carriers engaged in operating motor vehicles in the transportation of logs, poles, peeler cores or piling may pay annual fees for such operation computed at the following rate for each 100 pounds of declared combined weight:
- 16 (A) For electric motor vehicles, \$10.94.

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- (B) For vehicles other than electric motor vehicles, \$7.57.
- (b) Any carrier electing to pay fees under this method may, as to vehicles otherwise exempt from taxation, elect to be taxed on the mileage basis for movements of such empty vehicles over public highways whenever operations are for the purpose of repair, maintenance, servicing or moving from one exempt highway operation to another.
- (2) The annual fees provided in subsections (1) and (3) of this section may 23 be paid on a monthly basis. Any carrier electing to pay fees under this 24 method may not change an election during the same calendar year in which 25 the election is made, but may be relieved from the payment due for any 26 month during which a motor vehicle is not operated. A carrier electing to 27 pay fees under this method shall report and pay these fees on or before the 28 10th of each month for the preceding month's operations. A monthly report 29 shall be made on all vehicles on the annual fee basis including any vehicle 30 not operated for the month. 31

- [(3)(a)] (3) In lieu of other fees provided in ORS 825.474, carriers engaged in the operation of motor vehicles equipped with dump bodies and used in the transportation of sand, gravel, rock, dirt, debris, cinders, asphaltic concrete mix, metallic ores and concentrates or raw nonmetallic products, whether crushed or otherwise, moving from mines, pits or quarries may pay annual fees for such operation computed at the **following** rate [of \$16.98] for each 100 pounds of declared combined weight[.]:
- 8 (a) For electric motor vehicles, \$17.69.

- (b) For vehicles other than electric motor vehicles, \$12.25.
- [(b) Any carrier electing to pay fees under this method may, as to vehicles otherwise exempt for taxation, elect to be taxed on the mileage basis for movements of such empty vehicles over public highways whenever operations are for the purpose of repair, maintenance, servicing or moving from one exempt highway operation to another.]
- SECTION 98. ORS 818.225 is amended to read:
- 16 818.225. (1) As used in this section, "equivalent single-axle load" means 17 the relationship between actual or requested weight and an 18,000 pound 18 single-axle load as determined by the American Association of State Highway 19 and Transportation Officials Road Tests reported at the Proceedings Con-20 ference of 1962.
- (2)(a) In addition to any fee for a single-trip nondivisible load permit, a person who is issued the permit or who operates a vehicle in a manner that requires the permit is liable for payment of a road use assessment fee of [ten and nine-tenths] seven and nine-tenths cents per equivalent single-axle load mile traveled.
- 26 (b) If the road use assessment fee is not collected at the time of issuance 27 of the permit, the department shall bill the permittee for the amount due. 28 The account shall be considered delinquent if not paid within 60 days of 29 billing.
- 30 (c) The miles of travel authorized by a single-trip nondivisible load permit 31 shall be exempt from taxation under ORS chapter 825.

1	(3) The department may adopt rules:
2	(a) To standardize the determination of equivalent single-axle load com-
3	putation based on average highway conditions; and
4	(b) To establish procedures for payment, collection and enforcement of the
5	fees and assessments established by this chapter.
6	SECTION 99. (1) The amendments to ORS 825.474, 825.476 and 825.480
7	by sections 92, 94 and 96 of this 2025 special session Act become oper-
8	ative on July 1, 2027.
9	(2) The amendments to ORS 818.225, 825.474, 825.476 and 825.480 by
10	sections 93, 95, 97 and 98 of this 2025 special session Act become oper-
11	ative on July 1, 2029.
12	SECTION 100. (1) The amendments to ORS 825.474, 825.476 and
13	825.480 by sections 92, 94 and 96 of this 2025 special session Act apply
14	to taxes imposed on or after July 1, 2027.
15	(2) The amendments to ORS 818.225, 825.474, 825.476 and 825.480 by
16	sections 93, 95, 97 and 98 of this 2025 special session Act apply to taxes
17	imposed on or after July 1, 2029.
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19	CAPTIONS
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21	SECTION 101. The unit and section captions used in this 2025 special
22	session Act are provided only for the convenience of the reader and
23	do not become part of the statutory law of this state or express any
24	legislative intent in the enactment of this 2025 special session Act.
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26	EFFECTIVE DATE
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28	SECTION 102. This 2025 special session Act takes effect on the 91st
29	day after the date on which the 2025 special session of the Eighty-third
30	Legislative Assembly adjourns sine die.
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