

CITY OF PORTLAND

**LEGISLATIVE PACKAGE:
POLICY AND ISSUE POSITIONS**



**2009
SESSION**

CITY OF PORTLAND COUNCIL:

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DRAFT

CITY OF PORTLAND

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BUILDING CODES

BUILDING PERMITS

Objective: Monitor any legislation that will restrict the ability of local governments to require building permits or place a monetary threshold on whether or not a building permit is necessary.

Issue: Over the years, various bills have been introduced that limit the ability of a local jurisdiction to regulate the type of building activities that take place within their jurisdiction. In the 2005 Session, legislation passed that restricts local jurisdictions ability to require plumbing permits on installations deemed simple in nature. In the 2007 session, legislation was introduced, but ultimately failed, that limited the ability of a jurisdiction to assume a building permit program if the population of the jurisdiction was less than 35,000. Legislation such as this can severely affect the how the City of Portland's Bureau of Development Services conducts its business and provides services to its customers and protect the safety of its citizens.

BUILDING CODES

GRAY WATER REUSE

Objective: Support a revised definition of gray water and black water that allows reuse within prescribed and defined guidelines that safeguard environmental and human health.

Issue: With population growth, pressure on the City's clean drinking water increases and water conservation becomes more and more important. Water conservation makes not only smart financial sense, but also preserves this valuable resource, particularly in dry seasons and times of drought.

The reuse and recycling of water for purposes that do not need tap water helps accomplish these goals. Gray water, water that is collected from clothing machines, showers, and lavatories may safely be re-used in toilets and landscape maintenance, for example. Black water, that collected from kitchen sinks and water closets, may not be reused.

Currently, there is not a distinction between gray water and black water in Department of Environmental Quality ("DEQ") regulations. Without a clear definitional distinction, all wastewater is treated in the same manner regardless of the obvious differences in the quality of water. For example, water used to wash hands is less hazardous than water used to flush a toilet. The processes to clean gray water is less intensive and less expensive than treatment required for black water. Yet current law requires those seeking to treat gray water for reuse must comply with all of the regulations and seek all of the permits otherwise required for sewage treatment.

State legislation that distinguishes between gray water and black water and enable the appropriate use of gray water would significantly contribute to the City's efforts to encourage water conservation.

BUILDING CODES

PROTECT THE ABILITY OF LOCAL GOVERNMENTS TO ADOPT LOCAL CODE AMENDMENTS

Objective: Oppose efforts to eliminate ORS 455.040, which allows local governments to make amendments to the state building code.

Issue: The State of Oregon, under the provisions of ORS 455.040, currently allows for a local jurisdiction to create a local amendment to the State minimum maximum building code. This section encourages local jurisdictions to address unique issues without imposing the local requirements or allowances on all jurisdictions in the State.

The law requires that the Building Code Administrator approve the proposal before it can be enacted as an enforceable amendment. This section is rarely used – the City of Portland holds one of the five local amendments that have been approved to date. Without this option, there is no mechanism that allows local jurisdictions to address issues that only affect their unique circumstances.

The amount of scrutiny that a proposed local amendment faces is significant. First, the City Council must first approve the proposed language. Second, the Building Codes Division (“BCD”) board considers the language and provides a recommendation to the Administrator for approval, approval with amendment, or denial. Third, if the BCD does not deny the amendment, the Administrator must independently evaluate the proposal. Finally, if the Administrator requires changes to the proposal the City Council must pass the reconstituted proposal. In this process are no less than three opportunities for public to testify with two of those opportunities being formal public hearings.

ECONOMIC DEVELOPMENT

BUSINESS DEVELOPMENT

Objective: Support the Oregon Economic and Community Development Department's budget request for Strategic Reserve Funding and Business Development Recapitalization.

Issue: The Oregon Economic and Community Development Department ("OECD") is requesting nearly \$8 million for two statewide programs (the Strategic Reserve Fund and the Business Development Recapitalization) that create, expand, and preserve Oregon's principal traded sector industries. These are strategic programs intended to allow the State and its partners to proactively and strategically respond to time-sensitive opportunities which have statewide economic significance.

The Strategic Reserve Fund ("SRF") is a very effective tool because of its flexibility. The Governor authorizes all SRF awards. The SRF could significantly assist the City in current recruitment efforts, particularly those which are not located in an Enterprise Zone. The Portland Development Commission ("PDC") and the City have approached OECD and the Governor about use of these funds for large-scale recruitment efforts where tax increment financing is unavailable or needs to be supplemented with additional assistance.

The SRF would be very effective for recruitments where there is substantial investment occurring along with significant job creation. This scenario would use the SRF in conjunction with URA, Enterprise Zone or a simultaneous URA and Enterprise Zone benefit to secure the investment.

The Business Development Recapitalization funds complement PDC's target industry work for activewear and clean technology companies (among others). This State incentive is helpful in key recruitment efforts.

ECONOMIC DEVELOPMENT

BUSINESS RETENTION

Objective: Support the Oregon Economic and Community Development Department's budget request for the Business Retention Services program.

Issue: The Oregon Economic and Community Development Department ("OECDD") will be seeking a \$350,000 increase in funding for the Oregon Business Retention Service program that helps distressed companies adapt to changes in their economic environment by granting or loaning funds for financial assistance, feasibility studies, technical assistance, and management consulting services. Without the assistance these troubled firms may be forced to close. The program is intended for companies that do not have the in-house capacity to perform this work or in most cases do not know where to find help. There is a grant and loan component the maximum benefit is \$5,000 for consulting – the first \$1500 is a grant and the next \$3,500 is a loan (interest free, repayable in 2 years). A Feasibility Study requires a 25 percent cash match and is capped at a maximum \$30,000 loan.

Rivers East LLC is just one example of a local Portland business that has taken advantage of OECDD's Business Retention Services. In June 2007, the PDC closed a \$500,000 Oregon Business Development Fund (OBDF) loan for this project that involved the major rehabilitation of a property in the Central Eastside Industrial District. The renovated property provides new space for the two major tenants – Coaxis, Inc (software development company) and Group Mackenzie (architectural firm). The two tenants proposed creating 48 new jobs.

Expansion of this program to help small companies in need of consultant services to grow their business, along with companies in distress, will be of great assistance to Portland's small & medium size businesses.

ECONOMIC DEVELOPMENT

CREATIVE OREGON II

Objective: Support the Oregon Economic and Community Development Department's budget request for Creative Oregon II.

Issue: The Oregon Economic and Community Development Department ("OECDD") is requesting enhanced funds for art and culture authorized in the 2007 Champ Initiative. The request recognizes that harnessing Oregon's creative capacity is an essential ingredient of a stronger, more competitive state economy. This 2009 initiative focuses on:

- strengthening Oregon's workforce development efforts by committing investment in arts learning; and
- bolstering public and private investment in culture (the arts, heritage and humanities) by sustaining the innovative cultural tax credit of the Oregon Cultural Trust.

ECONOMIC DEVELOPMENT

INFRASTRUCTURE RECAPITALIZATION

Objective: Support the Oregon Economic and Community Development Department's request for recapitalization of the Special Public Works Fund.

Issue: The Governor's 2007-09 Budget recommended a \$100 million recapitalization of the Special Public Works Fund ("SPWF"). The Legislature provided for \$24.1 million recapitalization and directed the Oregon Economic and Community Development Department ("OECD") to compile an Infrastructure Inventory in collaboration with the thirteen Regional Boards. The SPWF is OECD's largest fund. It provides grants and loans to municipalities seeking to design and construct infrastructure and develop industrial lands that will assist Oregon communities retain, expand and attract businesses and support job growth.

In preliminary numbers from the Infrastructure Inventory, just the top ten projects per region add up to about \$580 million in total project costs for communities, of which they need about \$375 million in funding assistance, leaving a funding gap of \$163 million. Infrastructure is essential to economic growth and prosperity. Without the backbone of water and sewer systems, roads, energy, telecommunications, and essential community facilities, business and residential retention and growth would not occur.

ECONOMIC DEVELOPMENT

LEAN MANUFACTURING

Objective: Support the Oregon Economic and Community Development Department's budget request for Lean Manufacturing.

Issue: Oregon's small and medium sized manufacturing businesses (1 to 500 employees) face increased global competition. These manufacturing firms seek improved production efficiencies, higher quality, improved customer service, and environmental performance, otherwise known as "lean manufacturing." Lean manufacturing is "a systematic approach to identifying and eliminating waste (non-value-added activities) through continuous improvement that engages employees in reducing the intensity of time, materials, and capital necessary to meet their customers' needs." A focus of lean manufacturing is the elimination of waste which results in improved environmental performance.

Small Oregon businesses, lacking the internal staff or resources to implement lean/high performance manufacturing techniques need the support from public resources to effectively implement lean manufacturing practices. PDC markets this technical assistance to businesses in our target industry clusters to improve their profitability and competitiveness, as well as a cost cutting measure; a target industry cluster is a group of firms that interact with each other, their customers and suppliers. Clusters interact in ways that establish competitive advantages through the creation and incorporation of new knowledge into products and the processes that produce them.

OECD's request for increased funding for this program will allow more Oregon manufacturers to access Lean Manufacturing services from a variety of sources. The Governor's Oregon Manufacturing Workforce Strategy developed in concert with the manufacturing community of the Northwest High Performance Enterprise Consortium and the Oregon Workforce Investment Board, all cite Lean Manufacturing as a critical strategy to maintaining a successful manufacturing base in Oregon.

With the increase in Industry Sector Outreach Funds for lean/high performance manufacturing assistance, applied through competitive bid service providers, twice as many small to medium Oregon manufacturing businesses will be able to receive lean manufacturing assessments; and training which will result in reduced operational costs.

Moving forward, PDC hopes to utilize Lean's principles to assist businesses in retooling for the green economy, which will position Portland area firms to be more competitive nationally and globally.

ECONOMIC DEVELOPMENT

OREGON MAIN STREET PROGRAM

Objective: Support the Oregon Economic and Community Development Department's funding request for the Oregon Main Street Program.

Issue: The Oregon Economic and Community Development Department ("OECD") is requesting staff funding for the implementation and support for the Main Street community certification and implementation of Main Street principals for Oregon communities. This program assists communities in building capacity to attract, retain, and expand business. The Oregon Main Street Program will encourage economic development and historic preservation. The grant/loan funds requested in this proposal will provide specific design and planning services and community improvements.

The Portland Development Commission ("PDC") has been advocating for a Main Street program in Portland for several years. With nearly 40 business districts in Portland, there is the infrastructure to support such a program but financial resources are needed to implement the program, provide staff support to the business districts, and offer dollars for marketing and storefront programs in the business districts.

ECONOMIC DEVELOPMENT

REGIONAL INVESTMENT BOARDS

Objective: Support increased funding for the Regional Investment Program.

Issue: Regional Investment Boards (“RIB”) currently develop strategies for economic development in each region of the state, focusing on investments that contribute to the creation/retention of jobs and the leverage of short- and long-term investments. This planning involves an assessment of the region’s economy, including barriers to economic development and opportunities on which the Board can capitalize.

The boards help the Oregon Economic and Community Development Department (“OECDD”) by developing regional strategies for economic and community development; RIB’s are able to target funds for economic and community development on a local and regional basis; and they have created an economic development delivery system that would not otherwise exist.

During the current biennium, the Regional Investment Program was reduced from \$7.1 million to \$2.0 million. The OECDD is requesting \$11.5 million.

The Portland Development Commission (“PDC”) refers businesses to the RIB for financial assistance as appropriate. The PDC recently helped a branding and marketing firm benefit from the RIB; the firm relocated from the Los Angeles area to Portland, given the clustering of activewear firms, creative talent, and affordability. OECDD worked with the PDC to get the RIB funds.

EMERGENCY COMMUNICATIONS

COLLECTION OF 9-1-1 TAXES

Objective: Require the Department of Revenue to adopt the policies and procedures called for by the Secretary of State's Auditing Services Division regarding the 9-1-1 Telephone tax fund. This would include a better accounting and collection of the 9-1-1 telephone taxes that are due to the state 9-1-1 program and local jurisdictions.

Issue: The 9-1-1-telephone tax is an essential component of the overall funding for the statewide 9-1-1 system. The tax was authorized in 1981 and has been continually reauthorized. The telephone tax is 75 cents per month, imposed on each circuit (wire line and wireless) capable of accessing 9-1-1 services. The State keeps one-third of the revenue for the Office of Emergency Management and two-thirds of the revenue is distributed to local jurisdictions. This tax provides approximately 27 percent of 9-1-1 service budgets. The remaining 73 percent of expenses are paid through other local taxes.

Last year the Secretary of State's office conducted an audit of the state 9-1-1 telephone tax fund and determined that the State may be losing as much as \$4 million a year of uncollected 9-1-1 revenue. The audit made a number of recommendations to the Department of Revenue that would aid accounting and collections. The City of Portland loses \$360,000 a year because of uncollected 9-1-1 telephone tax revenue.

ENERGY

BIOFUELS

Objective: Oppose legislative efforts that would repeal the statewide renewable fuel standard or preempt the City of Portland's biofuels ordinance.

Issue: In the 2007 legislative session, the legislature established a statewide renewable fuel standard and tax incentives to stimulate the development, distribution, and use of biofuels in Oregon (HB 2210). Although a number of attempts were made to preempt the City of Portland's biofuels ordinance, the Legislature protected Portland's program. During the interim, some have criticized the ethanol portion of the renewable fuel standard and are seeking to repeal part of the legislation. Ethanol is an important bridge fuel to reduce America's dependence on oil and transition to a new generation of biofuels that deliver significant environmental and economic benefits. New ethanol refineries in Oregon, such as the Boardman facility that opened in August 2007, are already bringing jobs to Oregon communities hit hard by tough economic times. As new processes to produce ethanol from materials like wood waste become commercially available, ethanol production could result in many more quality jobs in Oregon. Portland will oppose efforts to weaken the legislation or threaten to preempt the city's renewable fuel standard.

ENERGY

BUSINESS ENERGY TAX CREDIT

Objective: Support the extension of the Business Energy Tax Credit.

Issue: The City of Portland was supportive of the expansion of the Business Energy Tax Credit (HB 2211) during the 2007 legislative session. The City uses the tax credit to help fund its public transportation programs and renewable energy projects.

Currently, the Oregon Department of Transportation is piloting a Business Energy Tax Credit program that allows transit agencies to recover some of the capital and operating costs associated with providing K-12 transportation in-lieu of “yellow bus” service. This program provides a valuable funding mechanism for getting students to and from school, jobs, and other opportunities. Through this pilot program, the City has helped negotiate free bus passes for students at certain area high schools, and hopes to expand this to other area high schools in the future. In addition to rules specific to K-12 transportation, through the BETC program, the City is able to implement a variety of programs aimed at reducing drive alone trips. These programs help the City achieve its goals relating to reduction of greenhouse gas emissions and addressing traffic congestion.

The City will actively support efforts to extend the BETC program beyond its 2012 sunset.

ENVIRONMENT

CONTROL OF INVASIVE SPECIES

Objective: Support legislation proposed by the Oregon Invasive Species Council including establishment of (1) Quagga & Zebra mussel inspection stations and enforcement authority; (2) feral swine management program; and (3) county weed control programs.

Issue: Invasive species pose a critical threat to our ecosystems and watersheds, second only to land development and transformation. Infestations by exotic mussels and crabs, feral swine and non-native vegetation pose real threats to watershed health and local economies. The Council estimates that invasive plants, alone, cost the U.S. economy \$120 billion dollars annually in lost crop and livestock production, control efforts, property value damage, and reduced export potential. The Oregon Invasive Species Council reports that 21 of 99 Oregon listed weeds cause Oregonians to lose \$83 million in personal income in 2000. Invasive plants in Portland threaten watershed health by degrading water quality, biodiversity, fish and wildlife habitat, tree cover, and increasing the potential for wild fires. Effective solutions must prevent the importation of invasive species, control their transportation and propagation, and locate and eradicate existing populations wherever they are found.

ENVIRONMENT

ECOSYSTEM CREDIT TRADING

Objective: Support legislative proposals to develop an ecosystem services market in Oregon as proposed by the Oregon Sustainability Board, Oregon Ecosystem Services Council, Institute for Natural Resources (OSU), and Willamette Partnership.

Issue: HB 3543 (2007) established actions to reduce global warming emissions in Oregon. The legislation called for an examination of cap and trade mechanisms to accelerate the desired reductions in greenhouse gases, and legislation is likely to be introduced in 2009 to take the next steps in developing a cap and trade system for greenhouse gas emissions in Oregon. Many of the actions that will be eligible for such a cap and trade system produce multiple ecosystem services that benefit State and local goals for watershed health, habitat restoration, and water quality. The City supports the development of trading systems contemplated by HB 3543 and encourages the development of trading systems that accommodate the full range of ecosystem services associated with a private development, habitat restoration project, or watershed improvement. Furthermore, the City advises that any trading system include provisions to ensure the long-term stewardship and maintenance of the resulting ecosystem improvements.

ENVIRONMENT

FUNDING THAT SUPPORTS WATERSHED HEALTH

- Objective: Support DEQ funding requests and budget levels that allow for the continuation and expansion of programs related to watershed health, including:
- innovative proposals for watershed planning, water quality improvements, fish and wildlife recovery, invasive species reduction, toxics monitoring, and riparian restoration activities in the Lower Willamette Watershed and the tributaries that drain to the Willamette River;
 - DEQ's budget requests that address toxics reduction, implementation of SB 737, TMDL Implementation, and the Clean Water State Revolving Fund; and
 - revision of DEQ's 401 water quality fee.

Issue: Oregon (including the Portland Metropolitan area) is facing severe water quality and watershed health problems. This has resulted in a number of regulatory actions, including streams on the 303(d) list, ESA listings, orders to control combined sewer overflows, compliance requirements for federal stormwater permits, and the Superfund listing of Portland Harbor.

The solutions to these problems are complicated and expensive. Yet, state agencies important to watershed health are chronically underfunded. These resource constraints leave the regulatory agencies less able to respond constructively and creatively. The lack of funding for water quality monitoring is critical because monitoring identifies watershed health issues and the sources of contamination. Without this baseline information it is nearly impossible to reach solutions.

The lack of resources also hinders the coordination required to develop a more comprehensive approach to watershed health. For example, current regulatory efforts are focused on reducing toxics in water from point sources - while the agency acknowledges, some of the more significant sources of toxics are non-point sources - such as agriculture and forest practices. A more coordinated, comprehensive, watershed approach to toxics within and between agencies could produce a more effective and efficient approach.

These underfunded agencies also perform functions that are important for the City. For example, DEQ issues permits for the city's stormwater and wastewater systems. Permits give the city the parameters within which we operate and outline our requirements. Smooth and efficient permit operations allow the City to effectively address watershed health.

ENVIRONMENT

MONITORING AND CONTROL OF TOXIC SUBSTANCES

Objective: Monitor efforts of the Oregon Legislature to extend the prevention and reduction strategies established by SB 737 to industry discharges. Monitor legislative oversight of actions taken by Oregon DEQ to date to implement SB 737. Oppose changes to SB 737 that would undermine the partnerships developed by Oregon DEQ, Oregon League of Cities, Oregon Association of Clean Water Agencies and other stakeholders.

Issue: Persistent, Bioaccumulative, Toxic substances (“PBTs”), are toxic substances that can cause a wide range of health effects in fish, wildlife, and humans. Negative effects on the nervous system, reproductive and developmental problems, immune-response suppression, cancer, and endocrine disruption are associated with PBT contamination. These dangerous chemical pollutants last a long time in the environment and do not degenerate into safer components. PBTs are difficult to detect early because their initial concentrations are small. Nonetheless, over time they build up to harmful levels.

After years of debate about the best approach to deal with toxics, the 2007 Legislature enacted SB 737. The legislation directs Oregon DEQ to develop a strategy for pollution prevention and reduction to be used by major municipal point source dischargers in the development of pollution reduction plans. The plan is limited to municipal wastewater dischargers.

The 2009 Legislature will assess the progress of Oregon DEQ to implement SB 737 and may attempt to extend its provisions to industrial dischargers and other potential sources of these PBTs. With this and other legislation/discussion regarding toxics reduction – it will be important that toxic reduction efforts should make sense from a financial and implementation standpoint, that the requirements should be fairly spread across sources (point and non point, industry and municipal, etc.) and that successful toxics reduction efforts will require a comprehensive and coordinated approach by the key state agencies.

ENVIRONMENT

OREGON DRUG TAKE BACK PROGRAM

Objective: Support the legislation that would require drug manufacturers to offer a convenient way for Oregonians to dispose of unwanted and unused medicines in an environmentally safe manner.

Issue: Unused drugs kept in medicine cabinets, tossed in the garbage, or flushed down the toilet or drain can be serious threats to human and environmental health. Drugs of concern include controlled and non-controlled prescription drugs, as well as over-the-counter medications. Drug take back programs -- government or industry programs where unused drugs are returned to designated sources -- reduce avoidable poisoning of both children and adults; prevent intentional misuse of unwanted prescription drugs; and protect water quality, fish and other aquatic species.

Based on industry estimates, 3% of the prescriptions written in the US are unused. In Oregon, that translates to a possible 1,004,200 prescriptions unused annually in Oregon - 663,000 from residents and another 341,000 from long-term care facilities. Some of these unwanted and unused prescription drugs reach Oregon's environment. How do they get there? The majority is from people taking medicine and excreting it. However, studies show that because of inadequate disposal options, most people throw unused or unwanted drugs away -- either flushing them down the toilet, or disposing of them in the household trash.

In October 2006, the Oregon Association of Clean Water Agencies ("ACWA") convened a group of stakeholders to explore the development of a statewide drug take back program in Oregon. The Oregon Pharmaceutical Take Back Stakeholder Group met for one year to create a proposed program to collect leftover medications for Oregon that was effective, fair, and economical. The process and recommendations are summarized in the Oregon Pharmaceutical Take Back Stakeholder Group Final Report.

ENVIRONMENT

PRODUCT STEWARDSHIP

Objective: Support the development of DEQ's statewide product stewardship program.

Issue: The changing nature of Oregon's solid waste stream - more products containing toxics or made of multiple materials - makes it more expensive for local governments to manage waste. Increasingly, product stewardship programs are being introduced, both nationally and internationally, to shift the costs of dealing with difficult to manage products from local governments and their rate payers to the producers. Such programs provide incentives to improve product design and manufacturing and ensure that products are reused and recycled. In 2007, Oregon adopted legislation making producers responsible for the collection, transportation, and recycling of computers, monitors and televisions.

DEQ is proposing legislation that will create a basic stewardship framework for products that contain toxics or are difficult to manage. Providing a common framework avoids creating different systems for each product and provides producers more certainty. DEQ is seeking funding for new positions to set up the product stewardship framework and to begin implementing programs for specific products, such as mercury-containing lights, paint or batteries.

This approach would give Portland residents convenient opportunities to recycle without charges or fees, thereby helping Portland achieve its recycling goal of 75% by 2015. It also relieves the City of the burden of attempting to collect these troublesome products through the curbside recycling program. By shifting the burden to producers, product stewardship is expected to drive better, more sustainable product design with reductions in resource use and waste generation. Greater recycling, resource conservation and waste prevention align closely with the goals of the City's Portland Recycles! Plan and climate change policy.

GENERAL GOVERNMENT

LIQUOR LICENSE ISSUANCE AND RENEWAL

Objective: Oppose legislation that would allow liquor licenses to be valid for up to two years.

Issue: In Portland, there are over 2,300 liquor establishments. These establishments are part of Portland's vibrant neighborhood commercial areas as well as the downtown nightlife and other entertainment districts. With limited tools and resources, the city works hard to ensure that all liquor outlets within the City of Portland meet the expectations of the community, including the residents and neighboring businesses. Our mutual interest is that the liquor outlets operate in a lawful manner that does not unreasonably disturb the peace and tranquility of our neighborhoods.

Through program staff at the Office of Neighborhood Involvement and the Portland Police Bureau, the city works pro-actively with licensees and neighbors to mitigate any potential livability and public safety issues prior to the business beginning its operation. As complaints or public safety issues arise the city also works collaboratively to address the issues informally, or, when appropriate, through our local time, place, and manner regulations. However, the city also uses the renewal process to get licensees to the table to address problems. When issues are not sufficiently addressed by other means, the renewal process provides an annual opportunity to request restrictions or license cancellation. Biennial renewal licensing would seriously hamper the City from addressing these issues in a timely manner, resulting in increased frustration for residents and neighboring businesses.

Furthermore, the City of Portland relies on the annual licensing fees to provide program staff to work with businesses and the community to solve emerging issues as well as to process applications. Local jurisdictions would need reassurances that they will be made whole so that services can be maintained at current funding levels. Furthermore, there needs to be an adequate process for the public to be heard and an opportunity to take establishments with significant reported problems out of the 2-year cycle.

GENERAL GOVERNMENT

OREGON TORT CLAIMS ACT

Objective: Monitor recommendations of the Interim Task Force on Oregon Tort Claims Act. Support legislative changes to the Oregon Tort Claims Act that will provide more certainty to the city's risk management program and will be cost-effective for Portland taxpayers.

Issue: The Oregon Tort Claims Act ("OTCA") makes the City responsible, subject to certain monetary limits and other defenses, for the torts of its officers, employees and agents. Recent court decisions have exposed the City to greater potential liability than we would expect based simply on the language of the Act. In particular, in *Clarke v. OHSU*, the Oregon Supreme Court held that, on the facts of that case, the application of the monetary limits of the OTCA to claims against OHSU's doctors violated the plaintiff's right to a remedy under the Oregon Constitution. Because the Court said that the constitutionality of the limits depends on how substantial the remedy is in a given case, but did not identify just how close to a plaintiff's actual damages the limits have to be to be constitutional, there is a general sense that the limits for all cases need to be raised. The interim Task Force on Oregon Tort Claims Act will be recommending changes to the 2009 legislature.

In addition to the issue of tort caps, other cases, primarily from the Oregon Court of Appeals, have raised issues about the City's duty to answer for the torts of its independent contractor agents. Working with other affected local governments, the City recommended to the interim Legislative Task Force language amendments to the OTCA to address those issues. The City will, along with its local government partners, pursue these language changes to the OTCA to permit the City to transfer risk to contractors. Also, a change is needed to clarify that the City is not liable on claims based on the willful wrongdoing or malfeasance of its officers, employees and agents (as opposed to the ordinary, unintentional mistakes that people inevitably make). The Act already directs that the City cannot defend or indemnify individual officers, employees or agents on these claims, the Act needs to be clarified so that the City cannot be sued directly in these situations.

GENERAL GOVERNMENT

TIME, PLACE AND MANNER REGULATIONS

- Objective:** Oppose any efforts to preempt local ordinances that regulate reasonable time, place and manner operation of liquor establishments.
- Issue:** In 2004, the City of Portland adopted an ordinance that put into place time, place and manner regulations of establishments that sell and serve alcoholic beverages. These regulations are designed to reduce or eliminate disruptive behavior that gives rise to nuisance complaints about certain problem establishments. ORS 471.164(1) allows cities and counties to adopt such regulations. Shortly after passage of the ordinance a suit was brought against the City in Multnomah County Circuit Court. The City prevailed in the lawsuit, but in 2005, opponents of the ordinance sought to preempt the city's authority through legislation. The bill passed both chambers, but was vetoed by the Governor. The Governor instructed the OLCC to work with local governments and its business partners to resolve these issues.

DRAFT

HOUSING

FUNDING FOR DEPARTMENT OF HEALTH & HUMAN SERVICES

Objective: Support efforts to maintain and increase the Oregon Department of Health & Human Services budget – specifically, its spending on alcohol and drug treatment programs, community mental health programs, and mental health services for adults and families. Additionally, the City supports extending enrollment in the Oregon Health Plan to a broader group of low-income people. The City also supports policies that direct more Health and Human Services resources to alcohol and drug treatment programs, community mental health programs, and mental health services.

Issue: The success of the Ten Year Plan to End Homelessness is directly linked to the level of State funding for mental health services, and alcohol and drug treatment services. Without those services, evidence shows that many homeless single adults who have mental illness and/or an addiction will have difficulty remaining housed. Private and non-profit housing partners, such as community development corporations, rely on social service agencies to support their residents who face mental health and/or addiction challenges. To meet the City’s Ten Year Plan commitment to open 1,200 additional units of permanent supportive housing (“PSH”) and 600 additional units of housing for high-need families, local social service agencies must have sufficient funding to provide case-management and other services to formerly homeless residents and other high-need tenants of City-subsidized housing.

HOUSING

GENERAL ASSISTANCE

Objective: Support reinstatement of General Assistance program

Issue: General Assistance was a state-funded program that provided some income for individuals who had none, and who were in the process of applying for federal Social Security Income (“SSI”) or Social Security Disability Income (“SSDI”), or in the process of making a good faith appeal of the denial of those benefits. This income was available to pay for housing, food, and other necessities until the recipient began to receive federal benefits. Because the federal government pays retroactive benefits to persons once benefit eligibility has been determined, the State was able to recover the costs in most cases.

The City supports reinstatement of General Assistance, which was cut in an effort to close a large budget gap, as it provides a source of funding for affordable housing for persons experiencing homelessness. A chronically homeless adult who is placed into permanent housing may not have applied for SSI or SSDI, or his or her initial application may have been denied and not appealed. That individual has effectively zero income until he or she is determined to be eligible for federal benefits. The City must currently pay 100% of the rent for the individual. Reinstatement of General Assistance would sharply reduce the City’s costs.

LAND USE

BIG LOOK TASK FORCE

Objective: Monitor legislation containing recommendations of the Big Look Task Force.

Issue: The 2009 Oregon Legislature will be receiving a report with findings and a comprehensive set of recommendations on changes or reforms to the Oregon Land Use Planning Program. The Legislature created a nine member bi-partisan task force to review the statewide land use planning program (SB 82). The task force, known as the Big Look Task Force (“BLTF”), is due to complete their charge in late 2008 by submitting a report with recommendations for legislative changes.

The City of Portland has an important stake in the outcome of these recommendations as they play a critically important role in determining the future direction of land use planning for the city and the region. The recommendations come at a particularly important time when Portland is beginning to prepare The Portland Plan and has entered formal Periodic Review process to update its Comprehensive Plan. At this time it is unclear whether any BLTF recommendations would change our work program or direction. In addition, Metro is also in Periodic Review with LCDC and is undergoing a comprehensive regional planning program (*Making the Greatest Place*) to evaluate the UGB expansion and establishing 40-50 year urban and rural reserves (2010).

The Portland Planning Bureau submitted detailed comments to the Big Look Task Force on July 7, 2008 and recommended further attention to the areas of Growth Management, Governance and Climate Change. The bureau was concerned about the affects on urban areas that would result from a recommendation allowing ex-urban development on secondary rural resource lands at the discretion of local government with little, if any, state oversight.

PLANNING

HISTORIC SPECIAL ASSESSMENT

Objective: Support legislation that amends the Historic Special Assessment property tax benefit program based on the recommendations of the Oregon Task Force on Historic Property. Support a simplified and more equitable Property Tax Reduction alternative, a local option to disallow second 15-year terms for residential properties, improved participant accountability measures, and restrictions on participation by residential condominiums.

Issue: Without reauthorization, the Historic Special Assessment program will sunset in 2010. The last legislative session created a task force to comprehensively assess the program's merits and shortcomings, consider concerns about efficiency, fairness and accountability, and make recommendations for possible program amendments. The task force found that the program has proven to be an effective tool for stimulating investments in historic buildings and districts and supporting urban revitalization and economic development. The proposed changes outlined in the task force's report address the concerns previously voiced by members of the public and in the last few legislative sessions. The public costs (reduced property tax revenues) of the amended program are expected to be comparable to those of the existing program.

PUBLIC CONTRACTING

INCREASE THRESHOLD FOR IN-HOUSE CONSTRUCTION DETERMINATIONS

Objective: Support legislation that modifies the threshold amount for in-house construction determinations.

Issue: ORS 279C.305 states that “it is the policy of the State of Oregon that contracting agencies shall make every effort to construct public improvements at the least cost to the contracting agency.” Further, the statute requires, among other things, that if a contracting agency intends to perform construction work using the contracting agency’s own equipment and personnel on a project estimated to cost more than \$125,000, the contracting agency shall also show that the agency’s decision conforms to the aforementioned policy.

The City of Portland supports this policy to ensure that taxpayer resources are spent wisely and in the most efficient manner. However, this monetary threshold is dated because it has not been modified for a number of years. Because the cost of construction has increased substantially since that time, very few projects fall under this threshold. Those projects that are undertaken by the public contracting agency and are estimated to exceed this threshold triggers the production of a great deal of paperwork. As a result, the city would like to see the existing threshold increased to \$298,454, the amount it would be today had the Oregon Highway Construction Cost Index been applied since 1998. Further, this threshold should be adjusted on an annual basis using the same index.

PUBLIC EMPLOYEE RETIREMENT

PERS REFORM

Objective: Work with other public employers to sustain reforms to the Public Employee Retirement System that were passed by the 2003 Legislature.

Issue: The State Public Employee Retirement System has been the subject of intense scrutiny since 1998, when many public employers were informed of dramatic increases to employer contribution rates because of unexpected increases in the fund's actuarial unfunded liability. In 1999, the City's liability totaled \$257 million. The City elected at that time to issue debt to pay down its \$257 million assessment.

Even with these reforms, employer costs are expected to increase in coming years. The City is committed to providing reasonable retirement benefits to their employees but will resist legislative efforts to increase those costs.

DRAFT

PUBLIC SAFETY

DPSST BOARD COMPOSITION

Objective: Oppose legislation that would remove the Portland Fire and Police Chiefs from the Board on Public Safety Standards and Training or would otherwise reconstitute the make-up of the Board and policy committees.

Issue: Both the Portland Fire Chief and the Portland Police Chief, under statute ORS 181.620, are members of the State's Board of Public Safety Standards and Training. This board exists to develop talented individuals into public safety providers, adopts and approves all policies, standards, and minimum requirements for public safety certifications and training, and serves a disciplinary role. The board and its policy committees are primarily made up of management representatives.

It is anticipated that legislation will be introduced that would remove the statutory positions of both the Portland Fire Chief and Portland Police Chief and reconstitute the board with more members from non-management positions. The board and its policy committees were never intended to serve as a management labor committee. Rather, the board and its policy committee exist to determine the minimum qualifications and training standards for those pursuing a career as a firefighter, police officer, or 9-1-1 operator, among others.

PUBLIC SAFETY

METAL THEFT

Objective: Support Legislation that will reduce the occurrence of metal theft in Oregon and make it easier to prosecute metal theft crimes.

Issue: Legislation will be introduced that will clarify the standards in charging someone for stealing metal and reduce the incentive to sell stolen metal to scrappers. With world demand for metal increasing, the price of scrap metal has also increased, creating an incentive for people to steal this material. Drug users, primarily methamphetamine users, financing their habit through stealing and then recycling metal (for money) are the primary perpetrators.

The theft of irrigation equipment is increasingly becoming a problem for farmers across the state of Oregon. Furthermore, guard rails on bridges and roads are disappearing from the public right-of-way. Attempts by the legislature to impose 10 day holding periods, require photo ID upon the sale of scrap metal, elimination of cash payments, and centralized reporting could reduce the theft of metal in Oregon.

PUBLIC SAFETY

NOVELTY LIGHTER PROHIBITION

Objective: Support legislation prohibiting the sale and distribution of novelty lighters.

Issue: Many lighters designed to look like toys are dangerous in the hands of juveniles or adults unable to distinguish the difference between a toy and a lighter which produces flames ranging in temperature from 1400-2500 Fahrenheit. This legislation, being introduced by the Oregon State Fire Marshall's Office, will remove such toy-like lighters from being available to consumers by prohibiting the sale and distribution of them.

From 2002 through 2006 over 5,700 juveniles were involved in fire incidents amounting to over \$18 million in property loss and three lives lost. Over the past eight years the trend for youths using lighters as the primary ignition source has increased from 50.7 percent to 71.5 percent.

Novelty lighters have features that are attractive to children, including visual effects, flashing lights, musical sounds, and toy-like designs. There are no good reasons for a lighter to be manufactured to look like a toy. The European Union has already banned the sale of novelty lighters as part of their lighter safety standards.

PUBLIC SAFETY

PARKING AND PARK ENFORCEMENT PERSONNEL PROTECTION

Objective: Support legislation that will increase the penalty for intentionally, knowingly, or recklessly causing physical injury to a parking enforcement officer and park security personnel while on the job.

Issue: Parking enforcement officers and park security personnel frequently encounter hostile individuals who try to interfere with their ability to fulfill their job responsibilities. Occasionally, some of these individuals resort to physical violence, placing parking enforcement officers and park security personnel in jeopardy of physical harm simply because they are fulfilling their duty.

Currently, if a person intentionally, knowingly or recklessly causes physical injury to a parking enforcement officer or a member of park security, that individual can be charged with Assault in the fourth degree – a Class A misdemeanor. This bill would add parking enforcement officers and park security personnel as two new classes of protected individuals under Assault in the third degree – a Class C felony. Existing protected classes under Assault in the third degree include bus and tax drivers, youth correction facility staff, and paramedics.

PUBLIC SAFETY

SALES TO MINORS AND VISIBLY INTOXICATED PERSONS

Objective: Support legislation that gives the Oregon Liquor Control Commission (“OLCC”) appropriate authority to enforce violations against liquor licensees who sell to minors or visibly intoxicated persons.

Issue: ORS 471.410 prohibits the sale, service, or provision of alcohol to minors or visibly intoxicated persons. The current standard by which the OLCC must prove that a licensee served to a minor or visibly intoxicated person requires that he or she did so “knowingly.” This standard is virtually impossible to prove, unless the seller admits it.

DRAFT

TAXATION AND FINANCE

BEER TAX

Objective: Support legislation that will increase beer taxes in Oregon.

Issue: The last time the beer tax in Oregon was raised was 1976 to \$2.60 a barrel which is about a penny a pint. Meanwhile, the wine tax is below the national average.

In cities, a large share of local alcohol-related costs are in public safety, and include direct liquor law violations, assaults, domestic violence, driving-while-under-the-influence-of-intoxicants (“DUII”), disorderly conduct, property crimes, theft, prostitution, and many other categories of crimes. However, the amount provided to cities through state revenue sharing formulas falls far short of what cities must spend responding to alcohol related incidents. For example, in FY 2005-2006, the City of Portland spent over \$15 million responding to alcohol related incidents but received just over \$10 million through revenue sharing.

The City of Portland would support an increase in the beer tax that would help local governments remain whole and address this shortfall. The City would also support an increase that includes funding for mental health services and drug and alcohol treatment.

GENERAL GOVERNMENT

BUSINESS LICENSE TAX LOOPHOLE

Objective: Support legislation that would eliminate the exemption currently granted to insurance agents from paying the City's Business License Fee.

Issue: The City of Portland imposes a general business license tax on all businesses operating within its boundaries who are not exempted by local, state, or federal law. Since at least the early 1970's the State of Oregon, in ORS 731.840, has exempted from local taxation and licensing, insurance companies not based in Oregon and insurance agents. Historically, this exemption from taxation presumed to be connected to the retaliatory "premium tax." The "premium tax" was phased out of existence several years ago due to a possible conflict with the Commerce Clause of the 14th Amendment to the U.S. Constitution.

Exempting foreign insurance companies and insurance agents from local taxation is not equitable to other businesses, including domicile insurers operating within the City of Portland and Multnomah County, which currently pay the tax. Furthermore, the justification for the preemption from local taxation is no longer supported by the current milieu since the premium tax was phased out years ago. The City of Portland supports greater equity in its treatment of all business taxpayers.

TAXATION AND FINANCE

INTANGIBLE PERSONAL PROPERTY

Objective: Oppose efforts of centrally assessed utilities to reduce their tax burden at the expense of other taxpayers and of public services.

Issue: Centrally assessed companies in Oregon have sought over the last several years to exempt their intangible assets from property taxation. In both 1997 and 1999, legislation cleared both houses but was vetoed by the Governor. In the 2001 legislative session, the industry proposed HB 2931 which was nearly identical to the previously vetoed bills. Another measure, HB 2778, provided a narrow exemption for the value of FCC licenses from the valuation of centrally assessed wireless utilities. This bill corrected the problem that licenses obtained at auction were subject to taxation as intangible assets while licenses granted by lottery were not. In the 2007 legislative session the industry introduced HB 3065 which proposed to exempt the intangible property of communication companies from property taxation. The Legislative Revenue Office estimated that this bill would have removed more than \$1.4 billion from property tax rolls, creating a significant loss for local governments. HB 3065 received a hearing but did not move out of committee. However, it is anticipated that the industry will once again press its case during the 2009 session for repeal of the intangible tax.

TAXATION AND FINANCE

PROPERTY TAX EXEMPTIONS

- Objective:** Support legislation allowing local governments, rather than the state legislature, to grant property tax exemptions or other reductions. Oppose legislation that grants property tax exemptions or abatements not sought by local governments.
- Issue:** There are occasions when the City supports property tax exemptions or deferrals because they help advance important city objectives. However, it has often been the case that the legislature has granted property tax exemptions over the objection of cities. Tax expenditures represent a direct revenue loss to cities under the state's rate-based system. Because of this, the City opposes new property tax exemptions without replacing the resulting revenue losses unless local governments are given an option not to participate in the program or the exemptions have the support of local governments.

DRAFT

TAXATION AND FINANCE

SHARED STATE REVENUES

Objective: Preserve the City's share of state liquor and tobacco revenues. Work with the Legislature and the Governor's office to ensure that any changes to the shared revenue funding formulas keep cities whole.

Issue: During the 2007 legislative session, there were many attempts to reduce cities' shares of state liquor revenues in order to fund state and county addiction and treatment programs and the state police. Moreover, several proposals to increase the beer and wine tax would have changed the current distribution formula and would have reduced the amount cities receive for services such as police and fire. While the City remains supportive of increased funding for the state police and funding much-needed state and county human service programs, it is not supportive of funding these programs out of local public safety dollars.

A 2006 report by an Oregon Liquor Control Commission working group found that 58 percent of DUII arrests and 72 percent of liquor law arrests in Oregon are made by city police departments. However, cities only receive 20 percent of state liquor sales revenue and 14 percent of the revenue from beer and wine taxes. In 2005-2006, the City of Portland's alcohol-related service costs were close to 50 percent higher than the total revenue received through the state revenue sharing formula.

TAXATION AND FINANCE

STATEWIDE TAX REFORM

Objective: Support changes to the state tax system that will provide stability for state and local government and avoid regressive results.

Issue: Oregon's heavy reliance on income taxes to pay for critical services like education, public safety, and health care, tends to flood the state treasury when the economy is doing well, and forces drastic cuts when the economy does poorly. No other state in the nation is as dependent on the personal income tax as Oregon. Furthermore, the personal income tax is much more volatile than property taxes or sales taxes. This volatility leads to dramatic changes in revenue, forcing the State and local governments into unpredictable budget environments.

Furthermore, with the passage of Measure 5 and 50, the ability of local governments across the state to meet existing demands and address emerging challenges has diminished over time. Revisiting the existing property tax limitations and recalculation of the assessed value to the market value when property changes ownership are two items that would allow local government to address the declining purchasing power they face.

During the 2007 legislative session, the Legislature made significant steps towards addressing this volatility through the creation of a rainy-day fund (HB 2707), which the City strongly supported. Over the interim, the City has followed the work of the Joint Revenue Restructuring Task Force which was charged with examining the State's current tax system and reporting back to the legislature with its findings and recommendations. The City of Portland supports those recommendations of the Revenue Restructuring Task Force that will help to alleviate the fiscal volatility experienced by the State and local governments.

TELECOMMUNICATIONS

POLE ATTACHMENTS

Objective: Oppose legislation that would have the impact of classifying local government as “licensees” for purposes of paying fees or being subject to pole-owner imposed sanctions

Issue: Pole attachments are any wire or cable for the transmission of communication or electricity installed upon any pole in the right-of-way. Utilities pay attachment fees to pole owners. Those who attach wires, cables, or equipment must comply with a number of requirements including proper engineering codes, getting permission to attach, code compliant construction, maintenance, and paying costs and fees. Local governments make attachments to poles for a variety of reasons including: public safety communications, traffic signalization, and traffic monitoring.

The City of Portland works closely with pole-owning utilities and complies with required safety codes. Attaching City wires and equipment to existing utility poles is faster and cheaper than going underground or building redundant poles. Joint use also reduces the number of poles in the public right-of-way. Currently, the City of Portland is entitled to attach its facilities at no cost, usually as a result of our franchise agreements with the utilities. Should the City be defined as a “licensee” under state law, it could lead to the imposition of penalties and, eventually fees.

TELECOMMUNICATIONS

RELOCATION

Objective: Oppose legislative efforts to limit city authority requiring the relocation of facilities for the public convenience.

Issue: Cities must retain the authority to require utilities to relocate for “public convenience.” The City Engineer has discretion to require utilities to relocate when it is in the “public interest” or for “public convenience” and to establish the relocation schedule. Current policy requires that utilities needing to relocate or demolish their facilities must do so in accordance with city requirements, which include meeting a city established schedule. That schedule is based on input from the utility but also considers the impact to other contractors or users of the right of way. The City is obligated to make determinations of schedules and timing that are in the overall public interest. Maintaining present flexibility to accommodate the needs of the right-of-way users as well as the authority to hold users accountable for schedules is key to a livable community.

TELECOMMUNICATIONS

RIGHT OF WAY MANAGEMENT

Objective: Oppose legislation that limits the city's ability to manage and maintain the public right-of-way.

Issue: Cities have a duty and obligation to manage public rights-of-way as trustees for the public. Cities must retain the authority to manage the right-of-way, including charging franchise fees as rent and permit fees to recover costs. Cities need flexibility in regulating the right-of-way to respond to competing needs, and provide users equitable access.

Circumstances in each community differ - setting local standards allows cities to address local needs. No single standard works in all communities. Local management prevents unnecessary disruptions to transportation, maintains access to neighborhoods and local businesses, and assures emergency vehicle access. Furthermore, local management helps preserve the life of street pavement as it allows for greater coordination of construction in the public right-of-way. Studies indicate that damage from utility cuts dramatically decrease the useful life of pavement. The indirect costs of utility cuts borne by the public include traffic congestion, increased greenhouse gas emissions, and impaired access to businesses. Local management of the right-of-way ensures coordination among local government and utilities.

TRANSPORTATION

ELDERLY AND DISABLED PROGRAM

Objective: Support increased funding for the Oregon Elderly and Disabled Transportation Program.

Issue: The Oregon Elderly and Disabled (“E&D”) Transportation Program is over 20 years old and operates in all 36 counties. Today, one of every ten people is 60 years or older and in 25 years it will be one of every five. Transportation is vital to maintaining independence and productivity and the demand for E&D transportation services is skyrocketing.

Regional stakeholders such as Elders in Action, Ride Connection and others have been working on innovative ways to increase fixed-route ridership by elderly and disabled persons; these efforts include travel training programs, free community shuttles, more low-floor buses, more bus shelters, and sidewalks. These measures, however, have not kept pace with the dramatic rise in service demand and costs. Similarly, State support for E&D transportation has fallen behind. The City supports legislation that will increase the state cigarette tax and direct those additional funds to the E&D Transportation Program.

TRANSPORTATION

REGIONAL BRIDGE AUTHORITY

Objective: Support the efforts of regional coalition partners to pass legislation establishing the creation of a regional bridge authority.

Issue: Many bridges in Multnomah, Washington and Clackamas Counties are a regional resource, serving not only the residents the city in which they are located but of the adjacent cities and counties. Their maintenance, while reserved to individual counties in which they are located, is vital to the health and welfare of the transportation system of the entire region. The creation of a Regional Bridge Authority comprised of Multnomah, Washington, and Clackamas Counties that addresses the maintenance needs of the region's bridges with regional significance would be a significant step forward in the maintenance and preservation of these vital transportation links.

DRAFT

TRANSPORTATION

TOLLING ON WILLAMETTE RIVER BRIDGES

Objective: Support legislation that will provide Multnomah County the ability to collect tolls on Willamette River bridges under its authority.

Issue: Multnomah County owns six bridges crossing the Willamette River. Five of these bridges – the Sellwood, Morrison, Hawthorne, Broadway and Burnside Bridges – are major transportation connectors that are vital to Portland’s transportation system.

Like local governments across the state, Multnomah County faces a significant maintenance backlog in regards its transportation infrastructure. In order to address this backlog, legislation will be introduced that will grant Multnomah County the ability to collect tolls on bridges across the Willamette River that are under its authority. Portland recognizes the importance of maintaining and preserving existing transportation assets as well as the critical role these assets play in the local and regional transportation system. Thus, the City supports legislation that grants Multnomah County the authority to exact tolls on Willamette River bridges, while retaining the City’s authority to do so.

WATER

FLUORIDE

Objective: Monitor legislation dealing with fluoride in drinking water. Oppose any efforts to compel or prohibit fluoride in drinking water and preempt local decision making.

Issue: There have been at least five attempts to require fluoride to be added to drinking water statewide. Each time, the effort either failed, or the one instance in which it passed, was repealed by a statewide vote of the people.

The City of Portland maintains that the decision whether or not to add fluoride to drinking water is a local decision.

Adding fluoride to the water would cost the city approximately \$1 million in one time added costs for drinking water in Portland. Ongoing operational costs are conservatively estimated to be \$500,000 per year.

WATER

LT2 DRINKING WATER REGULATION

Objective: Support legislation that would provide the City with opportunities to work with the State of Oregon on implementation of the LT2 Rule.

Issue: In January 2006, The Environmental Protection Agency (“EPA”) issued a new drinking water rule under the Safe Drinking Water Act called the Long Term 2 Enhanced Surface Water Treatment Rule (“LT2”). The rule is intended to reduce illness linked with the contaminant *Cryptosporidium*. Portland’s source water, the Bull Run, is a pristine watershed far removed from the types of human activities and pollution that are associated with the presence *Cryptosporidium*. *Cryptosporidium* has not been detected in Portland’s drinking water samples since September 2002.

Compliance with the LT2 rule would have impacts on two separate parts of Portland’s water system. First, the rule requires the city to provide additional treatment to its Bull Run supply to either remove or inactivate *Cryptosporidium*. Secondly, the rule would require changes to how open finished drinking water reservoirs are managed and operated. The rule requires that water systems with uncovered finished water reservoirs, like those at Portland’s Mt. Tabor and Washington Parks, either cover the reservoirs or provide treatment at the outlets of the reservoirs to either remove or inactivate *Cryptosporidium* and other viruses.

The Portland City Council committed in January 2005 to pursue alternative forms of compliance for the LT2 rule. The city is currently pursuing parallel compliance strategies. Commissioner Randy Leonard has directed the Water Bureau to begin planning and budgeting to achieve compliance with the LT2 rule as written. This includes the evaluation, selection and development of one of the treatment approaches proscribed in the rule and a plan for replacing the open reservoirs at Mt. Tabor and Washington Parks with enclosed storage.

WATER

OREGON WATER SUPPLY AND CONSERVATION INITIATIVE

Objective: Support the Oregon Water Resources Department in their development of a statewide water management plan.

Issue: The Oregon Water Resources Department has been working on an initiative called the Oregon Water Supply and Conservation Initiatives (“OWSCI”) to study future water demands, identify water conservation program needs, identify water storage sites in Oregon, and develop a process to make water availability determinations in Oregon. The Oregon Water Resources Commission has identified a need for Oregon to have a statewide Water Management Plan (Oregon is only one of two states in the U.S. that doesn’t, Alaska being the other).

The City was supportive of the first phase of OWSCI during the 2007 legislative session.

DRAFT

WATER

STATE RULEMAKING AND SDC'S

Objective: Support legislation that clarifies that state agencies do not have the authority to regulate local government System Development Charges (“SDC”) by administrative rule.

Issue: State building code regulators are proposing an administrative rule that would require local governments that adopt sprinkler requirements for residential housing. Furthermore, this rule limits SDC charges to those that apply to the size of service required absent the additional flow required for sprinkling. The City opposes this effort to regulate local SDC charges in rule and believes that state agencies lack authority to regulate local government SDC's.

DRAFT

WORKERS' COMPENSATION

CANCER PRESUMPTION FOR FIREFIGHTERS

Objective: Support legislation that could add specified cancers to the current list of compensable occupational diseases for non-volunteer, full-time, and fully compensated firefighters.

Issue: Current workers' compensation law in Oregon states that for firefighters, diseases of the heart or lungs are presumed to be work-related. During the 2007 legislative session there was an effort to add seven specified cancers to the current list of compensable occupational diseases for non-volunteer, full-time, and fully compensated firefighters. This was a highly contentious issue during the 2007 session and ultimately did not pass.

The City will support legislation adding specified cancers to the current list of compensable occupational diseases. In past attempts, legislation would have made someone in the FPD&R system eligible for both FPD&R benefits and Workers' Compensation benefits. If so, the city will work to rectify this unintended consequence.