

AGENDA

(Chair May Alter the Agenda)

BENTON COUNTY BOARD OF COMMISSIONERS

Tuesday, March 1, 2022

GoToMeeting: <https://meet.goto.com/945492429>

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Livestream: <http://facebook.com/BentonCoGov>

THE BOARD WILL TAKE A BRIEF RECESS BETWEEN THE WORK SESSION AND BUSINESS MEETING

9:00 A.M.

I. Opening:

A. Introductions

B. Announcements

II. Comments from the Public

Time restrictions may be imposed on public comment, dependent on the business before the Board of Commissioners. Individual comment may be limited to three minutes.

III. Review and Approve Agenda

IV. Work Session

4.1 9:00 a.m., 30 minutes – CORE Team Six Month Review – *Dannielle Brown, Behavioral Health; Chief Hurley, Corvallis Police Department*

4.2 9:30 a.m., 30 minutes – COVID Department Operation Centers Update – *Suzanne Hoffman, April Holland; Health Department*

4.3 10:00 a.m., 30 minutes – Discussion Regarding Indoor Mask Mandate – *Vance Croney, County Counsel*

4.4 10:30 a.m., 30 minutes – Update on Justice System Improvement Program – *Nick Kurth, JSIP Manager*

The Board of Commissioners may call an executive session when necessary pursuant to ORS 192.660. The Board is not required to provide advance notice of an executive session. However, every effort will be made to give notice of an executive session. If an executive session is the only item on the agenda for the Board meeting, notice shall be given as for all public meetings (ORS 192.640(2)) and the notice shall state the specific reason for the executive session as required by ORS 192.660.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to the Board of Commissioners Office, (541) 766-6800.

BUSINESS MEETING

V. Consent Calendar

- 5.1 In the Matter of an Liquor License Application Regarding a Trade Name and Owner Change – J. Ballard’s County Store, LLC – *Dawn Dale, Sheriff’s Office*
- 5.2 Approval of the November 30, 2021 Tuesday Board Meeting Minutes

VI. Proclamations

- 6.1 In the Matter of Proclaiming March 2022 Women’s History Month – *JoeHahn, Equity, Diversity & Inclusion Coordinator; Kristen Perry, Director of Abby’s House Center for Equity & Gender Justice at WOU*
- 6.2 In the Matter of Proclaiming March Red Cross Month – *Benton County Red Cross Volunteers – Sue Long, Alan Underkolfer*

VII. New Business

- 7.1 In the Matter of a Notice of Intent to Apply for Grant Monies for Boardwalk Reconstruction at the Jackson-Frazier Wetland and Delegating Authority for Director to Sign – *Lynne McKee, Jesse Otte; Natural Areas, Parks and Events*
- 7.2 In the Matter of Supporting the Establishment of Juneteenth as an Observed Benton County Holiday – *Tracy Martineau, Human Resources; JoeHahn, Equity, Diversity & Inclusion Coordinator*
- 7.3 In the Matter of Declaring the Necessity and Purpose for Acquisition of Real Property for Locating a Justice System Campus – *Vance Croney, Counsel*

VIII. Old Business

- 8.1 In the Matter of a Second Reading Amending Benton County Code Chapter 36 – Illicit (Non-Stormwater) Discharges Ordinance No. 2022-0308 – *Gordon Kurtz, Public Works; Greg Verret, Community Development*

IX. Other

ORS 192.640(1)” . . . notice shall include a list of the principal subjects anticipated to be considered at the meeting, but this requirement shall not limit the ability of a governing body to consider additional subjects.”

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**MINUTES OF THE MEETING
BENTON COUNTY BOARD OF COMMISSIONERS
Tuesday, March 1, 2022, 9:00 AM**

Present: Nancy Wyse, Chair; **Xanthippe Augerot**, Commissioner; **Pat Malone**, Commissioner; **Vance Croney**, County Counsel; **Joe Kerby**, County Administrator

Staff: **Andy Abblitt**, **Matt Wetherell**, Juvenile Department; **Carolina Amador**, **Samantha Bailey**, **Robert Baker**, **Dannielle Brown**, **Suzanne Hoffman**, **April Holland**, **Julie Little**, **Kailee Olson**, Health; **Sierra Anderson**, **Dawn Dale**, **Katy Kuhnert**, **Jef Van Arsdall**, Sheriff's Office; **Rick Crager**, Finance; **Teresa Farley**, **Maura Kwiatkowski**, BOC Staff; **Joe Hahn**, Equity, Diversity & Inclusion; **D'Anne Hammond**, **Michael Johnson**, **Gordon Kurtz**, **Shea Steingass**, **Debie Wyne**, Public Works; **Nick Kurth**, JSIP Coordinator; **Tracy Martineau**, **Eric Wolke**, Human Resources; **Lynne McKee**, **Jesse Ott**, **Adam Stebbins**, **Nancy Swain**, Natural Areas, Parks and Events; **Erika Milo**, BOC Recorder; **Greg Verret**, Community Development

Guests: **Steve Clark**, **Dan Larsen**, Oregon State University; **John Harris**, Horsepower Productions; **Nick Hurley**, Corvallis Police Department; **Cody Mann**, Mid-Valley Media; **Kristen Perry**, Western Oregon University; **Michelle Steinhebel**, Greater Albany Public Schools; **Alan Underkofler**, Benton County Red Cross Volunteers; **Gordon Zimmerman**, **Deborah McNair**, **Linda Spain**, **Toby Lewis**, **Rocio Zavala Buendia**, **Kelsey Edwardsen**, **Marcy Dailey**, **Margie** (no surname provided)

Chair Wyse called the meeting to order at 9:00 AM.

I. Opening

- A. Introductions
- B. Announcements

No announcements were made.

II. Comments from the Public

No comments were offered.

III. Review and Approve Agenda

No changes were made to the agenda.

IV. Work Session

- 4.1 CORE (Crisis Outreach Response and Engage) Team Six-month Review –**
Dannielle Brown, Behavioral Health; Nick Hurley, Chief, Corvallis Police Department

Hurley reported joining the Corvallis Police Department (CPD) as Chief in 2020; and given upward trends, reviewed the issues with Brown. They discussed the issues and various other models (how agencies and governments of similar size without extensive resources are responding). These analyses shaped how a pilot program would look to best address issues that are not going away. Guidelines include that staff need to be able to respond to certain calls for service, need specialty training and a desire to serve in this capacity, an emphasis on how to provide support for emotional distress issues; and how to help in circumstances when the issue is not necessarily a criminal act. Staff took these guidelines and created the team name.

Brown shared the mission the team identified: “CORE utilizes a collaborative approach, providing trauma informed compassionate care to individuals experiencing a mental health crisis, while ensuring the safety of our responders, the individuals in crisis, and our community.” To be effective, the team needs to ensure people receive the services they need and staff and the community are safe.

Hurley reported on calls for service in Corvallis, Philomath, and Benton County (BC; the County). The concentration of calls is within the Corvallis city limits, and calls increased from 951 four years ago to 1,512 in 2021. These numbers represent any call where ‘crisis’ was referenced in the dispatch. The issue is how best to serve people rather than responding with a citation, jail, or transport to the Good Samaritan Regional Medical Center (GSRMC) Emergency Department. The CPD has seen an increase in the number of individuals who are dealt with repeatedly; response numbers spike when these individuals are in crisis. CORE can now focus on helping these people out of ongoing crisis situations.

Brown and Hurley decided to redirect existing staff for the pilot. These staff included Alyssa Giesbrecht, Qualified Mental Health Professional from the Health Department; Officer Trevor Anderson, Mental Health Response Instructor at the Oregon Department of Public Safety Standards and Training; and the Crisis Intervention Training Coordinator for CPD already engaged with mental health crisis intervention. This is not a primary call for service entity; team members do not get dispatched; they are on 40 hours per week, and there is no 24/7 coverage. Brown and Hurley have reassigned staff from other projects due to the importance of the pilot. They hear calls, take them when available, and do a great deal of follow-up. The program is not a peace officer hold/custody where officers take an individual to a hospital against their will. Simply acting out of the norm may not rise to that level, and it can be difficult to get those individuals to engage with team members voluntarily.

Brown noted the significant challenge in the field is the voluntary nature of mental health services. There is some ability to take people into custody when they are a danger to themselves or others, but this is viewed as the last choice. With the CORE team, there is opportunity to engage in a different way. Several attempts are made to convince the individual to take advantage of services. This approach is showing to be beneficial for the high-risk, high-needs population. Once someone is taken into custody, they are unlikely to participate voluntarily in the future. Giesbrecht has access to health records and the health team; law enforcement does not have access to that information. Responders are very careful about HIPAA (Health Insurance Portability and Accountability Act) and engage in a way that is therapeutic and trauma-informed.

Hurley indicated the team looked at a six-month period July 1, 2021 to December 31, 2021. There were 777 CPD calls involving mental health crisis response. CORE resolved 55% on scene (“warm handoff” to provider and resources), 26% were cases where services were refused, 14% were unable to locate, 3% were transported to the hospital, and 1% (one individual) was arrested (criminal act; last resort). The impact of the CORE team was very gratifying to see, but a lack of resources remains a significant challenge.

Brown noted that as a continuum of care is developed in BC, the Crisis Center will fill a significant gap. Current options are to leave the individual in the community or transport to the Emergency Department. This provides a voluntary option for mental health stabilization but not at the service/security level of a hospital. In 2019, 65% of admissions to the GSRMC psychiatric unit were voluntary. The option for a less restrictive level of care will open resources for people who are seeking that level of care. It will also allow law enforcement and first responders, when engaging with someone, to suggest going to the Crisis Center.

Hurley indicated a goal of 100% of CPD staff CIT trained by mental health professionals. Sixty-six percent of CPD field staff are currently trained and certified. Working with the Cities of Albany and Philomath, CPD has facilitated approximately 130 people through the class. Hurley reported there is a visible increase in understanding the difference in response compared to past law enforcement approaches. Brown noted that the 66% of CPD CIT-trained staff included a two-year pause on the in-person CIT training due to COVID. The number of staff trained would otherwise be higher.

Hurley noted that the Department of Public Safety’s training oversight unit selected Corvallis to host the region for advanced CIT training, recognizing the work of the CORE team. CORE is modeling after other agencies and beginning to see the success of engagement through the work of Anderson and Giesbrecht.

Hurley stressed that relationships are primary; how the right work can be accomplished with limited resources. Mental Health calls can take a great deal of time. This is a community team that is not just dealing with a specific population; individuals are located in houseless camps, residences, and dormitories. This is not a street outreach response team. Our community is sending trained professionals for a specific purpose, it is a different model and services.

Augerot expressed excitement about the program and the six months of good work. Augerot noted it is budget season for Corvallis and asked about the team’s aspirations for going beyond the pilot. Hurley is working with the Corvallis City Manager on additional funding. The work must happen regardless; some staff will be shifted to continue. Brown also would like to continue working together; the collaborative approach is yielding better results.

Augerot indicated that in 2021, the State Legislature was allocating funding for co-response style teams, approved through OHA and asked whether there is the potential for these funds to help CORE. Brown responded that CORE is still waiting to hear from OHA about how they will allocate the funds, likely via a Request for Proposals or Request for Applications process. Brown is unsure about whether those funds could be used to support law enforcement time.

Malone expressed appreciation for the collaboration and the update and looks forward to reports on future progress. The old model had significant gaps; the continuum of care is a better use of BC and

CPD resources. Hurley agreed. The goal was to see if this was a viable model, keeping it focused. The model approach works, but more hours of coverage are needed. The team is looking at specific times of need, which include late evening hours.

Wyse asked whether transports to a hospital were willing, unwilling, or a combination. Hurley indicated the numbers were based on the 73 calls CORE addressed in the field; 3% were peace officer custody (POC), so those were not voluntary (several individuals taken to the hospital and one individual transported to jail). In addition, CORE reviewed 268 incidents after law enforcement handled them.

Wyse thanked Brown and Hurley and asked that they extend the Board's thanks to the CORE team.

4.2 COVID Department Operation Centers Update – Suzanne Hoffman, April Holland; Health Department

The pandemic situation in BC continues to improve; cases decreased 26% last week. There were 172 cases the week of February 20, and the seven-day rate was 182 cases per 100k. The testing positivity rate is a very favorable 5%. This data is close to December 19, 2020, the first week of elevated cases with the Omicron surge. Hospitalizations declined rapidly statewide; yesterday there were 865 as compared to the 1,130 hospitalizations at the peak of Omicron. Region 2 (Linn, Benton, Lincoln, Marion, Polk, and Yamhill Counties) decreased to 113 hospitalizations yesterday from a peak of 205. At GSRMC, 12 patients were hospitalized with COVID-19 yesterday. Over the last four weeks, the average has been about 19 hospitalizations per day. During the Delta surge, hospitalizations were as high as 29 per day at GSRMC.

On February 25, 2022, OHA changed the date that the State indoor masking mandate will be lifted to March 31, 2022 or sooner if hospitalizations drop below 400 across the State. The lifting will also include removal of the masking requirement in K-12 schools. Also on February 25, the Centers for Disease Control and Prevention (CDC) announced a new metrics system to weigh risk in communities and for individuals; it ranks levels low/medium/high and is rooted in hospital admissions/beds and the number of new COVID-19 cases in an area. BC will also look at community vaccine coverage and wastewater surveillance. The CDC COVID-19 levels will be updated every Thursday. Overall, BC is in a time of significant change; coming down from a major surge. Omicron is extremely transmissible, and OHA modeling indicates approximately 14% of Oregonians are currently susceptible to infection.

Masking continues to be an important layer of protection, and communitywide indoor masking is an effective tool that is needed during a surge. Statewide, and perhaps locally, masks may no longer be required soon, but masking will not be over. Not everyone will be out of crisis mode at the same rate. Immunocompromised, age 65+, underlying conditions, and unvaccinated individuals are encouraged to continue masking indoors, as should those with vulnerable family members. High-quality masking needs to be provided for vulnerable populations, as well as continuing to provide vaccine access, precautions at hospitals and long-term care facilities, and ongoing access to therapeutics.

More changes in the guidance are likely. We consult with BC staff, the OSU Student Health Center, and others. COVID-19 is not over, nor is masking. We need to have support and normalization of

masking; the use of CDC guidance and individual circumstances to guide activities and level of protection; and ensure protection of vulnerable community members.

Augerot asked about the local availability of therapeutics. Holland indicated that in conversations with GSRMC, it was shared that therapeutics are available and in stock; and, as time goes on, there will be increased availability. There may be a slight under-utilization of therapeutics; there has been some outreach to providers to ensure those are used as needed.

Malone stressed the importance of remembering lessons learned about COVID-19. It is important that BC continue to emphasize precautions in messaging to keep the community as healthy as possible.

Chair Wyse recessed the meeting at 9:56 AM.

Chair Wyse reconvened the meeting at 10:01 AM.

4.3 Discussion Regarding Indoor Mask Mandate – *Vance Croney, County Counsel*

Public Comment

Linda Spain, faculty member at Linn Benton Community College, part-owner of PakMail Franchise, expressed that the pandemic has been extremely difficult for essential workers. While most people stayed home, essential workers continued to work in danger of getting sick. Masks had to be worn eight to nine hours a day, and people argued about masking. There was hope the mandate would be lifted, then media reports indicated BC may, out of an abundance of caution, extend the mask mandate. That is discouraging for these workers. Spain suggested issuing a statement respecting the common sense of the BC public, who are overwhelmingly vaccinated to use masks when needed, but give them some freedom. There are mask-free shopping options 10 miles away, and customers may choose to shop there. The Commissioners should consider BC businesses when making the masking determination.

Steve Clark, Oregon State University (OSU): OSU is strongly in support of BC joining OHA and three other states in ending mask mandates effective March 11, 2022. OSU believes there is an opportunity to progress in efforts to address the pandemic without masks as a requirement. OSU is prepared to collaborate with BC and other partners to educate and communicate. Masks should be welcome but not required. BC should continue to promote the use of masks for those at higher risk and in situations such as long-term care facilities. Use high protection masks such as N95s and KN95s and encourage a culture of care, a personal choice to wear masks, and an informed choice.

Michelle Steinhebel, Public Information Officer for Greater Albany Public Schools (GAPS): On behalf of GAPS, Steinhebel encouraged the Board to move to mask-optional status, as it is their understanding from Linn County that they will allow GAPS to do this. The School District takes the safety of its students seriously, but it also want students to have the best education possible.

Staff Report

Counsel indicated the BC indoor mask mandate has no expiration date; it is implied that it would expire when the emergency declaration is set to expire on March 31, 2022. That creates potential for BC to be out of alignment with the State. BC has been very diligent about paralleling the State, which has resulted in public certainty and confidence. The Board must decide how it wishes to deal with the BC mask mandate given the state determination that indoor mask mandates will be lifted effective March 12. Counsel reminded that the Board has received several options. The easiest option is to direct staff to return with an Order setting an expiration date for the indoor mask mandate at a date of the Board's choosing. This could be considered at the Board's March 8, 2022 meeting, which is shortly before the State's timeline.

Holland asked whether there had been any further discussions regarding the possibility of amending or discontinuing the Emergency Declaration. The State will end its emergency declaration on April 1, 2022. Holland believes the options are: 1) adjust the current declaration to transition from masks required to encouragement for certain groups to continue masking, with current expiration of March 31, 2022 or 2) discontinue masking altogether.

Counsel could issue an Order that amends BC's current mask mandate while also recommending individual mask usage for individuals who find it appropriate.

Augerot cited potential positions: 1) eliminate the emergency declaration in tandem with the State, or 2) continue BC's emergency order and shift the mask requirement to a recommendation.

Counsel confirmed this was correct. The hybrid is adopting a new Order that lifts the mask mandate while also recommending continued use by those who wish to do so. In addition, if the Board takes no action, the emergency declaration and the mask mandate will both expire. However, if the Board takes no specific action on the mask mandate but extends the emergency declaration, the mask mandate will continue.

Augerot indicated that if the Board chooses March 12, 2022 to lift the mask mandate, an order would be required. The Board would then be required to also address the emergency declaration. A number of messages have been received from the community regarding this topic; all writers expressed a desire to make their own choices about whether to mask. Augerot shares their feelings but remains concerned about the vulnerable populations who have little choice. It is important to ensure that if BC aligns with OHA, the County addresses the needs of vulnerable populations by monitoring local therapeutic availability, providing high quality masks to those populations (including group homes and long-term care facilities), and supporting these populations to the greatest extent possible.

Wyse indicated a preference for alignment with the State regarding lifting the mask mandate. It is important to highlight this is the first time the Board has discussed this issue since the State's announcement last week. The Gazette-Times newspaper headline may have led people to believe the conversation has been ongoing.

Malone stressed the need for a single message for the community and does not believe it would be productive for BC to be out of alignment with OHA and state guidelines. There may be some

confusion about the mask mandate and emergency declaration, but it should be clear BC is aligned with state guidelines and the March 12, 2022 date. Different people will require different approaches; masks are optional and need to remain available.

Wyse requested clarification regarding the basis for considering an emergency declaration extension and whether the basis is related to continued qualification for specific types of funding. Counsel indicated the reason to extend would be to qualify BC for additional FEMA or other available funds that accrue to counties in a state of emergency. The declaration also loosens some meeting and contracting requirements, and some of the Board Chair's authority as it relates to making decisions around emergency topics.

Holland indicated the declaration may be tied to funding eligibility for staffing and other purposes. BC Health expects to hear from OHA this week about whether its contract with FEMA will be extended beyond March 31, 2022 (the current end date). Holland will inquire as to whether a local declaration will be required for counties to continue to be funding eligible.

Kerby directed that Emergency Manager Bryan Lee be consulted about the emergency declaration.

Malone asked whether the Board could separate the mask mandate from the emergency declaration; Counsel indicated this is an option.

Malone also asked for confirmation the Board could direct staff to return with an order rescinding the County's mask mandate and indicating BC is aligning with the State on ending the mandate on March 12, 2022. Counsel confirmed the Board could do this, and that a motion is not required, Counsel further indicated a plan to work with Holland to create the order and place it on the Board's March 8, 2022 meeting agenda.

Hoffman expressed appreciation for separating the topics because BC needs to fully understand the ramifications and not conflate with the masking issue. If that adversely affects the County's ability to meet requirements of BC's equity plan and reaching out to underserved communities for vaccinations and other services related to responding and recovering from COVID, she would want BC to seriously consider what that could mean. The County has yet to receive full information from OHA and others regarding available options.

MOTION:

Augerot moved that staff return to the Board with an order at the March 8, 2022 Board Meeting that will align Benton County's mask mandate with that of the State and that the order include language regarding the most vulnerable populations continuing to mask as they feel appropriate to protect themselves and their loved ones. Malone seconded the motion, which **carried 3-0.**

Kerby noted that the County's COVID-19 Executive Team will be meeting March 2 to focus on County operations in BC facilities. Augerot expressed trust in County staff to make judicious decisions and looks forward to be briefed on the discussions of executive committee.

4.4 Update on Justice System Improvement Program (JSIP) – Nick Kurth, JSIP Manager

Kurth indicated progress to the point of needing to refine management of JSIP. When the predesign phase was initiated, BC did not expect to be in pre-design and design simultaneously. There is now a need to refine the JSIP management structure, roles and responsibilities, and some priorities. Kurth will be meeting with Kerby and Van Arsdall today to begin this process. In addition, Kurth has been working to fill the JSIP Communications Coordinator position. Interviews to select a political strategy consulting firm are occurring this week, and a decision is expected early to mid-next week. Responses to the Request for Proposals for Owner's Representative services for JSIP facilities design and implementation are due March 7, 2022.

Regarding the Lumen property, Counsel and Kurth met with Lumen's attorney last week. The conversation has shifted from a temporary offsite parking solution to a permanent onsite solution. Once the decision was made to locate the new courthouse on the North Corvallis property, space became available on the block where the Lumen property is located, even with a new Crisis Resource Center (CRC) there. Options for parking to accommodate Lumen's and the County's needs have been identified, and several could be implemented over time after design for the block is underway. The County is able to assure Lumen will have a set number of spaces but not the exact location until design proceeds. Counsel strongly requested that a Lumen representative visit the site to view the proposal. With the recent State allocation of \$5.45m to complete the CRC, it would be desirable to close on the site as soon as possible. It does not, however, preclude BC from moving forward with design, expecting the final location to be on either the Lumen property or the North Corvallis site.

Malone asked whether BC is moving forward with Lumen and simply resolving some minor details. Counsel indicated that from the County's perspective, the details are minor; however, Lumen views them as significant. The challenge is that the representatives BC has been talking with do not understand the traffic patterns and where people park. Lumen's attorney had expressed concern about how far away they currently park; Counsel indicated the parking space is immediately adjacent to the building. Counsel remains hopeful details will be resolved.

Malone agreed that having Lumen's decision makers visit the site is a good idea. He encouraged more conversations to continue to move this matter forward to resolution.

V. Consent Calendar

5.1 In the Matter of a Liquor License Application Regarding a Trade Name and Owner Change – J. Ballard's County Store, LLC – Dawn Dale, Sheriff's Office

5.2 Approval of the November 30, 2021 Board Meeting Minutes

MOTION:

Malone moved to approve the March 1, 2022 Consent Calendar. Augerot seconded the motion, which **carried 3-0.**

VI. Proclamations

- 6.1 In the Matter of Proclaiming March 2022 Women's History Month – JoeHahn, Equity, Diversity and Inclusion Coordinator; Kristen Perry, Director of Abby's House Center for Equity & Gender Justice, Western Oregon University**

Perry read aloud the proclamation.

Malone noted a few typographical errors and requested corrections.

MOTION:

Malone moved to proclaim March 2022 as Women's History Month in Benton County, Proclamation #2022-003. Augerot seconded the motion, which **carried 3-0.**

- 6.2 In the Matter of Proclaiming March 2022 Red Cross Month – Alan Underkofler, Benton County Red Cross Volunteers**

Underkofler read the proclamation aloud.

MOTION:

Augerot moved to proclaim March 2022 Red Cross Month, Proclamation #2022-002, and to urge all to support the mission of this organization. Malone seconded the motion, which **carried 3-0.**

VII. New Business

- 7.1 In the Matter of a Notice of Intent to Apply for Grant Monies for Boardwalk Reconstruction at the Jackson-Frazier Wetland and Delegating Authority for Director to Sign – Lynne McKee, Jesse Ott; Natural Areas, Parks and Events**

Ott informed about the Oregon State Parks local government grant program. The purpose of this grant application is to replace the obsolete more than 25 years old boardwalk, which is in disrepair, not in compliance with Americans with Disabilities Act (ADA) standards, and is no longer accessible. The boardwalk replacement would be the first significant project in the Owens Farm Strategic Work Plan. BC has sufficient donations and other funding to meet the grant program's match requirements. The grant application is due April 1, 2022, and Board approval is required to apply.

Augerot expressed appreciation for moving this project forward. Malone appreciated the partnership and suggested the use of a material more permanent than wood for the reconstruction. Ott indicated concrete construction is the goal; BC wants to avoid having to rebuild the boardwalk in 25 years.

- MOTION:** Malone moved to adopt Resolution #2022-002 authorizing Benton County Natural Areas, Parks and Events (NAPE) to submit an application for the 2022 Oregon Parks and Recreation Department Local Government Grant and delegating authority to the NAPE Director to sign the grant application. Augerot seconded the motion, which **carried 3-0.**

7.2 In the Matter of Supporting the Establishment of Juneteenth as an Observed Benton County Holiday – Tracy Martineau, Human Resources; JoeHahn, Equity, Diversity, and Inclusion Coordinator

Martineau presented this topic at a recent Goal Setting meeting. The County would close its business offices on the annual Juneteenth date of observance, with the exception of the Sheriff's Office and law enforcement activities. All of BC's collective bargaining agreements already contain language to address any additional holidays the Board may approve. Recognizing Juneteenth as an official County holiday does not have a fiscal impact on the budget, but it does impact employee benefits. The total cost, including a 35% rollout for associated increases, is \$188,749.

JoeHahn presented recommendations for communicating about the holiday; it is important that all employees be fully informed about Juneteenth. BC will implement a comprehensive training program about the history of Juneteenth and its cultural and historical importance; all employees will participate in this training. This will also be an important component in helping BC recruit and retain employees of color. JoeHahn will begin the training at the director level, then within the departments. There will be multiple opportunities for training, and training will be provided annually. JoeHahn encouraged BC to collaborate with organizations such as the NAACP (National Association for the Advancement of Colored People) and OSU. Community collaboration is an important element of the holiday as is the opportunity to reflect, learn, and take action.

Wyse thanked Martineau and JoeHahn for their work and expressed appreciation for the educational component. Malone agreed this is an opportunity to re-familiarize ourselves with history and appreciates this is an educational holiday.

Martineau noted some AFSCME (American Federation of State, County, and Municipal Employees) members present at the meeting; the idea to formally recognize Juneteenth arose from employees as well. The holiday is very important to BC staff.

JoeHahn read the resolution aloud.

MOTION: Malone moved to adopt Resolution #2022-003 to add Juneteenth as a County-observed holiday. Augerot seconded the motion, which **carried 3-0.**

7.3 In the Matter of Declaring the Necessity and Purpose for Acquisition of Real Property for Locating a Justice System Campus – Vance Croney, County Counsel

Counsel indicated this Resolution would be a preliminary requirement to filing an eminent domain proceeding to acquire property currently owned by McFadden Ranch LLC. The applicable statute is Oregon Revised Statute 35.235, which requires the governing body (in this case, the Benton County Board of Commissioners) to declare through a resolution or ordinance a public necessity behind pursuing eminent domain on the property. This document communicates the elements: the suitability of the property to accommodate all components and details regarding BC's efforts to acquire property that were unsuccessful. While this is not necessarily the first step of litigation for eminent domain, it is a required step to move forward. The meeting packet provides additional details and background regarding this matter.

Malone requested confirmation that the County is beginning a two-track process. Negotiation remains the preferred path forward; but after more than a year of on and off negotiations, sufficient progress has not been made, so BC is laying the foundation for an eminent domain process. Counsel confirmed this is correct. Without taking the step to adopt the Resolution of Necessity, eminent domain is not an option.

Augerot stressed this is not a decision the Board takes lightly. The issue has been discussed for a long time, and McFadden Ranch LLC (the property owner) was actually the first to raise the eminent domain process. Eminent domain is a structured process with the goal of reaching a negotiated price for a property. The County believes this is the best site for the JSIP facilities after a long review and community feedback. The eminent domain process allows BC to work systematically to have a jury make a final price determination. The JSIP facilities are desperately needed, and BC prefers a single location for cost effectiveness and efficiency. Wyse agreed with these sentiments.

Malone noted that some community members have referred to eminent domain as ‘taking it.’ This is not an accurate characterization of the process. Eminent domain is a complicated process with which few people are familiar. Communication is critical to the process; it is important to communicate that the County wishes to purchase the property at a price that hopefully will be determined by negotiations between the two parties. However, if that process is not successful, a judge, jury, and property appraisals will determine the property acquisition amount.

Counsel clarified that initiating eminent domain proceedings does not preclude negotiating a purchase; BC continues to hope a purchase can be negotiated with the property owner, even though BC may proceed with eminent domain. If the County is unable to reach a negotiated purchase, then technically BC government would be taking the McFadden Ranch property. In an eminent domain proceeding, government is allowed to take private property, but it must provide just compensation. A jury would determine how much BC would pay for the property.

Malone pointed out that the price is based on fair market value and the results of appraisals, so it is a fair process. The process is not uncommon in other jurisdictions.

Margie (no surname provided) commented via Chat: “Assessment of Available properties vs. unavailable property is the key point. This property was not available for sale by the owner. Proceeding with eminent domain against this family will be the 2nd time in less than a century that land will be TAKEN away from this family. Through the eminent domain process.”

MOTION: Malone moved to adopt Resolution No. R2022-001, Resolution of Necessity. Augerot seconded the motion, which **carried 3-0.**

VIII. Old Business

8.1 In the Matter of a Second Reading Amending Benton County Code Chapter 36 – Illicit (Non-Stormwater) Discharges Ordinance No. 2022-0308 – Gordon Kurtz, Public Works; Greg Verret, Community Development

Verret indicated a public hearing regarding this matter was held on February 15, 2022. There was no public testimony, and no changes were made.

MOTION: Malone moved to approve the matter amending Benton County Code Chapter 36 Illicit (Non-Stormwater) Discharges Ordinance No. 2022-0308 and conduct the second reading of the ordinance. Augerot seconded the motion, which **carried 3-0.**

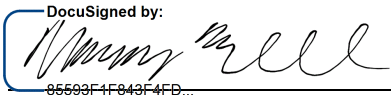
Counsel read aloud Ordinance No. 2022-0308 Amending Benton County Code Chapter 36, Illicit (Non-Stormwater) Discharges. The amendment is effective March 31, 2022.

IX. Other

No other business was discussed.

X. Adjournment

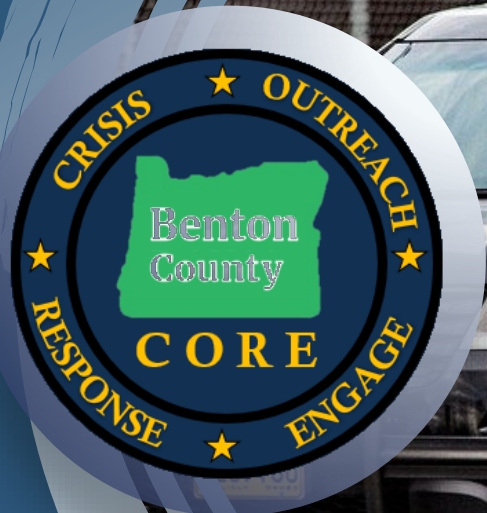
Chair Wyse adjourned the meeting at 11:28 AM.

DocuSigned by:

85593F4F843F4FD...
Nancy Wyse, Chair

DocuSigned by:

736EA4FEB0B0496...
Erika Milo, Recorder

** NOTE: Items denoted with an asterisk do NOT have accompanying written materials in the meeting packet.*

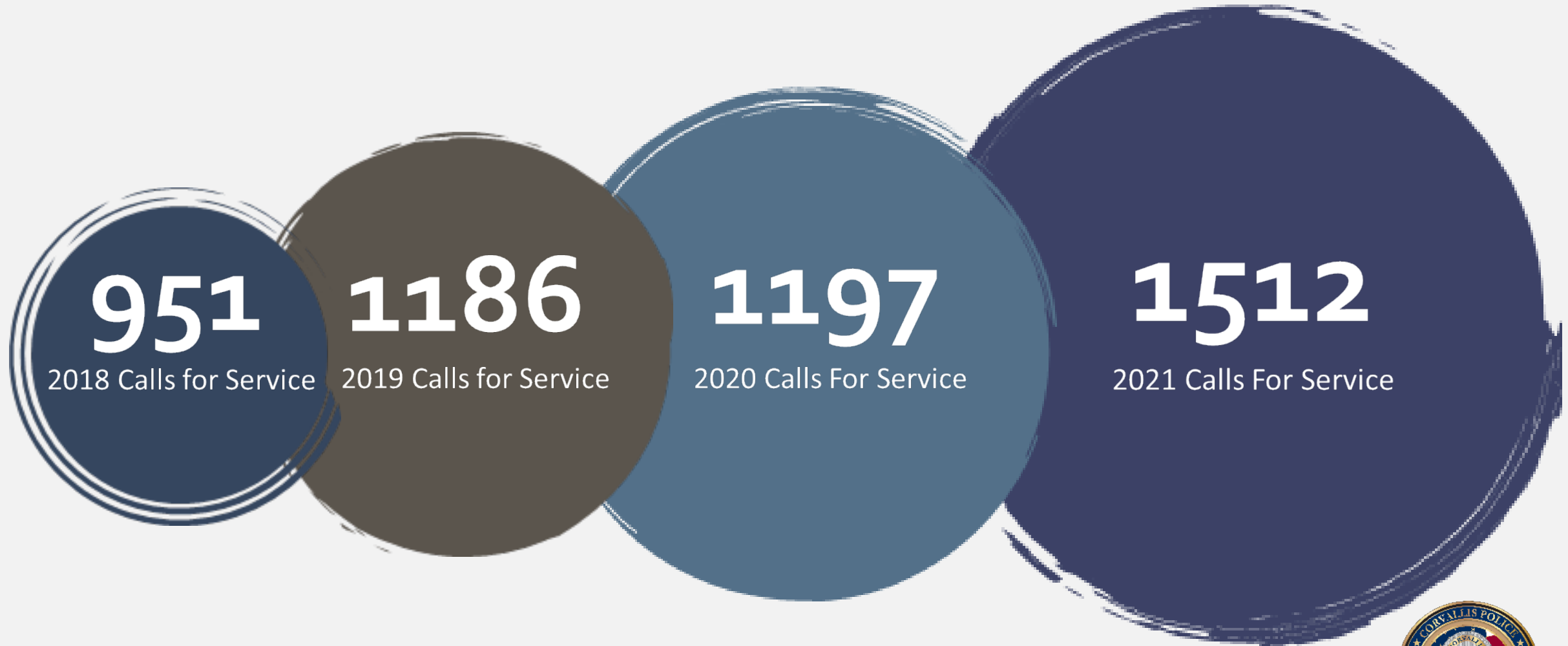


CORE TEAM

PILOT PROJECT UPDATE
JULY-DECEMBER 2021

Growing need for mental health services

CPD Calls for Service involving Mental Health or related keyword searches



CORE Team

Crisis Outreach, Response, and Engagement



Alyssa Giesbrecht, QMHP

Benton County Behavioral Health

- 6+ Years Mental Health Experience
- Bachelor of Criminal Justice, California State University
- Master of Science, Clinical Mental Health Counseling Walden University



Ofc. Trevor Anderson

Corvallis Police Department

- 18+ Years Law Enforcement Experience
- CIT Training Coordinator
- Mental Health Crisis Response Instructor at DPSST



C.O.R.E. Team Responsibilities

Crisis Outreach, Response, and Engagement

Outreach

- 777 Calls Responded to by CPD Patrol (July-Dec 2021)
- 268 reports reviewed by CORE
- Resources or follow-up care options provided



Response

- 27% of CPD mental health reports responded to by CORE team
- Diversion from jail or hospital when appropriate
- Facilitates patrol officers in returning to primary public safety activities



Engagement

- CIT (Crisis Intervention Teams Training) class
- Briefing Trainings for patrol officers
- Collaboration with community partners



Core Team Call Dispositions

55%

Resolved on Scene
(services or resources
provided)

26%

Services or
Resources
Refused

14%

Unable to Locate

3%

Transport to
Hospital

1%

Arrested





Crisis Intervention Teams

- Goal: 100% of CPD officers will be CIT trained
 - CORE Team coordinates this training
 - Open to other local agencies
 - To date: **130** officers in the region have attended the class
 - 66% of CPD officers are currently CIT trained and certified

40 hours of training in
Mental Health Crisis Response,
local resources, and best
practices





QUESTIONS

CORE TEAM

PROJECT UPDATE JULY-DECEMBER 2021



BOC Agenda Checklist Master

Agenda Placement and Contacts

Suggested Agenda Date 03/01/22

View [Agenda Tracker](#)

Suggested Placement * BOC Tuesday Meeting

Department * Sheriff's Office

Contact Name * Dawn Dale

Phone Extension * 6884

Meeting Attendee Name * Dawn Dale

Agenda Item Details



Item Title * Application for Trade Name and Owner Change for J. Ballard's County Store, LLC's liquor license.

Item Involves * Check all that apply

- ☐ Appointments
- ☐ Budget
- ☐ Contract/Agreement
- ☐ Discussion and Action
- ☐ Discussion Only
- ☐ Document Recording
- ☐ Employment
- ☐ Notice of Intent
- ☐ Order/Resolution
- ☐ Ordinance/Public Hearing 1st Reading
- ☐ Ordinance/Public Hearing 2nd Reading
- ☐ Proclamation
- ☐ Project/Committee Update
- ☐ Public Comment
- ☐ Special Report
- ☒ Other OLCC - Liquor License Application

Board/Committee Involvement *

☐ Yes

☒ No

Advertisement *

☐ Yes

☒ No

Issues and Fiscal Impact

Item Issues and Description

Identified Salient Issues *

- J. Ballard's Country Store, LLC has applied for a Trade Name and Owner Change for their liquor license.

- The location of the business is 27678 Highway 99, Corvallis, OR 97330

- Name change to J. Ballard's County Store, formally known as RFP Family Store.

- New owners are Benjamin Ballard, Parker Judd, and Devon Rawles, the store were formally owned by Justin Burnett

- ORS 471.166 requires the applicant for a license to acquire a written recommendation from the governing body of the county. The OLCC may take that written recommendation into consideration before granting or refusing a license.

The applicant must give notice to the local government when an application is made for issuance of the license.

- The local government may take one of three actions on an application:
File a favorable recommendation with the OLCC regarding this application within 30 days.

Request OLCC grant additional time to study the application prior to making a recommendation.

Within 60 days, file an unfavorable recommendation with the OLCC along with a statement of the grounds for the unfavorable recommendation.

If the OLCC has not received communication from the local government within 60 days after notice is given, they will proceed as though a favorable recommendation was given.

Note: Applicant has passed all background checks.

Options *

1. File a favorable recommendation with the OLCC regarding this application.
2. Request that the OLCC grant additional time to study the application prior to making a recommendation.
3. File an unfavorable recommendation with the OLCC along with a statement of the grounds for the unfavorable recommendation.

Fiscal Impact *

- ☐ Yes
- ☒ No

2040 Thriving Communities Initiative

Mandated Service? * ☐ Yes ☒ No

2040 Thriving Communities Initiative

Describe how this agenda checklist advances the core values or focus areas of 2040, or supports a strategy of a departmental goal.

To review the initiative, visit the website [HERE](#).

Values and Focus Areas

Check boxes that reflect each applicable value or focus area and explain how they will be advanced.

Core Values *

Select all that apply.

- ☐ Vibrant, Livable Communities
- ☐ Supportive People Resources
- ☐ High Quality Environment and Access
- ☐ Diverse Economy that Fits
- ☐ Community Resilience
- ☐ Equity for Everyone
- ☐ Health in All Actions
- ☒ N/A

Explain Core Values Selections * N/A

Focus Areas and Vision *

Select all that apply.

- ☐ Community Safety
- ☐ Emergency Preparedness
- ☐ Outdoor Recreation
- ☐ Prosperous Economy
- ☐ Environment and Natural Resources
- ☐ Mobility and Transportation
- ☐ Housing and Growth
- ☐ Arts, Entertainment, Culture, and History
- ☐ Food and Agriculture
- ☐ Lifelong Learning and Education
- ☒ N/A

Explain Focus Areas and Vision Selection * N/A

Recommendations and Motions

Item Recommendations and Motions

Staff

Sheriff Jef Van Arsdall recommends the approval of this license.

Recommendations *

Meeting Motions *

I move to ...

I move to approve the trade name and owner change for the liquor license for J. Ballard's County Store.

Attachments, Comments, and Submission

Item Comments and Attachments

Attachments

Upload any attachments to be included in the agenda, preferably as PDF files. If more than one attachment / exhibit, please indicate "1", "2", "3" or "A", "B", "C" on the documents.

J Ballard's County Store Application.pdf

521.95KB

Comments (optional)

If you have any questions, please call ext.6800

Department

JEFRI VANARSDALL

Approver

Comments

Signature

A handwritten signature in black ink, reading "Jeff Van Arsdall", is centered within a light gray rectangular box.

Approvals Required ☐ Counsel

☐ Finance

☐ HR

County TERESA FARLEY

Administrator

Approver

Comments

Comments

Signature

Tereza Faltyg

Comments

Signature

Teresa Foley

**LIQUOR LICENSE APPLICATION****PRINT FORM****RESET FORM**

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

License Applied For:	CITY AND COUNTY USE ONLY
☐ Brewery 1 st Location	Date application received and/or date stamp:
Brewery Additional location (2 nd) ☐ (3 rd) ☐	Name of City or County:
☐ Brewery-Public House (BPH) 1 st location	Recommends this license be:
BPH Additional location (2 nd) ☐ (3 rd) ☐	☐ Granted ☐ Denied
☐ Distillery	By: _____
☐ Full On-Premises, Commercial	Date: _____
☐ Full On-Premises, Caterer	
☐ Full On-Premises, Passenger Carrier	
☐ Full On-Premises, Other Public Location	
☐ Full On-Premises, For Profit Private Club	
☐ Full On-Premises, Nonprofit Private Club	
☐ Grower Sales Privilege (GSP) 1 st location	
GSP Additional location (2 nd) ☐ (3 rd) ☐	OLCC USE ONLY
☐ Limited On-Premises	Date application received: <u>12-17-21</u>
☒ Off-Premises	Date application accepted: <u>12-17-21</u>
☐ Warehouse	
☐ Wholesale Malt Beverage & Wine	
☐ Winery 1 st Location	License Action(s):
Winery Additional location (2 nd) ☐ (3 rd) ☐	C/O C/TN
(4 th) ☐ (5 th) ☐	

2. Identify the applicant(s) applying for the license(s). **ENTITY (example: corporation or LLC) or INDIVIDUAL(S)**¹ applying for the license(s):

J. Ballard's Country Store, LLC

App #1: NAME OF ENTITY OR INDIVIDUAL APPLICANT

App #2: NAME OF ENTITY OR INDIVIDUAL APPLICANT

App #3: NAME OF ENTITY OR INDIVIDUAL APPLICANT

App #4: NAME OF ENTITY OR INDIVIDUAL APPLICANT

3. Trade Name of the Business (Name Customers Will See)

J. Ballard's Country Store

4. Business Address (Number and Street Address of the Location that will have the liquor license)

27678 HWY 99

City
Corvallis

County
Benton

Zip Code
97333

¹ Read the instructions on page 1 carefully. If an entity is applying for the license, list the name of the entity as an applicant. If an individual is applying as a sole proprietor (no entity), list the individual as an applicant.



LIQUOR LICENSE APPLICATION

PRINT FORM

RESET FORM

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Brewery Additional location (2 nd) ☐ (3 rd) ☐	Name of City or County:
☐ Brewery-Public House (BPH) 1 st location	BENTON
BPH Additional location (2 nd) ☐ (3 rd) ☐	Recommends this license be:
☐ Distillery	☐ Granted ☐ Denied
☐ Full On-Premises, Commercial	By: <u><i>[Signature]</i></u>
☐ Full On-Premises, Caterer	Date: 3/1/22
☐ Full On-Premises, Passenger Carrier	
☐ Full On-Premises, Other Public Location	
☐ Full On-Premises, For Profit Private Club	
☐ Full On-Premises, Nonprofit Private Club	
☐ Grower Sales Privilege (GSP) 1 st location	
GSP Additional location (2 nd) ☐ (3 rd) ☐	
☐ Limited On-Premises	
☒ Off-Premises	
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Winery Additional location (2 nd) ☐ (3 rd) ☐	
(4 th) ☐ (5 th) ☐	

OLCC USE ONLY
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App #4: NAME OF ENTITY OR INDIVIDUAL APPLICANT

3. Trade Name of the Business (Name Customers Will See)

J. Ballard's Country Store

4. Business Address (Number and Street Address of the Location that will have the liquor license)

27678 HWY 99

City Corvallis	County Benton	Zip Code 97333
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¹ Read the instructions on page 1 carefully. If an entity is applying for the license, list the name of the entity as an applicant. If an individual is applying as a sole proprietor (no entity), list the individual as an applicant.

MINUTES OF THE MEETING
BENTON COUNTY BOARD OF COMMISSIONERS
GoToMeeting link: <https://global.gotomeeting.com/join/986149629>
Livestream: <http://facebook.com/BentonCoGov>
Tuesday, November 30, 2021
9:00 a.m.

Present: **Xanthippe Augerot**, Chair; **Nancy Wyse**, Commissioner; **Pat Malone**, Commissioner; **Vance Croney**, County Counsel; **Joe Kerby**, County Administrator

Staff: **Cody Franz**, **Suzanne Hoffman**, **April Holland**, **Kelly Locey**, **Tyler Summers**, Health; **Joe Hahn**, **JonnaVe Stokes**, **Lili’a Uili**, BOC Staff; **Nick Kurth**, JSIP Coordinator; **Bryan Lee**, **Jef Van Arsdall**, Sheriff’s Office; **Erika Milo**, BOC Recorder; **Alyssa Rash**, Public Information Officer

Guests: **Ann Bradshaw**, **Courtney Childs**, **Adam Drey**, **Beara Edmonds**, **Jan de Jong**, **Nance Kiesling**, **K. Miller**, **Kate Rendich**, **Russ** (no last name given), Corvallis residents; **James Day**, Corvallis Gazette-Times; **Hyatt Lytle**, **Charles Maughan**, Corvallis City Council

Chair Augerot called the meeting to order at 9:00 a.m.

I. Opening:
A. Introductions
B. Announcements

Augerot acknowledged that the meeting took place on the historic lands of the Kalapuya people, who were displaced forcibly to reservations after the Willamette Treaty was signed, and whose descendants are still present. The Board seeks to honor those people when making decisions about County resources.

II. Comments from the Public

No comment was offered.

III. Review and Approve Agenda

The following item was removed from the agenda under IV. Executive Session:

4.1 Executive Session Under ORS 192.660(2)(e) – Real Estate

IV. Executive Session

This item was removed from the agenda.

V. New Business

5.1 *Discussion and Consideration of Purchasing Property for the Proposed Justice System Improvement Program (JSIP) Site in South Corvallis – Krause Property – Nick Kurth, JSIP Manager

In a presentation on the JSIP south site (Exhibit 1), Kurth reviewed recent and upcoming events. The Letter of Intent (LOI) entered with the south site owner a year ago specified that the Board must decide today whether to pursue the south site for JSIP use. Next week, the Board will

discuss new courthouse (NCH) funding. The Board will discuss the LOI for the west site on December 14, 2022. The County has resumed discussion with the owner of the north site; no LOI has been filed, but the County hopes to conclude that discussion in the first quarter of 2022 (tentatively).

If chosen, the south site becomes the JSIP suburban site, removing the other two from consideration. The downtown property would still be under consideration, since the County has not determined the configuration of proposed facilities. If the south site is not chosen, the county is no longer interested at this time, but could potentially return if unable to acquire the north or west site. If a downtown location is chosen, the west and north sites would still be in play.

Kurth reviewed that staff conducted an exhaustive site selection process which weighed over 40 sites using 32 criteria, resulting in the four current sites. City/County staff performed due diligence, and the Board approved a negotiating team which has been working for a year, including 3.5 months of community engagement about locations and conceptual designs.

Kurth reviewed public engagement concerns and comments, including:

- All sites: safety regarding release of Adults in Custody (AIC); property value impacts.
- South site: potential for flooding/earthquake to cut off Emergency Services (ES) and Sheriff's Office (SO) access; transportation impacts; unsuitability of the Justice System campus as a gateway site; equity issues; development challenges.

In a ranking of the three suburban sites, the north site scored highest. If the County acquires the downtown site, that would only be slated for the NCH next to the current BOC Office. The suburban campus would house all facilities except the Crisis Resource Center (CRC). Alternatively, the Correctional Facility (CF) and SO could be on the suburban site, and the NCH and CRC downtown. A site decision in the first quarter of 2022 is necessary for a May 2023 bond measure, with a second round of public engagement in summer 2022 and completion of the final funding plan and design in fall 2022.

Public Comment

Beeara Edmonds, Corvallis resident: Edmonds shared that Kurth had noted her main concerns. Edmonds does not think the south site is appropriate, especially because a natural disaster could block emergency access. Edmonds was also concerned about environmental impacts and conflict with south Corvallis Urban Renewal (UR) and Highway 99-W corridor improvements. Edmonds asked the Board not to choose the south site.

Russ (no last name given), Corvallis resident: Russ concurred with Edmonds' concerns.

Charles Maughan, Corvallis City Council: Maughan expressed continued concerns about the south site, including a jail's negative impacts on tourism, development, and housing; the considerable cost to develop the site; and impeded SO/ES access during a severe disaster. Maughan asked the Board to consider other locations.

Hyatt Lytle, Corvallis City Council: Lytle had previously shared many concerns from south Corvallis residents. In the past month, Lytle and residents met weekly on the topic; each meeting had more attendees with more concerns. Residents distributed 2000 flyers in the neighborhood; many residents did not know about the project until then. Lytle's concerns as councilor and resident include three major planning projects: the South Corvallis Special Update Plan (SCSUP), Oregon Department of Transportation (ODOT) corridor study, and UR planning. SCSUP includes a neighborhood center. The ODOT study will address safety concerns for all

corridor users; a Justice Center with more employees and higher traffic volume could have negative effects. The UR Plan includes restoration of the Millrace area, a major convergence of four different water sources. Lytle urged the Board not to choose the south site.

Augerot noted that Kate Rendich, south Corvallis resident, submitted a petition to the Board from 222 residents rejecting the south JSIP site (see packet).

Wyse stated that this decision is being made now due to timing constraints. Wyse does not feel the south site is the best option, but it is one option. Wyse's main criteria for site selection were community support, up-front costs, long-term costs, hurdles in the process, and Law Enforcement (LE) proximity and accessibility to other locations. Wyse also considered wetlands, flooding, fit with long-term plans, campus capability, and future flexibility. South site pros: least expensive land; room for campus and future growth; infrastructure improvements and connectivity on SE Kiger Island Drive to SW 53rd Street. Cons: long-term costs; more wetlands than other sites, requiring mitigation and credits; likelihood of costly and time-consuming appeals to annexation and development application; equity issues; flooding; and challenges with community support. Wyse will reject the south site today, but would not necessarily oppose a future bid if necessary.

Malone acknowledged that all sites have challenges. The south site's low purchase price is offset by improvements that the City or ODOT might require. Malone does not feel the south is a very viable site, hence the possibility of revisiting the McFadden north site was broached. Malone would like to keep the south site as a potential future option because there are so many external variables. Malone noted Maughan's reference to a 'jail' and stated that the County currently has a jail and will build a CF; a jail is where people are locked up, whereas a CF has programs for rehabilitation. Malone works on transportation projects and offered to collaborate with Lytle on south Corvallis corridor improvements, especially pedestrian and bicycle options.

In the chat window, Maughan commented that whether the term is jail or CF, this facility should not be the first thing visitors see when entering Corvallis.

Augerot observed that there will never be a perfect location. The historic courthouse is old, not accessible, and does not allow best practices of separating victims and the accused. The jail is tiny and falling apart. The County has great staff, and AIC tend to be complimentary about the experience there compared to other facilities. The Board is planning for a project that will be functional on many levels, for all of Benton County, for a long time to come. Augerot agreed with Wyse and Malone that the Board can let the south site go for now and explore opportunities with other sites.

MOTION: Malone moved to let the Letter of Intent on the Krause south property expire on December 1, 2021, and to make it known that at this time Benton County is not interested in the south site. Wyse seconded the motion, which **passed 3-0.**

{Exhibit 1: JSIP South Site Presentation}

5.2 Lifting Requirement for Face Masks in Outdoor Public Settings – April Holland & Suzanne Hoffman, Health Department

Counsel explained that last week, Oregon Health Authority (OHA) removed the requirement for masking in outdoor public settings if 6 feet of social distancing can be maintained. The County's mandate from August 2020 retained masks indoors and outdoors where 6 feet of distance could

not be maintained. Removing the County's outdoor mask requirement keeps the County in line with the State and reduces public confusion. The County maintains the indoor mask requirement and does not alter the current declared state of emergency, which extends through December 31, 2021.

Holland added that risk of infection is lower outdoors than indoors. The mandate was applied at a time of skyrocketing COVID-19 cases, when hospitals were close to being overwhelmed. Data has not documented large numbers of cases associated with crowded outdoor settings. Public Health staff recommend removing the outdoor part of the mandate. This does not mean the pandemic is over, and Holland is also comfortable diverging from the State if necessary, based on the local situation.

Malone opined that having a consistent message helps. Throughout the pandemic, the County has used evidence-based decision making.

Augerot thanked Health staff for keeping the Board up to date.

Wyse requested clarification on whether the Board would still recommend that people mask outdoors if 6 feet of distancing is not possible.

Holland had suggested such a recommendation.

Counsel clarified that the Order simply drops the outdoor masking requirement and does not make a recommendation.

MOTION: Malone moved to approve Order #2021-079 lifting the requirements for use of masks or face coverings in outdoor public settings. Wyse seconded the motion, which **passed 3-0.**

Augerot thanked Oregon State University, Good Samaritan Regional Medical Center, the 409J School District, and area pharmacies, which have been good partners in COVID-19 mitigation.

Malone noted that individuals should still feel free to wear masks outdoors if preferred.

VI. Other

No other business was discussed.

VII. Adjournment

Chair Augerot adjourned the meeting at 9:51 a.m.

Xanthippe Augerot, Chair

Erika Milo, Recorder

** NOTE: Items denoted with an asterisk do NOT have accompanying written materials in the meeting packet.*



**BEFORE THE BOARD OF COMMISSIONERS
FOR THE STATE OF OREGON, FOR THE COUNTY OF BENTON**

In the Matter of Proclaiming	)	
March 2022 as Women's History	)	PROCLAMATION #P2022-003
Month in Benton County	)	

The 2022 National Women's History Month theme is "Women Providing Healing, Promoting Hope." Since 1980, the National Women's History Alliance (NHWA) has helped lead the celebration of Women's History every March. In 1987 National Women's History Month began being observed on an annual basis. The 2022 theme is "both a tribute to the ceaseless work of caregivers and frontline workers during this ongoing pandemic and also a recognition of the thousands of ways that women of all cultures have provided both healing and hope throughout history."

Healing and hope are critically needed for us throughout the country. The NHWA shares in their theme announcement the following:

This year, in particular, we are reminded of the importance of healers and caregivers who are helping to promote and sustain hope for the future. The NWHA encourages communities throughout the country to honor local women who bring and have historically brought these priceless gifts to their families, workplaces, and neighborhoods, sometimes at great sacrifice. These are the women who, as counselors and clerics, artists and teachers, doctors, nurses, mothers, and grandmothers listen, ease suffering, restore dignity, and make decisions for our general as well as our personal welfare.

Today we honor the healing and hope the women in our communities have showcased throughout time. Women have and continue to face discrimination worldwide including pay inequity, gender-based personal violence, and attacks on their reproductive rights. Transgender women, especially trans women of color, face the highest rate of violence nationwide and attacks on their personhood. Healing and hope helps us address these inequities and move towards a more just and equitable society. In order to do so, we need all Benton County community members to support the women in their lives, listen to their stories, and address the issues they are facing.

Benton County is home to many wonderful women and girls who inspire us every day. One example is the story of Bonnie Hill. Bonnie was born in 1945 and moved to Oregon with her husband Tony Hill after meeting him during her time at Marquette University's nursing school. They lived in Eugene for a few years before moving to Alsea after they had their second child. Bonnie was a teacher at Alsea High School and involved in the community. She helped write a grant to fund the Alsea Rural Healthcare Clinic. Her community service and advocacy shifted after she had a miscarriage. Her classes from University of Oregon taught her about a dioxin present in some herbicides at the time that had correlations with spontaneous miscarriages. Bonnie found that timber companies were using herbicides to kill hardwood trees competing with Douglas firs. She connected with other local women and together they wrote letters to over 35 government officials nationwide urging them to take action. Her advocacy brought national attention to our small city of Alsea, with the end result of the herbicide being banned. She helped address a major health issue impacting women and their families and provided hope for those in her community. She

continued teaching, earning a Michael Milken Award for outstanding teaching in 1997. She helped write Oregon State education standards for writing and retired in 2002. She then published the *Alsea Valley Voice* community newsletter. She passed away in January 2019. Her advocacy helped bring healing for her and other women in our community while having hope for a better future. Bonnie Hill joins many other Benton County women who have impacted their communities.

Women continue to make a monumental impact in our work and lives throughout the County. From working to address housing insecurity, to supplying COVID-19 vaccinations, to teaching, running businesses, or supporting families, women have made a vital impact in our communities. Healing and home is achieved through community collaboration. Benton County encourages all community members to reflect on our history and work towards a more equitable future for all women.

THEREFORE, BE IT HEREBY PROCLAIMED that March 2022 is Women's History Month in Benton County and all community members are encouraged to join in this observance.

Adopted this 1st day of March, 2022.

Signed this 1st day of March, 2022.

Drafted by Equity, Diversity, and Inclusion Coordinator JoeHahn.

Read by Benton County Community Member and Western Oregon University Abby's House Director, Kristen Perry.

BENTON COUNTY BOARD OF COMMISSIONERS

Nancy Wyse, Chair

Pat Malone, Commissioner

Xantippe Augerot, Commissioner



**BEFORE THE BOARD OF COMMISSIONERS
FOR THE STATE OF OREGON, FOR THE COUNTY OF BENTON**

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Today we honor the healing and hope the women in our communities have showcased throughout time. Women have and continue to face discrimination worldwide including pay inequity, gender-based personal violence, and attacks on their reproductive rights. Transgender women, especially trans women of color, face the highest rate of violence nationwide and attacks on their personhood. Healing and hope helps us address these inequities and move towards a more just and equitable society. In order to do so, we need all Benton County community members to support the women in their lives, listen to their stories, and address the issues they are facing.

Benton County is home to many wonderful women and girls who inspire us every day. One example is the story of Bonnie Hill. Bonnie was born in 1945 and moved to Oregon with her husband Tony Hill after meeting him during her time at Marquette University's nursing school. They lived in Eugene for a few years before moving to Alsea after they had their second child. Bonnie was a teacher at Alsea High School and involved in the community. She helped write a grant to fund the Alsea Rural Healthcare Clinic. Her community service and advocacy shifted after she had a miscarriage. Her classes from University of Oregon taught her about a dioxin present in some herbicides at the time that had correlations with spontaneous miscarriages. Bonnie found that timber companies were using herbicides to kill hardwood trees competing with Douglas firs. She connected with other local women and together they wrote letters to over 35 government officials nationwide urging them to take action. Her advocacy brought national attention to our small city

of Alsea, with the end result of the herbicide being banned. She helped address a major health issue impacting women and their families and provided hope for those in her community. She continued teaching, earning a Michael Milken Award for outstanding teaching in 1997. She helped write Oregon State education standards for writing and retired in 2002. She then published the *Alsea Valley Voice* community newsletter. She passed away in January 2019. Her advocacy helped bring healing for her and other women in our community while having hope for a better future. Bonnie Hill joins many other Benton County women who have impacted their communities.

Women continue to make a monumental impact in our work and lives throughout the County. From working to address housing insecurity, to supplying COVID-19 vaccinations, to teaching, running businesses, or supporting families, women have made a vital impact in our communities. Healing and home is achieved through community collaboration. Benton County encourages all community members to reflect on our history and work towards a more equitable future for all women.

THEREFORE, BE IT HEREBY PROCLAIMED that March 2022 is Women's History Month in Benton County and all community members are encouraged to join in this observance.

Adopted this 1st day of March, 2022.

Signed this 1st day of March, 2022.

Drafted by Equity, Diversity, and Inclusion Coordinator JoeHahn.

Read by Benton County Community Member and Western Oregon University Abby's House Director, Kristen Perry.

BENTON COUNTY BOARD OF COMMISSIONERS

DocuSigned by:



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Nancy Wyse, Chair

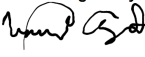
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Pat Malone, Commissioner

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Xantippe Augerot, Commissioner



**BEFORE THE BOARD OF COMMISSIONERS
FOR THE STATE OF OREGON, FOR THE COUNTY OF BENTON**

**In the Matter of Proclaiming the)
Month of March as American)
Red Cross Month) **PROCLAMATION #P2022-002****

In times of crisis, people in Benton County come together to care for one another. This humanitarian spirit is part of the foundation of our community and is exemplified by American Red Cross Cascades Region volunteers and donors.

In 1881, Clara Barton founded the American Red Cross, turning her steadfast dedication for helping others into a bold mission of preventing and alleviating people's suffering. Today, more than 140 years later, we honor the kindness and generosity of Red Cross volunteers here in Benton County, who continue to carry out Clara's lifesaving legacy. They join the millions of people across the United States who volunteer, give blood, donate financially or learn vital life-preserving skills through the Red Cross.

The Cascades Region, serving Oregon and SW Washington, the contributions of more than 2,500 local Red Cross volunteers give hope to the most vulnerable in their darkest hours. The Red Cross does so by providing more than 1,600 emergency overnight shelter stays, along with food and comfort for families devastated by more than 680 local disasters, like home fires. Through the generosity of those donating more than 182,000 units of essential blood for accident and burn victims, heart surgery and organ transplant patients, and those receiving treatment for leukemia, cancer or sickle cell disease. Or by supporting service members and veterans an average of eight times a day, along with their families and caregivers through the unique challenges of military life. And by helping to save the lives of others with first aid, CPR and other skills; or delivering international humanitarian aid.

Their work to prevent and alleviate human suffering is vital to strengthening our community's resilience. We dedicate this month of March to all those who continue to advance the noble legacy of American Red Cross founder Clara Barton, who lived by her words, "You must never think of anything except the need, and how to meet it." We ask others to join in this commitment to give back in our community.

THEREFORE, BE IT HERBY PROCLAIMED that the month of March as Red Cross Month and encourage all citizens of Benton County to reach out and support its humanitarian mission.

Adopted this 1st day of March, 2022.
Signed this 1st day of March, 2022.

BENTON COUNTY BOARD OF COMMISSIONERS

Nancy Wyse, Chair

Pat Malone, Commissioner

Xanthippe Augerot, Commissioner



**BEFORE THE BOARD OF COMMISSIONERS
FOR THE STATE OF OREGON, FOR THE COUNTY OF BENTON**

**In the Matter of Proclaiming the)
Month of March as American) PROCLAMATION #P2022-002
Red Cross Month)**

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Adopted this 1st day of March, 2022.

Signed this 1st day of March, 2022.

BENTON COUNTY BOARD OF COMMISSIONERS

DocuSigned by:

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Nancy Wyse, Chair

DocuSigned by:

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Pat Malone, Commissioner

DocuSigned by:

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Xanthippe Augerot, Commissioner

BOC Agenda Checklist Master

Agenda Placement and Contacts

Suggested Agenda Date 03/01/22

View [Agenda Tracker](#)

Suggested Placement * BOC Tuesday Meeting

Department * PARKS EVENTS

Contact Name * Jesse Ott

Phone Extension * 6002

Meeting Attendee Name * Jesse Ott

Agenda Item Details



Item Title * Approval to submit grant application to OPRD

Item Involves * Check all that apply

- ☐ Appointments
- ☐ Budget
- ☐ Contract/Agreement
- ☐ Discussion and Action
- ☐ Discussion Only
- ☐ Document Recording
- ☐ Employment
- ☒ Notice of Intent
- ☒ Order/Resolution
- ☐ Ordinance/Public Hearing 1st Reading
- ☐ Ordinance/Public Hearing 2nd Reading
- ☐ Proclamation
- ☐ Project/Committee Update
- ☐ Public Comment
- ☐ Special Report
- ☐ Other

Board/Committee Involvement *

☐ Yes

☒ No

Advertisement *

☐ Yes

☒ No

Item Issues and Description	
Identified Salient Issues *	The Jackson-Frazier Wetland Boardwalk is in need of a replacement. Benton County and partners have available local matching funds to fulfill its share of obligation related to this grant application should the grant funds be awarded and we will provide adequate funding for on-going operations and maintenance of this park and recreation facility should the grant funds be awarded.
	Oregon Park and Recreation Department requires that our commissioners approve a resolution demonstration that they support a Natural Areas, Parks and Events submission for the grant.
Fiscal Impact *	☒ Yes ☐ No
Fiscal Impact *	We have some CIP funding as well as a sizable donation to a local non-profit for the boardwalk. We don't have enough funding to complete the project with out grant funding. If we were awarded this grant, we believe we can full fund the project.

Mandated
Service? *
☐ Yes
☐ No

2040 Thriving Communities Initiative

Describe how this agenda checklist advances the core values or focus areas of 2040, or supports a strategy of a departmental goal.
To review the initiative, visit the website [HERE](#).

Values and Focus Areas

Check boxes that reflect each applicable value or focus area and explain how they will be advanced.

Core Values *

Select all that apply.

- ☒ Vibrant, Livable Communities
- ☒ Supportive People Resources
- ☒ High Quality Environment and Access
- ☐ Diverse Economy that Fits
- ☒ Community Resilience
- ☒ Equity for Everyone
- ☒ Health in All Actions
- ☐ N/A

Explain Core Values

Selections *

The Jackson-Frazier Boardwalk is a key component of the larger Owens Farm Conceptual Planning Effort. This project is all about bringing a diverse group of partners together to develop recreation opportunities that are inclusive and engaging.

Focus Areas and

Vision *

Select all that apply.

- ☒ Community Safety
- ☐ Emergency Preparedness
- ☒ Outdoor Recreation
- ☐ Prosperous Economy
- ☒ Environment and Natural Resources
- ☒ Mobility and Transportation
- ☐ Housing and Growth
- ☐ Arts, Entertainment, Culture, and History
- ☐ Food and Agriculture
- ☒ Lifelong Learning and Education
- ☐ N/A

Explain Focus Areas

and Vision *

The boardwalk has served it's purpose and is now becoming safety concern. The Jackson-Frazier Wetland is a special place to see migrating birds, native plants, and to get outdoors and enjoy nature. It is important that we provide a recreation option that will work for all ability levels.

Recommendations and Motions

Item Recommendations and Motions

Staff

Recommendations *

Vote to authorize Benton County Natural Areas, Parks and Events to submit an application for the 2022 Oregon Parks and Recreation Department Local Government Grant.

Meeting Motions *

I move to ...

I move to authorize Benton County Natural Areas, Parks and Events to submit an application for the 2022 Oregon Parks and Recreation Department Local Government Grant.

Attachments, Comments, and Submission

Item Comments and Attachments

Attachments

Upload any attachments to be included in the agenda, preferably as PDF files. If more than one attachment / exhibit, please indicate "1", "2", "3" or "A", "B", "C" on the documents.

NAPE_LGGP Authorizing Grant Application for
Jackson-Frazier.docx

20.25KB

Comments (optional) If you have any questions, please call ext.6800

**Department
Approver**

LYNNE MCKEE

Comments

Signature

A handwritten signature in black ink, reading "Eugene McKee", is centered within a light gray rectangular box. The signature is written in a cursive style.

Approvals Required ☒ Counsel ☒ Finance ☐ HR

Counsel Approver VANCE CRONEY

Finance Approver RICHARD CRAGER

County Administrator
Approver JOE KERBY

Comments

Comments

Signature

Vance H. Cheney

Comments

Signature

Rick Crager

Comments

Signature

Theresa Kelly

Comments

Signature

Teresa Foley

Section 1: The Board of Commissioners demonstrates its support for the submittal of a grant application to the Oregon Park and Recreation Department for Jackson-Frazier Wetland Boardwalk Reconstruction at Jackson-Frazier Wetland Natural Area.

Section 2: This Resolution shall be effective following its adoption by the Board of Commissioners.

Adopted this 1st day of March, 2022.

Signed this 1st day of March, 2022.

BENTON COUNTY BOARD OF COMMISSIONERS

Nancy Wyse, Chair

Pat Malone, Commissioner

Xanthippe Augerot, Commissioner

**BEFORE THE BOARD OF COMMISSIONERS
FOR THE STATE OF OREGON, FOR THE COUNTY OF BENTON**

**In the Matter of Authorizing the Benton County)
Natural Areas, Parks, and Events Department to)
Apply for a Local Government Grant from the Oregon) RESOLUTION No. R2022-002
Wetland Boardwalk Reconstruction at Jackson-Frazier)
Wetland Natural Area and Delegating Authority to the)
Director to Sign the Application)**

WHEREAS, the Oregon Parks and Recreation Department is accepting applications for the Local Government Grant Program; and

WHEREAS, the Benton County Natural Areas, Parks, and Events Department desires to participate in this grant program to the greatest extent possible as a means of providing needed park and recreation rehabilitation; and

WHEREAS, Board of Commissioners and Department have identified Boardwalk Reconstruction at Jackson-Frazier Wetland Natural Area as a high priority need in Benton County; and

WHEREAS, the nearly 1 mile boardwalk loop was constructed by county staff and volunteers starting in the mid-1990's, the boardwalk has reached obsolescence with increasing sections in disrepair. The proposed reconstruction is vital for the following reasons:

- Current and future diverse generations experiencing and supporting rare wetland natural area protection and enhancement;
- Providing high demand recreation for diverse users including government subsidized housing units within a ¼ mile;
- Building upon the recent major long term restoration projects within the wetland, combined with consistent county and partner management; and
- Supporting the long term planning for a sustainable recreation network in the region with City of Corvallis, Greenbelt Land Trust, Samaritan Health, and other partners as part of the Owens Farm strategic partnership; and

WHEREAS, Benton County and partners have available local matching funds to fulfill its share of obligation related to this grant application should the grant funds be awarded; and

WHEREAS, Benton County will provide adequate funding for on-going operations and maintenance of this park and recreation facility should the grant funds be awarded; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners authorizes the Benton County Natural Areas, Parks and Events Director to apply for and sign the grant application as follows:

Section 1: The Board of Commissioners demonstrates its support for the submittal of a grant application to the Oregon Park and Recreation Department for Jackson-Frazier Wetland Boardwalk Reconstruction at Jackson-Frazier Wetland Natural Area.

Section 2: This Resolution shall be effective following its adoption by the Board of Commissioners.

Adopted this 1st day of March, 2022.

Signed this 1st day of March, 2022.

BENTON COUNTY BOARD OF COMMISSIONERS

DocuSigned by:



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Nancy Wyse, Chair

DocuSigned by:



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Pat Malone, Commissioner

DocuSigned by:



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Xanthippe Augerot, Commissioner

BOC Agenda Checklist Master

Agenda Placement and Contacts

Suggested Agenda Date 03/01/22

View [Agenda Tracker](#)

Suggested Placement * Work Session and Meeting

Department * Human Resources

Contact Name * Tracy Martineau

Phone Extension * 6389

Meeting Attendee Name * Tracy Martineau

Agenda Item Details



Item Title * Resolution to Add Juneteenth to List of County's Observed Holidays for Employees

Item Involves * Check all that apply

- ☐ Appointments
- ☐ Budget
- ☐ Contract/Agreement
- ☒ Discussion and Action
- ☐ Discussion Only
- ☐ Document Recording
- ☒ Employment
- ☐ Notice of Intent
- ☐ Order/Resolution
- ☐ Ordinance/Public Hearing 1st Reading
- ☐ Ordinance/Public Hearing 2nd Reading
- ☐ Proclamation
- ☐ Project/Committee Update
- ☐ Public Comment
- ☐ Special Report
- ☒ Other

Estimated Time * 15 minutes

Board/Committee Involvement * ☐ Yes ☒ No

Advertisement *

☐ Yes
☒ No

Issues and Fiscal Impact

Item Issues and Description

Identified Salient Issues *

President Biden signed legislation on June 17, 2021 to make Juneteenth a federal holiday, enshrining June 19 as the national day to commemorate the end of slavery in the United States.

Many local and state government institutions across the country are observing Juneteenth as a paid federal holiday. The state of Oregon as well as several cities and counties in Oregon are also observing Juneteenth with business closure and paid time off.

The County currently observes the following holidays:

1. New Years Day - January 1
2. Martin Luther King's Birthday on the third Monday in January
3. President's Day on the third Monday in February
4. Memorial Day
5. Independence Day on July 4
6. Labor Day
7. Veteran's Day on November 11
8. Thanksgiving Day on the fourth Thursday in November
9. Christmas Day - December 25

The County closes its regular business offices on the day of observance, with the exception of Sheriff's Office law enforcement activities. Should the commissioners add Juneteenth, it would be added to the list above. A decision in March allows sufficient time for all other County departments to adjust work and manage customer service to our community.

The County's collective bargaining agreements have existing language that allows for additional days to be added to the list of observed holidays. We will be in contract negotiations with BCDSA to work out any pay administration details, if needed.

This action would create no fiscal impact to the 2021-23 Adopted Budget, but would result in an increase to employee benefits. The total cost, including 35% for taxes and PERS, for a day of compensation for benefited employees would be \$188,749.

If the Board adopts the resolution to add Juneteenth to the list of holidays observed by the County, it will be critical for County Leadership to sponsor a campaign for educating employees on the cultural significance of the holiday. In addition, a commitment to visible demonstrations of celebrating the holiday will be key to enriching our cultural competency.

Options *

1. Adopt the resolution to add Juneteenth to the list of holidays observed by the County.
2. Do not adopt the resolution to add Juneteenth to the list of holidays observed by the County.
3. Request additional information prior to making a decision on the proposed resolution.

Fiscal Impact *

- ☒ Yes
☐ No

**Fiscal Impact
Description***

This action would create no fiscal impact to the 2021-23 Adopted Budget, but would result in an increase to employee benefits. The total cost, including 35% for taxes and PERS, for a day of compensation for benefited employees would be \$188,749.

2040 Thriving Communities Initiative

Mandated Service? * ☐ Yes ☒ No

2040 Thriving Communities Initiative

Describe how this agenda checklist advances the core values or focus areas of 2040, or supports a strategy of a departmental goal.

To review the initiative, visit the website [HERE](#).

Values and Focus Areas

Check boxes that reflect each applicable value or focus area and explain how they will be advanced.

Core Values *

Select all that apply.

- ☒ Vibrant, Livable Communities
- ☒ Supportive People Resources
- ☐ High Quality Environment and Access
- ☐ Diverse Economy that Fits
- ☐ Community Resilience
- ☒ Equity for Everyone
- ☐ Health in All Actions
- ☐ N/A

Explain Core Values Selections *

Observing Juneteenth raises the importance of a holiday that celebrates the freedom of an historically oppressed group within our community.

Focus Areas and Vision *

Select all that apply.

- ☐ Community Safety
- ☐ Emergency Preparedness
- ☐ Outdoor Recreation
- ☐ Prosperous Economy
- ☐ Environment and Natural Resources
- ☐ Mobility and Transportation
- ☐ Housing and Growth
- ☒ Arts, Entertainment, Culture, and History
- ☐ Food and Agriculture
- ☐ Lifelong Learning and Education
- ☐ N/A

Explain Focus Areas and Vision Selection *

Observing Juneteenth raises the importance of a holiday that celebrates the freedom of an historically oppressed group within our community and enriches our cultural competence.

Recommendations and Motions

Item Recommendations and Motions

Staff
Recommendations * The HR director and EDI Coordinator recommend adoption of the resolution to add Juneteenth to the County's holiday observances.

Work Session
Motions * I move to ...
I move to place consideration of the resolution to add Juneteenth to the list of County-observed holidays on the next available regular meeting of the Board.

Meeting Motions * I move to ...
I move to adopt the resolution to add Juneteenth to the list of County-observed holidays.

Attachments, Comments, and Submission

Item Comments and Attachments

Attachments

Upload any attachments to be included in the agenda, preferably as PDF files. If more than one attachment / exhibit, please indicate "1", "2", "3" or "A", "B", "C" on the documents.

Supporting Establishing Juneteenth Holiday

13.87KB

RESOLUTION 2022.docx

Comments (optional)

JoeHahn may wish to make edits after preliminary submission.

If you have any questions, please call ext.6800

**Department
Approver**

TRACY MARTINEAU

Comments

Signature

Tracy Mattiawan

Approvals Required ☒ Counsel ☒ Finance ☐ HR

Counsel Approver VANCE CRONEY

Finance Approver RICHARD CRAGER

County Administrator
Approver
JOE KERBY

Comments

Comments

Signature

Vance H. Cheney

Comments

Signature

Rick Crager

Comments

Signature

Theresa Kelly

Comments

Signature

Teresa Foley

**BEFORE THE BOARD OF COMMISSIONERS
FOR THE STATE OF OREGON, FOR THE COUNTY OF BENTON**

**In the Matter of Supporting the)
Establishment of Juneteenth as an) **RESOLUTION #R2022-003**
Observed Benton County Holiday)**

WHEREAS, Juneteenth is the oldest nationally celebrated commemoration of the end of slavery recognizing June 19th, 1865, when Major General Gordon Granger announced in Galveston, Texas that the Civil War had ended and enslaved Black people were freed; and

WHEREAS, the local celebration of June 19th a year later became known as “Juneteenth” and “Freedom Day.” The holiday spread nationwide and was passed on through the descendants of freed Black people. The date becoming highly revered in Texas decades later, with many freed people and their descendants making an annual visit to Galveston to celebrate; and

WHEREAS, Juneteenth has become a national day of celebration and education including parades, picnics, storytelling, guest speakers, religious services, and political activity; and

WHEREAS; Oregon had Black Exclusion Laws that limited the rights of Black people in Oregon preventing them from working and living in the state. Oregon’s exclusionary past and systemic racism has led to continued hardship and undue burden on Black Oregonians that is still present to this day; and

WHEREAS; systemic racism throughout the country including education inequity, wealth inequity, the prison industrial complex, and other forms of systemic racism have all led to public outcry and introspection about the state of race relations in our country and community and a need for improvements and progress in addressing racial inequity; and

WHEREAS; responding to public outcry, many elected officials, activists, and educators have called for more awareness of the contributions of African Americans to our society and the naming of Juneteenth as an observed public and government holiday, to allow persons of all ethnicities and races to recognize the legacy of slavery and racism in our country; and to celebrate all the positive accomplishments of African Americans in the United States; and

WHEREAS, on June 17th, 2021 President Joseph R. Biden signed the “Juneteenth National Independence Day Act” making Juneteenth a federal holiday and on June 19th, 2021 Oregon Governor Kate Brown signed House Bill 2168 into law, making Juneteenth a state holiday; and

WHEREAS; Benton County wishes to follow our federal and state leaders and recognize Juneteenth as part of our 2040 Thriving Communities Initiative based on the principles of Equity & Health; and

WHEREAS; Benton County government recognizes Juneteenth to be a day of reflection of race relations in the country and to stress the importance of racial parity, equity, and justice.

NOW, THEREFORE BE IT,RESOLVED, that the Benton County Board of Commissioners hereby approves the naming of Juneteenth as an annual observed Benton County government holiday and encourages all staff and community members to participate in celebration, education, reflection, and community events.

Adopted this 1st day of March, 2022.

Signed this 1st day of March, 2022.

Drafted by: JoeHahn, Equity, Diversity, and Inclusion Coordinator

BENTON COUNTY BOARD OF COMMISSIONERS

Nancy Wyse, Chair

Pat Malone, Commissioner

Xanthippe Augerot, Commissioner

**BEFORE THE BOARD OF COMMISSIONERS
FOR THE STATE OF OREGON, FOR THE COUNTY OF BENTON**

**In the Matter of Supporting the)
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Observed Benton County Holiday)**

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WHEREAS, Oregon had Black Exclusion Laws that limited the rights of Black people in Oregon preventing them from working and living in the state. Oregon’s exclusionary past and systemic racism has led to continued hardship and undue burden on Black Oregonians that is still present to this day; and

WHEREAS, systemic racism throughout the country including education inequity, wealth inequity, the prison industrial complex, and other forms of systemic racism have all led to public outcry and introspection about the state of race relations in our country and community and a need for improvements and progress in addressing racial inequity; and

WHEREAS, responding to public outcry, many elected officials, activists, and educators have called for more awareness of the contributions of African Americans to our society and the naming of Juneteenth as an observed public and government holiday, to allow persons of all ethnicities and races to recognize the legacy of slavery and racism in our country; and to celebrate all the positive accomplishments of African Americans in the United States; and

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Adopted this 1st day of March, 2022.

Signed this 1st day of March, 2022.

Drafted and read by: JoeHahn, Equity, Diversity, and Inclusion Coordinator

BENTON COUNTY BOARD OF COMMISSIONERS

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Nancy Wyse, Chair

DocuSigned by:



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Pat Malone, Commissioner

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Xanthippe Augerot, Commissioner

BOC Agenda Checklist Master

Agenda Placement and Contacts

Suggested Agenda Date 03/01/22

View [Agenda Tracker](#)

Suggested Placement * BOC Tuesday Meeting

Department * County Counsel

Contact Name * Vance Croney

Phone Extension * 6890

Meeting Attendee Name * Vance Croney

Agenda Item Details



Item Title * Resolution of Necessity

Item Involves * Check all that apply

- ☐ Appointments
- ☐ Budget
- ☐ Contract/Agreement
- ☒ Discussion and Action
- ☐ Discussion Only
- ☐ Document Recording
- ☐ Employment
- ☐ Notice of Intent
- ☐ Order/Resolution
- ☐ Ordinance/Public Hearing 1st Reading
- ☐ Ordinance/Public Hearing 2nd Reading
- ☐ Proclamation
- ☐ Project/Committee Update
- ☐ Public Comment
- ☐ Special Report
- ☐ Other

Estimated Time * 15

Board/Committee Involvement *

☐ Yes

☒ No

Advertisement *

☐ Yes
☒ No

Item Issues and Description	
Identified Salient Issues *	The Benton County Board of Commissioners has identified real property owned by McFadden Ranch, LLC, as the best property upon which to site a criminal justice campus. Over the last 3 years, the county has undertaken an exhaustive review and examination of available – and unavailable – property which could accommodate a criminal justice campus comprised of a combination of a correctional facility, law enforcement facilities, crisis center and/or a new courthouse. After narrowing the number of potential sites down to three, the Board of Commissioners solicited input and comments from the public as to which of the three locations should be chosen to accommodate a new criminal justice campus. The McFadden Ranch, LLC, property was identified by both the public and the commissioners as the best choice. Currently, the McFadden Ranch, LLC, property is comprised of approximately 85 acres, of which approximately 25 have been zoned High Density Residential, with the remaining acreage carrying a General Industrial zone designation. The property has not been developed and there are currently no plans to develop either the HD Residential area or the GI area. Benton County is specifically identified approximately 28 acres as the site for a new criminal justice campus. The 28 acres comprises the parcel's entire frontage along Highway 20, and extends west along the north and south property lines to the boundary of the HD Residentially zoned portion of the parcel. The 28-acre tract is identified as Exhibit B on the attached Resolution. Repeated efforts by county staff to negotiate the purchase of the 28-acre portion of property have been unsuccessful. In order to construct a new criminal justice campus, it is necessary to initiate eminent domain proceedings under ORS ch. 35. The first step, as required by Oregon law, is to declare the necessity of acquiring private property for public purposes by adopting a resolution of necessity. Because Benton County has a present need for additional land for placement and construction of new justice system campus, the acquisition of the 28 acres described in Exhibits A and B of the resolution of necessity will be the most compatible with the greatest public good and cause the least private injury. 1. Vote to adopt the resolution of necessity. 2. Choose not to adopt the resolution of necessity.
	Fiscal Impact * ☒ Yes ☐ No
Fiscal Impact *	There is no fiscal impact from adopting the resolution of necessity. If, however, the Board moves ahead with an eminent domain action based on the resolution of necessity, there will be significant costs associated with that litigation. The county will be required to pay the attorneys, appraisers and experts needed to prosecute eminent domain litigation. It will be required to pay at least the amount put forward as the last best offer as the acquisition cost of the property. And, if the eminent domain litigation results in a jury award of more than the county offered in its last best offer, Benton County must pay that amount as the purchase price, in addition to the property owner's attorney fees, expert fees and associated costs.
	Description *

2040 Thriving Communities Initiative

Mandated Service? *

☐ Yes
 ☒ No

2040 Thriving Communities Initiative

Describe how this agenda checklist advances the core values or focus areas of 2040, or supports a strategy of a departmental goal.

To review the initiative, visit the website [HERE](#).

Values and Focus Areas

Check boxes that reflect each applicable value or focus area and explain how they will be advanced.

Core Values *

Select all that apply.

☒ Vibrant, Livable Communities
 ☐ Supportive People Resources
 ☐ High Quality Environment and Access
 ☐ Diverse Economy that Fits
 ☐ Community Resilience
 ☐ Equity for Everyone
 ☐ Health in All Actions
 ☐ N/A

Explain Core Values Selections *

A new criminal justice campus will create more programs, resources and opportunities for a segment of the Benton County community that is currently underserved by our aging and inadequate facilities.

Focus Areas and Vision *

Select all that apply.

☒ Community Safety
 ☐ Emergency Preparedness
 ☐ Outdoor Recreation
 ☐ Prosperous Economy
 ☐ Environment and Natural Resources
 ☐ Mobility and Transportation
 ☐ Housing and Growth
 ☐ Arts, Entertainment, Culture, and History
 ☐ Food and Agriculture
 ☐ Lifelong Learning and Education
 ☐ N/A

Explain Focus Areas and Vision Selection *

A new jail and courthouse clearly underpin community safety ideals in Benton County.

Recommendations and Motions

Item Recommendations and Motions

Staff Staff recommends adopting the resolution of necessity.
Recommendations *

Meeting Motions * I move to ...
I move to adopt Resolution No. R2022-001Resolution of Necessity.

Attachments, Comments, and Submission

Item Comments and Attachments

Attachments

Upload any attachments to be included in the agenda, preferably as PDF files. If more than one attachment / exhibit, please indicate "1", "2", "3" or "A", "B", "C" on the documents.

Resolution of Necessity.docx	13.08KB
Resolution of Necessity_Exh A&B.pdf	1.01MB

Comments (optional)

If you have any questions, please call ext.6800

Department

VANCE CRONEY

Approver

Comments

Signature

Vance H. Choney

Approvals Required ☐ Counsel

☒ Finance

☐ HR

Finance Approver RICHARD CRAGER

**County
Administrator
Approver** JOE KERBY

Comments

Comments

Signature

Rick Crager

Comments

Signature

Theresa Kelly

Comments

Signature

Teresa Foley

**BEFORE THE BOARD OF COMMISSIONERS
FOR THE STATE OF OREGON, FOR THE COUNTY OF BENTON**

**In the Matter of Declaring the)
Necessity and Purpose for) RESOLUTION #R2022-001
Acquisition of Real Property for)
Locating a Justice System Campus)**

Benton County is a political subdivision of the State of Oregon and is authorized to condemn real property under ORS 203.135 and ORS chapter 35, and;

ORS 35.235 requires Benton County to declare the necessity of acquiring real property prior to the commencement of a condemnation action; and

Benton County operates a correctional facility, houses law enforcement services and owns and operates a county courthouse (justice system elements); and

Expansion, modernization and replacement of the justice system elements are required to meet the changing and growing needs of the community and the justice system; and

The expansion, modernization and replacement of the justice system elements requires additional real property; and

Replacement and relocation of the justice system elements has been planned and located in a manner which is most compatible with the greatest public good and causes the least private injury; and

Benton County has identified 28 acres, more or less, of the real property owned by McFadden Ranch, LLC, as the best property for location and construction of a justice system campus. The legal description of the entire parcel owned by McFadden Ranch, LLC, is included in Exhibit A, attached hereto and incorporated herein by reference; and

The 28 acres, more or less, identified by Benton County is depicted on the map and documents included in Exhibit B, attached hereto and incorporated herein by reference; and

At such time as the Benton County Circuit Court, or the property owner, authorizes Benton County to access the real property owned by McFadden Ranch, LLC, a survey of the portion of the parcel will be performed to create the specific legal description of the property to be taken by Benton County, which shall be approximately 28 acres.

NOW THEREFORE, IT IS HEREBY RESOLVED that the Benton County Board of Commissioners declares it is necessary to acquire the 28 acres, more or less, as selected by Benton County and depicted on Exhibit B, and included within the legal description in Exhibit A; and

IT IS FURTHER RESOLVED that because Benton County has a present need for additional land for placement and construction of new justice system elements, the acquisition of the 28 acres described in Exhibits A and B will be the most compatible with the greatest public good and cause the least private injury.

Adopted this _____ day of March, 2022.

Signed this _____ day of March, 2022.

BENTON COUNTY BOARD OF COMMISSIONERS

Nancy Wyse, Chair

Approved as to Form

Pat Malone, Commissioner

Vance M. Croney, Counsel

Xanthippe Augerot, Commissioner

**BEFORE THE BOARD OF COMMISSIONERS
FOR THE STATE OF OREGON, FOR THE COUNTY OF BENTON**

**In the Matter of Declaring the)
Necessity and Purpose for) **RESOLUTION #R2022-001**
Acquisition of Real Property for)
Locating a Justice System Campus)**

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Adopted this 03/23/2022 day of March, 2022.

Signed this 03/23/2022 day of March, 2022.

BENTON COUNTY BOARD OF COMMISSIONERS

DocuSigned by:



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Nancy Wyse, Chair

DocuSigned by:



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Pat Malone, Commissioner

DocuSigned by:

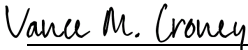


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Xanthippe Augerot, Commissioner

Approved as to Form

DocuSigned by:



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Vance M. Croney, Counsel

EXHIBIT A

Commencing at a 1-3/8 inch brass cap at the southwest corner of the Archimedes Stewart Donation Land Claim No. 46 in the west one-half of Section 25 of Township 11 South, Range 5 West of the Willamette Meridian, Benton County, Oregon; thence South 22°52'00" West 890.11 feet to a 5/8 inch iron rod at the most northerly corner of that property conveyed to Hewlett-Packard Company in Benton County Deed Record M-201764-95; thence along the most northerly line of said Hewlett-Packard property South 36°17'44" West 1057.22 feet to a 5/8 inch iron rod at the most westerly corner of said Hewlett-Packard property, being the TRUE POINT OF BEGINNING; thence along the lines of said Hewlett-Packard property the following courses: South 62°28'02" East 222.75 feet to a 5/8 inch iron rod, North 34°20'51" East 330.37 feet to a 5/8 inch iron rod, North 45°56'16" East 332.51 feet to a 5/8 inch iron rod, South 71°39'08" East 247.23 feet to a 5/8 inch iron rod, North 73°31'35" East 187.04 feet to a 5/8 inch iron rod, South 00°21'47" East 368.37 feet to a 5/8 inch iron rod, South 53°36'14" West 399.48 feet to a 5/8 inch iron rod, South 00°21'25" East 287.03 feet to a 5/8 inch iron rod, North 89°38'43" East 323.10 feet to a 5/8 inch iron rod, South 00°21'47" East 721.70 feet to a point being witnessed by a 5/8 inch iron rod which bears South 25°54'59" East 1.00 feet of the true corner; thence continuing along said Hewlett-Packard west line South 25°54'59" East 1162.03 feet to a 5/8 inch iron rod at the northerly right of way line of U.S. Highway 20, said additional highway right of way acquired by the City of Corvallis in the State of Oregon Circuit Court Case No. 95-10096; thence along the northerly right of way line of said Highway 20 South 64°30'15" West 337.85 feet to a 5/8 inch iron at the point of curvature (Highway 20 centerline station 497+66.9); thence continuing along said northerly right of way line along a 3869.71 foot radius curve to the left 166.25 feet (the long chord of which bears South 63°16'24" West 166.24 feet) to a 5/8 inch iron rod at the end of said additional right of way acquired by the City of Corvallis (Highway 20 centerline station 499+31.0); thence along the end of said additional right of way South 27°57'26" East 20.00 feet to a 5/8 inch iron rod at the northerly right of way line of said Highway 20; thence along the northerly right of way line of Highway 20 along a 3849.71 foot radius curve to the left 177.28 feet (the long chord of which bears South 60°43'24" West 177.27 feet) to a 5/8 inch iron rod at the point of tangency (Highway 20 centerline station 501+06.9); thence continuing along said northerly right of way line of Highway 20 South 59°12'56" West 1019.40 feet to the southeast corner of that property conveyed to Linn and Sylvia Averill in Benton County Deed Record Book 167, Page 280, said point being witnessed by a 3/4 inch iron pipe which bears North 27°00'43" East 0.43 feet of the true corner; thence along the east line of said Averill property North 27°00'43" West 174.94 feet to a 3/4 inch iron pipe at the northeast corner of said Averill property; thence along the north line of said Averill property North 88°57'51" West 79.43 feet to a 3/4 inch iron pipe at the northwest corner of said Averill property, also being on the east line of that property conveyed to Kathleen and William Ten Pas in Benton County Deed Record 2004-365498; thence along the east line of said Ten Pas property North 26°26'41" West 16.65 feet to a 3/4 inch iron pipe at the northeast corner of said Ten Pas property; thence along the north line of said Ten Pas property North 84°31'05" West 19.05 feet to a 5/8 inch iron rod at the most westerly southwest corner of that property

conveyed to Arthur McFadden in Benton County Deed Record M-185094-94; thence along the west line of said McFadden property North 00°19'44" West 2789.00 feet to a 5/8 inch iron rod at the most westerly northwest corner of said McFadden property, also being on the easterly right of way line of the Southern Pacific Railroad; thence along said easterly right of way line North 36°17'44" East 203.91 feet to the true point of beginning. Containing 83.43 acres of land, more or less.

Together and with that portion of U.S. Highway right of way described as follows: Beginning at the aforementioned Southeast corner of said Averill property; thence South 27°00'43" East 60.00 feet to the southerly right of way line of Highway 20; thence along said southerly right of way line North 59°12'56" East 1023.20 to the point of tangency (Highway centerline station 501+06.9); thence continuing along said southerly right of way line along a 3789.71 foot radius curve to the right 337.28 feet (the long chord of which bears North 61°57'16" East 337.17 feet) to a 5/8 inch iron rod at the point of curvature (Highway 20 centerline station 497+66.9); thence continuing along said southerly right of way line North 64°30'15" East 338.43 feet; thence North 25°54'59" West 80.00 feet to a 5/8 inch iron rod at the northerly right of way line of U.S. Highway 20, said additional highway right of way acquired by the City of Corvallis in the State of Oregon Circuit Court Case No. 95-10096; thence along the northerly right of way line of said Highway 20 South 64°30'15" West 337.85 feet to a 5/8 inch iron at the point of curvature (Highway 20 centerline station 497+66.9); thence continuing along said northerly right of way line along a 3869.71 foot radius curve to the left 166.25 feet (the long chord of which bears South 63°16'24" West 166.24 feet) to a 5/8 inch iron rod at the end of said additional right of way acquired by the City of Corvallis (Highway 20 centerline station 499+31.0); thence along the end of said additional right of way South 27°57'26" East 20.00 feet to a 5/8 inch iron rod at the northerly right of way line of said Highway 20; thence along the northerly right of way line of Highway 20 along a 3849.71 foot radius curve to the left 177.28 feet (the long chord of which bears South 60°43'24" West 177.27 feet) to a 5/8 inch iron rod at the point of tangency (Highway 20 centerline station 501+06.9); thence continuing along said northerly right of way line of Highway 20 South 59°12'56" West 1019.40 feet to the southeast corner of that property conveyed to Linn and Sylvia Averill in Benton County Deed Record Book 167, Page 280, said point being witnessed by a 3/4 inch iron pipe which bears North 27°00'43" East 0.43 feet of the true corner and being the point of beginning. Containing 2.57 acres of land, more or less.

The above described properties contain a total of 88.00 acres of land, more or less. The Basis of Bearings for the above described area is from Benton County Survey No. 9025.

EXHIBIT "B"
Depiction of Property-In Blue (subject to final survey)



EXHIBIT A

Commencing at a 1-3/8 inch brass cap at the southwest corner of the Archimedes Stewart Donation Land Claim No. 46 in the west one-half of Section 25 of Township 11 South, Range 5 West of the Willamette Meridian, Benton County, Oregon; thence South 22°52'00" West 890.11 feet to a 5/8 inch iron rod at the most northerly corner of that property conveyed to Hewlett-Packard Company in Benton County Deed Record M-201764-95; thence along the most northerly line of said Hewlett-Packard property South 36°17'44" West 1057.22 feet to a 5/8 inch iron rod at the most westerly corner of said Hewlett-Packard property, being the TRUE POINT OF BEGINNING; thence along the lines of said Hewlett-Packard property the following courses: South 62°28'02" East 222.75 feet to a 5/8 inch iron rod, North 34°20'51" East 330.37 feet to a 5/8 inch iron rod, North 45°56'16" East 332.51 feet to a 5/8 inch iron rod, South 71°39'08" East 247.23 feet to a 5/8 inch iron rod, North 73°31'35" East 187.04 feet to a 5/8 inch iron rod, South 00°21'47" East 368.37 feet to a 5/8 inch iron rod, South 53°36'14" West 399.48 feet to a 5/8 inch iron rod, South 00°21'25" East 287.03 feet to a 5/8 inch iron rod, North 89°38'43" East 323.10 feet to a 5/8 inch iron rod, South 00°21'47" East 721.70 feet to a point being witnessed by a 5/8 inch iron rod which bears South 25°54'59" East 1.00 feet of the true corner; thence continuing along said Hewlett-Packard west line South 25°54'59" East 1162.03 feet to a 5/8 inch iron rod at the northerly right of way line of U.S. Highway 20, said additional highway right of way acquired by the City of Corvallis in the State of Oregon Circuit Court Case No. 95-10096; thence along the northerly right of way line of said Highway 20 South 64°30'15" West 337.85 feet to a 5/8 inch iron at the point of curvature (Highway 20 centerline station 497+66.9); thence continuing along said northerly right of way line along a 3869.71 foot radius curve to the left 166.25 feet (the long chord of which bears South 63°16'24" West 166.24 feet) to a 5/8 inch iron rod at the end of said additional right of way acquired by the City of Corvallis (Highway 20 centerline station 499+31.0); thence along the end of said additional right of way South 27°57'26" East 20.00 feet to a 5/8 inch iron rod at the northerly right of way line of said Highway 20; thence along the northerly right of way line of Highway 20 along a 3849.71 foot radius curve to the left 177.28 feet (the long chord of which bears South 60°43'24" West 177.27 feet) to a 5/8 inch iron rod at the point of tangency (Highway 20 centerline station 501+06.9); thence continuing along said northerly right of way line of Highway 20 South 59°12'56" West 1019.40 feet to the southeast corner of that property conveyed to Linn and Sylvia Averill in Benton County Deed Record Book 167, Page 280, said point being witnessed by a 3/4 inch iron pipe which bears North 27°00'43" East 0.43 feet of the true corner; thence along the east line of said Averill property North 27°00'43" West 174.94 feet to a 3/4 inch iron pipe at the northeast corner of said Averill property; thence along the north line of said Averill property North 88°57'51" West 79.43 feet to a 3/4 inch iron pipe at the northwest corner of said Averill property, also being on the east line of that property conveyed to Kathleen and William Ten Pas in Benton County Deed Record 2004-365498; thence along the east line of said Ten Pas property North 26°26'41" West 16.65 feet to a 3/4 inch iron pipe at the northeast corner of said Ten Pas property; thence along the north line of said Ten Pas property North 84°31'05" West 19.05 feet to a 5/8 inch iron rod at the most westerly southwest corner of that property

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EXHIBIT "B"
Depiction of Property-In Blue (subject to final survey)



BOC Agenda Checklist Master

Agenda Placement and Contacts

Suggested Agenda Date 03/01/22

View [Agenda Tracker](#)

Suggested Placement * BOC Tuesday Meeting

Department * Community Development

Contact Name * Greg Verret, Gordon Kurtz

Phone Extension * 6294, 6006

Meeting Attendee Name * Greg Verret, Gordon Kurtz

Agenda Item Details



Item Title * Amendments to Chapter 36 - Second Reading

Item Involves * Check all that apply

- ☐ Appointments
- ☐ Budget
- ☐ Contract/Agreement
- ☐ Discussion and Action
- ☐ Discussion Only
- ☐ Document Recording
- ☐ Employment
- ☐ Notice of Intent
- ☐ Order/Resolution
- ☐ Ordinance/Public Hearing 1st Reading
- ☒ Ordinance/Public Hearing 2nd Reading
- ☐ Proclamation
- ☐ Project/Committee Update
- ☐ Public Comment
- ☐ Special Report
- ☐ Other

Board/Committee Involvement *

☐ Yes

☒ No

Advertisement *

☐ Yes

☒ No

Item Issues and Description	
Identified Salient Issues *	The Board conducted a public hearing on this matter on February 15, 2022, and conducted the first reading of the ordinance at that time. No changes were made at the hearing.
	The current National Pollutant Discharge Elimination System (NPDES) Phase II Municipal Separate Storm Sewer Systems (MS4) Permit requires that the County update its Illicit Discharge code language to meet new and revised standards. Staff representatives from Community Development, Environmental Health, and Public Works working together in the MS4 Stakeholders' Group meetings have concluded that Chapter 36 of the Benton County Code (Enforcement) should be modified to meet the requirements of the permit and that the jurisdictional authority of this code chapter be expanded to cover actions Countywide, where applicable. Staff has identified other elements of Chapter 36 that require updates and corrections. It was determined to be an expedient use of the Board's time to address these updates and corrections at the same time.
Options *	A. Adopt the ordinance B. Direct changes be made to the ordinance C. Reject the ordinance
	☒ Yes ☐ No
Fiscal Impact *	No Benton County expenditures are anticipated. Minor revenue may be generated from fines levied due to non-compliance with new and existing standards.
Fiscal Impact *	
Description *	

2040 Thriving Communities Initiative

Mandated Service? *

☒ Yes
 ☐ No

2040 Thriving Communities Initiative

Describe how this agenda checklist advances the core values or focus areas of 2040, or supports a strategy of a departmental goal.

To review the initiative, visit the website [HERE](#).

Mandated Service Description *

If this agenda checklist describes a mandated service or other function, please describe here.
 Oregon DEQ rules require Benton County to regulate discharges to the stormwater conveyance system.

Values and Focus Areas

Check boxes that reflect each applicable value or focus area and explain how they will be advanced.

Core Values *

Select all that apply.

☒ Vibrant, Livable Communities
 ☐ Supportive People Resources
 ☒ High Quality Environment and Access
 ☐ Diverse Economy that Fits
 ☒ Community Resilience
 ☐ Equity for Everyone
 ☒ Health in All Actions
 ☐ NA

Explain Core Values Selections *

Vibrant, Livable Communities – The proposed code modifications strengthen and clarify the identification, and elimination of illicit (non-stormwater) discharges throughout the County and coupled with recent modifications to BCC Chapter 36, provide for enforcement of environmental and water quality standards. The new code updates, improves, and expands regulatory language, establishes County-wide coverage of the requirements, and is supported by a progressive enforcement escalation mechanism (BCC Chapter 36) to ensure protection of our environmental resources and water quality.
 Community Resilience – The proposed code modifications provide staff with regulatory tools to identify, document, and respond to violations that threaten public health and the function of our lands and waterways.
 High Quality Environment and Access – The code modifications help to protect our lands and waterways ensuring their preservation and protection so they may be enjoyed by the citizens of Benton County.
 Health in All Actions – The Code modifications protect the public health and wellbeing by expanding the coverage of illicit discharge restrictions and empowering enforcement officers to take action when violations are reported or discovered.

Focus Areas and Vision *

Select all that apply.

- ☒ Community Safety
- ☐ Emergency Preparedness
- ☒ Outdoor Recreation
- ☐ Prosperous Economy
- ☒ Environment and Natural Resources
- ☐ Mobility and Transportation
- ☐ Housing and Growth
- ☐ Arts, Entertainment, Culture, and History
- ☐ Food and Agriculture
- ☐ Lifelong Learning and Education
- ☐ N/A

Explain Focus Areas and Vision Selection *

Community Safety – Provides updated and expanded/enhanced identification parameters and enforcement processes to address and mitigate violations that threaten the health of the environment and the public.

Outdoor Recreation – Provides expanded/enhanced enforcement processes to address and mitigate violations that threaten the viability and public safety of outdoor recreation areas, including the County's Parks, Natural Areas, open spaces, waterways, and atmosphere.

Environment and Natural Resources – Provides expanded/enhanced enforcement processes to address and mitigate violations that threaten the health of our lands, waterways, and atmosphere.

Recommendations and Motions

Item Recommendations and Motions

Staff
Recommendations * Staff recommends acceptance of the proposed code modifications

Meeting Motions * I move to ...
Amend Chapter 36 through adoption of Ordinance 2022-0308 and conduct the second reading of that ordinance.

Attachments, Comments, and Submission

Item Comments and Attachments

Attachments

Upload any attachments to be included in the agenda, preferably as PDF files. If more than one attachment / exhibit, please indicate "1", "2", "3" or "A", "B", "C" on the documents.

Chap_36_Illicit_Nonstormwater_Discharges- for_Ord_2022-0308.pdf	285.17KB
Chap_36_Illicit_Nonstormwater_Discharges- for_Ord_2022-0308.docx	49.95KB

Comments (optional) If you have any questions, please call ext.6800

Department Approver GREG VERRET

Comments

Signature

Frag Delnat

Approvals Required ☐ Counsel

☐ Finance

☐ HR

County TERESA FARLEY

Administrator

Approver

Comments

Comments

Signature

Tereza Faltych

Comments

Signature

Teresa Foley

**BEFORE THE BOARD OF COMMISSIONERS
FOR THE STATE OF OREGON, FOR THE COUNTY OF BENTON**

In the Matter of Amending Benton County Code Chapter 36, Illicit (Non-Stormwater) Discharges	)))	Ordinance No. 2022-0308
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WHEREAS:

Pursuant to the National Pollution Discharge and Elimination System, Benton County is required by Oregon Department of Environmental Quality (DEQ) to effectively prohibit non-stormwater discharges into the County's municipal separate storm sewer system.

In order to comply with the terms of NPDES permit issued to Benton County by DEQ, the County adopted Chapter 36 of the Benton County Code to establish procedures for detecting and eliminating illicit discharges into the Benton County small municipal separate storm sewer conveyance system.

Revisions to Benton County's permit from DEQ necessitate modifications to Chapter 36 in order to comply with DEQ requirements.

Benton County Board of Commissioners held a duly advertised public meeting and conducted the First Reading of the proposed Ordinance on February 15, 2022.

NOW THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY ORDAINS AS FOLLOWS:

PART I: Short Title. Amendments to Chapter 36 of the Benton County Code regarding illicit (non-stormwater) discharges.

PART II: Authority. The Board of County Commissioners of Benton County has authority to amend the county code pursuant to the Benton County Charter.

PART II: Benton County Code Chapter 36 is hereby adopted as shown in "Exhibit 1."

PART IV: The effective date for these amendments to the Benton County Code will be:

First Reading: February 15, 2022

Second Reading: _____

Effective Date: _____

BENTON COUNTY BOARD OF COMMISSIONERS

Approved as to Form: _____
Nancy Wyse, Chair

County Counsel Pat Malone, Commissioner

Xanthippe Augerot, Commissioner

Recording Secretary

Exhibit 1

Amendments to Chapter 36 of the Benton County Code

CHAPTER 36

ILLICIT (NON-~~STORMWATER~~WATER) DISCHARGES

I. GENERAL PROVISIONS

36.005 Purpose and Intent

- (1) The purpose of this chapter is to protect and enhance the public health, safety, general welfare, financial investment in public and private infrastructure, private property value, the environment, water quality, and waterways, and the quality of life of the inhabitants of Benton County through the regulation of non-~~storm~~water discharges to the Benton County ~~municipal-separate-stormwater sewer-conveyance~~ systems to the maximum extent practicable consistent with the Federal Clean Water Act (33 U.S.C. §1251 et seq. (1972)).
- (2) This chapter establishes methods for controlling the introduction of pollutants into the ~~municipal-separate-stormwater sewer-conveyance~~ systems in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) and Stormwater Discharge Permit issued to Benton County by the Oregon Department of Environmental Quality. Goals of this chapter:
- (a) Prevent non-~~storm~~water discharges, generated as a result of spills, inappropriate dumping, excessive erosion or disposal of pollutants that degrade the natural environment; maintain or improve water quality within Benton County as required under State and Federal National Pollution Discharge Elimination System law and as benefits the environment and the community, and
 - (b) Establish legal authority to carry out inspection, investigation, monitoring and enforcement procedures necessary to ensure compliance with this chapter. [Ord. 2011-0243]

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36.010 Applicability

~~The provisions of this Chapter 36 shall apply within the Corvallis Federal Urbanized Area boundary as regulated by the Environmental Protection Agency and Oregon Department of Environmental Quality. The provisions of Chapter 36 shall apply to all unincorporated areas of Benton County. The Benton County Environmental Health Administrator and the Community Development Director, shall administer, implement, interpret, and enforce the provisions of this chapter. Chapter 36 with assistance from the Public Works Director and Community Development Director.~~

36.015 Administration.

Administration of this Chapter, under the supervision of the Board shall be by the Benton County Community Development Department. The Community Development Director or designate shall administer, implement, interpret, and enforce the provisions of this chapter.~~under the Director or~~

designate. The following persons and agencies shall assist the Department in carrying out its duties under BCC Chapter 36: Health Department (Environmental Health); Finance Department (Fiscal Management and Rates); Public Works Department (Public Facilities); County Counsel, District Attorney, and Sheriff (Enforcement).

36.100 Definitions

- (1) **“Accidental Discharge”** means a discharge prohibited by this chapter which occurs by chance and without planning or thought prior to occurrence. It does not include any discharge situation which County staff or other appropriate authorities have already notified responsible parties or discussed the situation with them.
- (2) **“Best Management Practices (BMPs)”** means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
- (3) **“Clean Water Act”** means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- (4) **“Construction Activity”** means activities subject to the Oregon Phase II Municipal Stormwater Program or NPDES General Construction Permits or Benton County Erosion and Sediment Control Permit requirements.
- ~~(4)~~(5) **“County”** means those administrative authorities described in 36.015.
- ~~(5)~~(6) **“Discharge Permit”** means a permit issued by the Oregon Department of Environmental Quality under authority delegated pursuant to 33 USC § 1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
- ~~(6)~~(7) **“Groundwater Interceptor”** means any natural or artificial groundwater or surface water drainage system, including drain tile, curtain drain, foundation drain, cut banks, and ditches, that intercept and divert groundwater or surface water from the area of an onsite wastewater treatment absorption facility.
- ~~(7)~~(8) **“Hazardous Materials”** means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

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- (8) ~~“Health Administrator” means the Benton County Environmental Health Administrator or designee.~~
- (9) **“Illicit Discharge”** means any direct or indirect non-~~storm~~water discharge to the ~~C~~ounty ~~municipal-separate storm~~~~stormwater sewer~~~~conveyance~~ systems, except as exempted.
- (10) **“Illegal Connection”** means either of the following :
- (a) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter a stormwater conveyance system including but not limited to any conveyances which allow any non-~~storm~~water discharge including sewage, process wastewater, and wash water to enter the stormwater drain-conveyance system and any connections to the stormwater drain-conveyance system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency, or
 - (b) Any drain or conveyance connected from a commercial or industrial land use to the stormstormwater drain-conveyance system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
- (11) **“Municipal Separate Storm Sewer System (MS4)”** means a conveyance or system of conveyances including but not limited to any roads with drainage systems, county streets, curbs, gutters, inlets, catch basins, piped storm drains, pumping facilities, structural storm water controls, ditches, swales, natural and man-made or altered drainage channels, reservoirs, and other drainage structures, and which is:
- (a) Owned or maintained by Benton County;
 - (b) Designed or used for collection or conveyance of stormwater;
 - (c) Not a combined sewer; and
 - (d) Not part of a publicly-owned treatment works as defined by 40 CFR §122.2.
 - ~~(d)~~(e) Within the boundaries of the Federally Recognized Urbanized Area.
- (12) **“Nonpoint Source”** means causes of water pollution that are not associated with point sources. Examples may include: fertilizer/pesticide runoff; sediment runoff from construction. Nonpoint sources may enter a discrete stormwater conveyance system and become a point source.
- (13) **“Non-Stormwater Discharge”** means any discharge to the stormwater conveyance system that is not composed entirely of stormwater.
- (14) **“Outfall”** means a point source as defined by 40 CFR, § 122.2 at the point where a ~~municipal-separate stormwater sewer~~~~conveyance system~~ discharges to waters of the state.

- (15) **“Person”** means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, governmental entity, any interstate body or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine; the singular shall include the plural where indicated by the context.
- (16) **“Pollutant”** means a contaminant(s) that enters the natural environment that causes harm and its severity is based on its chemical nature, the concentration and the persistence. Examples of pollutants may include, but are not limited to: paints, varnishes, and solvents; petroleum hydrocarbons; automotive fluids; cooking grease; detergents; degreasers; cleaning chemicals; garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; liquid and solid wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; and sediment.
- (17) **“Pollution”** means such contamination or other alteration of the physical, chemical, or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any water of the state that either by itself or in connection with any other substance present can reasonably be expected to create a public nuisance or render such waters harmful, detrimental, or injurious to public health, safety, or welfare; to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; or to livestock, wildlife, fish, other aquatic life or the habitat thereof. (OAR Ch. 340 Section 41: (45))~~means the human-made or human-induced alteration of the quality of waters by waste to a degree that unreasonably affects or has the potential to unreasonably affect the waters of the state.~~
- (18) **“Premises”** mean any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- ~~(18)~~(19) **“Stormwater Conveyance System”** means drainage facilities, both natural and manmade, which collect, contain, and provide for the flow of surface and storm water from the highest points on the land down to a receiving water and includes the MS4. The natural elements of the conveyance system include swales and small drainage courses, streams, rivers, lakes, and wetlands. The human-made elements of the conveyance system include gutters, ditches, pipes, channels, and most retention/detention facilities.
- ~~(19)~~ **“Waters of the State”** lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon, and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters) that are located wholly or partially within or bordering the state or within its jurisdiction.
- (20) **“Stormwater”** means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

- (21) **“Structural Stormwater Control”** means a structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow. [Ord. 2011-0243]
- (22) **“Uncontaminated”** means, for the purposes of this chapter, that outflow does not result in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 117.21 or 40 CFR 302.6 at any time since November 16, 1987; or result in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 110.6 at any time since November 16, 1987; or contribute to a violation or exceedance of an applicable Oregon water quality standard.
- (23) **“Waters of the State”** may include lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon, and other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh water or salt water, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters) that are located wholly or partially within or bordering the state or within its jurisdiction.

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II. PROHIBITIONS

36.200 Prohibition of Illicit Discharges

No person shall discharge any pollutants or waters containing any pollutants, into the Benton County ~~municipal-separate-stormwater-sewer-conveyance~~ systems. To “discharge” includes any means of causing pollutants to enter the subject waters, including allowing others under the person’s control to discharge pollutants. The range of discharges covered by this Code Chapter include, but are not limited to those listed in the current NPDES MS4 Phase II General Permit, Schedule A.3.c.iii.[Ord. 2011-0243]

36.205 Exemptions

~~These exemptions do not authorize the d~~Discharge of non-stormwater is allowable if it satisfies ~~except where such discharges satisfy~~ one of the following conditions:

- (1) The non-stormwater discharge is regulated under a separate NPDES permit;
- (2) The non-stormwater discharge originates from emergency firefighting activities, fire hydrant flushing, or other discharges necessary to protect public health and safety;
- (3) The non-stormwater discharge is categorized as an authorized allowable non-stormwater discharge as listed below:

~~The following discharges are exempt from the prohibition of section 36.200 above:~~

- (a) Uncontaminated water line flushing performed by a government agency;
- (b) Water associated with dye testing necessary to protect public health and safety;
- (c) Landscape irrigation or lawn watering. For areas owned or operated by Benton County, landscape irrigation will be considered allowable only if any pesticides and fertilizers that are present are applied within the manufacturer's instructions and do not flow past the landscaped area nor into a stormwater conveyance system;
- ~~(d)~~(d) Discharges resulting from forest practices performed pursuant to the Oregon Forest Practices Rules and from accepted farm practices as defined in the guidance, rules, and BMPs, of the Oregon Department of Forestry and Oregon Department of Agriculture, respectively;
- ~~(e)~~(e) Stream flows that are diverted under the authorization of the appropriate state or federal agency;
- (f) Natural flows from riparian habitat or wetlands;
- ~~(d)~~(g) Natural springs;
- ~~(e)~~(h) Rising groundwater;
- ~~(f)~~(i) Uncontaminated ~~G~~groundwater infiltration to ~~storm~~stormwaterstormwaterwater drains and conveyances (as defined in CFR §35.2005(20));
- ~~(g)~~(j) Uncontaminated pumped groundwater, as long as provided it does not cause visible erosion;
- (k) Potable water sources (including potable groundwater monitoring wells and draining and flushing of municipal potable water sources and start-up flushing of groundwater wells), provided as long as no visible erosion is caused;
- ~~(h)~~(l) Foundation, footing, and Ccrawl space drains and pumps (where flows are not contaminated, this exemption does not include process water);
- ~~(i)~~(m) Uncontaminated Aair conditioning or compressor condensateion;
- ~~(j)~~(n) Individual or charity car washing (provided that chemicals, soaps, detergents, steam or heated water are not used. Washing is restricted to the outside of vehicles);
- (o) Street and pavement wash waters (provided that chemicals, soaps, detergents, steam or heated water are not used);
- ~~(k)~~(p) Routine external building wash-down and wash waters (provided that chemicals, soaps, detergents, steam or heated water are not used);

- (q) Dechlorinated swimming pool and dechlorinated hot tub discharge and drainage waters (heated water must be cooled for at least 12 hours and reach ambient temperature prior to discharge);
- (r) Road maintenance activities performed under a public agencies' Best Management Practices and/or the conditions of a public agencies' DEQ 1200-CA permit;
- (s) Activities, conducted by public agencies, that meet or are better than state or federal standards for erosion and sediment control;
- (t) Discharges resulting from excavations for gas or oil facilities for which the operator demonstrates compliance with 40 CFR §122.26;
- (n) Mining activities performed pursuant to that are in applicable state permit requirements;
- (u) Activities, conducted by public agencies that meet or exceed state or federal standards for erosion and sediment control; Discharges of treated water from investigation, removal, and remedial actions selected or approved by DEQ pursuant to Oregon Revised Statute (ORS) Chapter 465.

36.210 Connections

The unlawful discharge of non-stormwater to illegal connections and other connections to the stormwater conveyance system is prohibited. In addition:

- (1) A person violates this chapter if the person connects a line or other conveyance of pollution to the stormwater conveyance system, or uses an existing connection to convey non-stormwater water discharges.
- (2) Improper connections, and discharge via those connections, in violation of this chapter shall not be allowed to discharge. If necessary to appropriately treat discharge, it shall be redirected to an approved onsite wastewater treatment system or the sanitary sewer system upon approval of the sanitary sewer agency appropriate governing agency.
- (3) Any drain or conveyance that has not been previously documented in plans, maps or equivalent images submitted to Benton County Public Works, Community Development, or Environmental Health for review and approval, and which the County determines might be connected to the stormwater conveyance system, shall be located by the owner or occupant of that property upon receipt of written notice from Benton County requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be completed, that the drain or conveyance be identified (for example, "stormwater sewer" or "sanitary sewer"), and that the outfall location or point of connection to the stormwater conveyance system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to Benton County. [Ord. 2011-0243]

36.215 Industrial or Construction Activity Discharges

Any person subject to ~~an industrial or construction activity~~any NPDES ~~stormwater~~ discharge permit or Benton County Erosion and Sediment Control Permit shall comply with all provisions of such permit. Proof of compliance with said ~~industrial activity activities~~ permit may be required in a form acceptable to Oregon Department of Environmental Quality, prior to allowing discharges to the ~~municipal separate storm~~stormwater ~~sewer conveyance~~ system. Benton County Public Works and Community Development may require proof of compliance with applicable construction activity. [Ord. 2011-0243]

III. INVESTIGATION AND NOTICE

36.300 Illicit Discharge Investigation Procedure

(1) When reported illicit discharge related incidents occur in the Benton County road right of way, Benton County Public Works Department will lead investigation, coordination, and illicit discharge related responses. This includes identifying a responsible party to pay for the investigation and cleanup of the illicit discharge. Public Works will coordinate with local law enforcement and fire departments to receive critical information to identify the responsible party, and to determine if spills or illicit discharges occur that meet or exceed reportable quantities and require reporting to the Oregon Emergency Response System.

(2) For areas outside of the road right of way on private properties, Benton County Environmental Health and/or Community Development will lead investigations where illicit discharges have been reported and are within their authority and capability ~~of Environmental Health these departments/divisions~~. This includes identifying a responsible party to pay for the investigation and cleanup of the illicit discharge. ~~These are currently limited to activities, facilities, and related illicit discharge issues associated with:~~

- (2) —
- (a) ~~failing septic systems;~~
 - (b) ~~restaurants;~~
 - (c) ~~public swimming pools and spas;~~
 - (d) ~~private pool and spas;~~
 - (e) ~~hotel/motel;~~
 - (f) ~~recreational parks;~~
 - (g) ~~public water systems;~~
 - (h) ~~schools;~~

~~(i) bed and breakfasts; and~~

~~(j) solid waste;~~

~~(k) —~~

- (3) Benton County Environmental Health, Community Development and Public Works ~~will~~ shall coordinate reporting hazardous materials related incidents to the State Oregon Department of Environmental Quality and the Oregon Emergency Response System when occurrences are known. [Ord. 2011-0243]

36.305 Access and Inspection of Properties and Facilities

The ~~Health Administrator~~ County's designated authority ~~County~~ may enter and inspect properties and facilities ~~identified-causing the discharges~~ in section 36.300(2) at reasonable times and as often as may be necessary to determine compliance with this chapter.

- (1) If a property or facility has security measures in force which require proper identification and clearance before entry into its premises, the owner or operator shall make the necessary arrangements to allow access to representatives of Benton County.
- (2) Inspection of the property may include but is not limited to interviews, testing (including tracing dye), sampling, photography, videotaping, and examination and copying of any records pertaining to an NPDES permit.
- (3) The ~~Health Administrator~~ County's designated authority ~~County~~ shall have the right to set up on any property or facility such devices as are necessary in the opinion of the County's designated authority ~~County~~ ~~Health Administrator~~ to conduct monitoring and/or sampling of flow discharges.
- (4) The ~~Health Administrator~~ County's designated authority ~~County~~ may require the owner or operator to purchase and install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the ~~Health Administrator~~ County's designated authority ~~County~~. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator at his/her own expense. All devices used to measure flow and quality shall be calibrated to ensure their accuracy.
- (5) Any temporary or permanent obstruction to safe and easy access to the property or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the ~~Health Administrator~~ County's designated authority ~~County~~ and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.
- (6) Unreasonable delays in allowing the ~~Health Administrator~~ County's designated authority ~~County~~ access to a facility are a violation of this chapter.
- (7) If the ~~Health Administrator~~ County's designated authority ~~County~~ has been refused access to any part of the premises from which illicit discharges are occurring, and the ~~Health~~

~~Administrator~~ County's designated authority ~~County~~ is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then the County's designated authority ~~County~~ ~~Health Administrator~~ may seek issuance of an administrative search warrant from any court of competent jurisdiction and the property owner shall reimburse the County for the administrative costs of such action.

- (8) In the event the violation constitutes an immediate danger to public health or public safety, the ~~Health Administrator~~ County's designated authority ~~County~~ is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The ~~Health Administrator~~ County's designated authority ~~County~~ is authorized to seek costs of the abatement as outlined in Benton County Code Chapter 31. [Ord. 2011-0243]

36.310 Notification of Accidental Discharges and Spills

- (1) Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility, activity or operation has information of any known or suspected release of pollutants or other non-~~storm~~water discharges from that facility or operation which are resulting or may result in illicit discharges or pollutants discharging into the ~~municipal separate~~ stormwater conveyance ~~sewer~~ systems, state waters, or waters of the ~~state~~ U.S., said person shall notify Benton County and all other entities as required by state and federal law, which may include Oregon Department of Environmental Quality and ~~including the~~ Oregon Emergency Response System by live discussion via phone, or by facsimile or in person as soon as reasonably possible and no more than four hours after obtaining such information, which is expected to be within a few hours, no later than the next business day. The nature of the pollutant, quantity, time of occurrence, and other pertinent details of the discharge shall be provided. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the ~~Health Administrator~~ County's designated authority ~~County~~ ~~or Public Works Director~~ within three business days of the phone call or in-person notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the aforementioned details of the discharge, the actions taken after the discharge, and the actions taken to prevent its recurrence. The actions taken to prevent recurrence shall be reviewed and approved by the County's designated authority ~~County~~. Such records shall be retained for at least three years and shall be available for inspection by the County. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill. ~~In the event of such a release of hazardous materials, emergency response agencies and/or other appropriate agencies shall be immediately notified.~~
- (2) Failure to provide notification of an illicit discharge as provided above is a violation of this Chapter. [Ord. 2011-0243]

36.315 Violations, Enforcement and Penalties

- (1) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. Any person, who has violated or continues to violate the provisions of this chapter, may be subject to the enforcement actions outlined in Benton County Code Chapter 31, or any other legal remedies available to Benton County. Benton County may require the property owner, company responsible, or any other responsible party to pay Benton County a fee of \$1,000.00 per day with every 24-hour period being considered a separate violation.
- (2) Ongoing Illicit Discharges - If the elimination of an illicit discharge will take more than 15 working days due to technical, logistical, or other reasonable issues, the County shall within 20 working days of identifying the source of an illicit discharge initiate procedures to eliminate the illicit discharge. Upon confirmation of an illicit connection, the County shall use the escalating enforcement procedures of Benton County Code 31.020 and document the effort to eliminate the illicit connection within six months to the extent allowable under state law. All known illicit connections to the stormwater conveyance system must be eliminated. Additionally, the property owner, business owner, and/or other responsible party shall be fined a minimum of \$1,000 per day with every 24-hours-of infraction period considered a separate violation.
- (3) In addition to Chapter 31 enforcement requirements, Benton County, upon finding that a violation of this chapter has occurred, may order compliance by written notice of violation. The notice of violation shall contain:
- (a) The name and address of the alleged violator;
 - (b) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
 - (c) A statement specifying the nature of the violation;
 - (d) A description of the remedial measures necessary to restore compliance with this chapter,
 - (e) A time schedule for the completion of such remedial action;
 - (f) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and,
- (4) Such notice may require without limitation:
- (a) A professional or credentialed professional to complete remediation requirements;
 - (b) The performance of monitoring, analyses, and reporting;
 - (c) The elimination of illicit discharges and illegal connections;
 - (d) That violating discharges, practices, or operations shall cease and desist;
 - (e) The abatement or remediation of stormwater pollution or contamination hazards;
 - (f) The restoration of any affected property;
 - (g) Payment of costs to cover administrative, follow up inspections, abatement, and clean-up costs; and
 - (h) The implementation of pollution prevention practices.

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- (5) This chapter shall not establish responsibility on the part of Benton County to abate or clean up private property, or for Benton County to incur costs related thereto. [Ord. 2011-0243]

36.320 Detection and Elimination of Illicit Discharges

(1) Illicit Discharge Complaints or Reports - Benton County shall publicize a phone number, webpage, and/or other communication channel that the public can use to report illicit discharges. The complaint/reporting communication channel ~~must~~shall be answered or responded to by trained staff during normal business hours, shall include a system to record or capture incoming complaints or reports during non-business hours, and shall include 24-hour emergency contact communication channel.

~~— Initial Investigation or Evaluation — Conduct an initial investigation or evaluation within an average of one business day or refer the complaint to the appropriate agency (see Schedule A.3.e.v.C below).~~

~~— Complaints Tracking — The permit registrant must maintain a procedure or system to document all complaints or reports of illicit discharges into and from the MS4. The tracking system must document, at minimum the following by the County and County staff:~~

~~(A) Date the complaint was received by staff and, if available, the complainant's name and contact information.~~

~~(B) Staff responding to the complaint.~~

~~(C) Date the investigation was initiated.~~

~~(D) The outcome of the investigation.~~

~~(E) Corrective action(s) taken to eliminate the illicit discharge.~~

~~(F) The responsible party for the corrective action(s).~~

~~(G) The status of enforcement procedure(s), when necessary.~~

~~(H) The date the corrective action(s) was completed and staff that evaluated final compliance.~~

~~(I) Complaint tracking information must be summarized in each Annual Report.~~

(2) Response to Complaints or Reports - Benton County shall respond to all complaints or reports of illicit discharges, as soon as reasonably possible, and within two business days, unless there is a threat to human health, welfare, or the environment. For discharges, including spills, which constitute a threat to human health, welfare, or the environment, the County shall respond within one business day. Spills, or other illicit discharges, that may endanger human health or the environment must be reported in accordance with all applicable federal and state laws, including notification to the Oregon Emergency Response System and the Oregon Department of

Environmental Quality. The County's complaint response and the associated investigation shall, at minimum, use the following timelines:

- (a) Initial Investigation or Evaluation - Conduct an initial investigation or evaluation within an average of one business day or refer the complaint to the appropriate agency (see subsection (4) of this section).
- (b) Complaints Tracking - The County shall maintain a procedure or system to document all complaints or reports of illicit discharges into and from the MS4stormwater conveyance system. The tracking system must document, at minimum the following by the County and County staff:
 - (A) Date the complaint was received by staff and, if available, the complainant's name and contact information.
 - (B) Staff responding to the complaint.
 - (C) Date the investigation was initiated.
 - (D) The outcome of the investigation.
 - (E) Corrective action(s) taken to eliminate the illicit discharge.
 - (F) The responsible party for the corrective action(s).
 - (G) The status of enforcement procedure(s), when necessary.
 - (H) The date the corrective action(s) was completed and staff that evaluated final compliance.
 - (I) Complaint tracking information must be summarized in each Annual Report.

(3) Ongoing Illicit Discharges Involving Capital Improvements - If the elimination of the illicit discharge involves the repair or replacement of Benton County's stormwater sewer conveyance systems, the Countypermit registrant must remove the source of the illicit discharge within three years of the date of its identification unless DEQ approves an extension.

(4) Notification of Other Authorities. If the illicit discharge originates outside the County'spermit registrant's jurisdictional authority, the Countypermit registrant must notify the jurisdictional authority within one business day of becoming aware of the illicit discharge. MS4 Phase II General Permit Effective: March 1, 2019 Expiration: February 29, 2024 Page 17 of 47 (C)

36.400 Ultimate responsibility

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore this chapter does not intend or imply that compliance by any person will ensure that

there will be no contamination, pollution, or unauthorized discharge of pollutants into the waters of the state caused by said person. This chapter shall not create liability on the part of Benton County, or any agent or employee thereof for any damages that result from any discharger's reliance on this chapter or any administrative decision lawfully made thereunder. [Ord. 2011-0243]

36.500 Severability

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Chapter 36 or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Chapter 36. [Ord. 2011-0243]

CHAPTER 36

ILLICIT (NON-STORMWATERWATER) DISCHARGES

I. GENERAL PROVISIONS

36.005 Purpose and Intent

- (1) The purpose of this chapter is to protect and enhance the public health, safety, general welfare, financial investment in public and private infrastructure, private property value, the environment, water quality, and waterways, and the quality of life of the inhabitants of Benton County through the regulation of non-stormwater discharges to the Benton County municipal-separate-stormwater sewer-conveyance systems to the maximum extent practicable consistent with the Federal Clean Water Act (33 U.S.C. §1251 et seq. (1972)).
- (2) This chapter establishes methods for controlling the introduction of pollutants into the municipal-separate-stormwater sewer-conveyance systems in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) and Stormwater Discharge Permit issued to Benton County by the Oregon Department of Environmental Quality. Goals of this chapter:
- (a) Prevent non-stormwater discharges, generated as a result of spills, inappropriate dumping, excessive erosion or disposal of pollutants that degrade the natural environment; maintain or improve water quality within Benton County as required under State and Federal National Pollution Discharge Elimination System law and as benefits the environment and the community, and
 - (b) Establish legal authority to carry out inspection, investigation, monitoring and enforcement procedures necessary to ensure compliance with this chapter. [Ord. 2011-0243]

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36.010 Applicability

~~The provisions of this Chapter 36 shall apply within the Corvallis Federal Urbanized Area boundary as regulated by the Environmental Protection Agency and Oregon Department of Environmental Quality. The provisions of Chapter 36 shall apply to all unincorporated areas of Benton County. The Benton County Environmental Health Administrator and the Community Development Director, shall administer, implement, interpret, and enforce the provisions of this chapter. Chapter 36 with assistance from the Public Works Director and Community Development Director.~~

36.015 Administration.

Administration of this Chapter, under the supervision of the Board shall be by the Benton County Community Development Department. The Community Development Director or designate shall administer, implement, interpret, and enforce the provisions of this chapter under the Director or

designate. The following persons and agencies shall assist the Department in carrying out its duties under BCC Chapter 36: Health Department (Environmental Health); Finance Department (Fiscal Management and Rates); Public Works Department (Public Facilities); County Counsel, District Attorney, and Sheriff (Enforcement).

36.100 Definitions

- (1) **“Accidental Discharge”** means a discharge prohibited by this chapter which occurs by chance and without planning or thought prior to occurrence. It does not include any discharge situation which County staff or other appropriate authorities have already notified responsible parties or discussed the situation with them.
- (2) **“Best Management Practices (BMPs)”** means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
- (3) **“Clean Water Act”** means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- (4) **“Construction Activity”** means activities subject to the Oregon Phase II Municipal Stormwater Program or NPDES General Construction Permits or Benton County Erosion and Sediment Control Permit requirements.
- ~~(4)~~(5) **“County”** means those administrative authorities described in 36.015.
- ~~(5)~~(6) **“Discharge Permit”** means a permit issued by the Oregon Department of Environmental Quality under authority delegated pursuant to 33 USC § 1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
- ~~(6)~~(7) **“Groundwater Interceptor”** means any natural or artificial groundwater or surface water drainage system, including drain tile, curtain drain, foundation drain, cut banks, and ditches, that intercept and divert groundwater or surface water from the area of an onsite wastewater treatment absorption facility.
- ~~(7)~~(8) **“Hazardous Materials”** means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

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- (8) ~~“Health Administrator” means the Benton County Environmental Health Administrator or designee.~~
- (9) **“Illicit Discharge”** means any direct or indirect non-~~storm~~water discharge to the ~~C~~ounty ~~municipal-separate storm~~stormwater ~~sewer~~conveyance system~~s~~, except as exempted.
- (10) **“Illegal Connection”** means either of the following :
- (a) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter a stormwater conveyance system including but not limited to any conveyances which allow any non-~~storm~~water discharge including sewage, process wastewater, and wash water to enter the stormwater drain-conveyance system and any connections to the stormwater drain-conveyance system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency, or
 - (b) Any drain or conveyance connected from a commercial or industrial land use to the stormstormwater drain-conveyance system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
- (11) **“Municipal Separate Storm Sewer System (MS4)”** means a conveyance or system of conveyances including but not limited to any roads with drainage systems, county streets, curbs, gutters, inlets, catch basins, piped storm drains, pumping facilities, structural storm water controls, ditches, swales, natural and man-made or altered drainage channels, reservoirs, and other drainage structures, and which is:
- (a) Owned or maintained by Benton County;
 - (b) Designed or used for collection or conveyance of stormwater;
 - (c) Not a combined sewer; and
 - (d) Not part of a publicly-owned treatment works as defined by 40 CFR §122.2.
 - ~~(d)(e)~~ Within the boundaries of the Federally Recognized Urbanized Area.
- (12) **“Nonpoint Source”** means causes of water pollution that are not associated with point sources. Examples may include: fertilizer/pesticide runoff; sediment runoff from construction. Nonpoint sources may enter a discrete stormwater conveyance system and become a point source.
- (13) **“Non-Stormwater Discharge”** means any discharge to the stormwater conveyance system that is not composed entirely of stormwater.
- (14) **“Outfall”** means a point source as defined by 40 CFR, § 122.2 at the point where a ~~municipal-separate stormwater sewer~~conveyance system discharges to waters of the state.

- (15) **“Person”** means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, governmental entity, any interstate body or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine; the singular shall include the plural where indicated by the context.
- (16) **“Pollutant”** means a contaminant(s) that enters the natural environment that causes harm and its severity is based on its chemical nature, the concentration and the persistence. Examples of pollutants may include, but are not limited to: paints, varnishes, and solvents; petroleum hydrocarbons; automotive fluids; cooking grease; detergents; degreasers; cleaning chemicals; garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; liquid and solid wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; and sediment.
- (17) **“Pollution”** means such contamination or other alteration of the physical, chemical, or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any water of the state that either by itself or in connection with any other substance present can reasonably be expected to create a public nuisance or render such waters harmful, detrimental, or injurious to public health, safety, or welfare; to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; or to livestock, wildlife, fish, other aquatic life or the habitat thereof. (OAR Ch. 340 Section 41: (45))~~means the human-made or human-induced alteration of the quality of waters by waste to a degree that unreasonably affects or has the potential to unreasonably affect the waters of the state.~~
- (18) **“Premises”** mean any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- ~~(18)~~(19) **“Stormwater Conveyance System”** means drainage facilities, both natural and manmade, which collect, contain, and provide for the flow of surface and storm water from the highest points on the land down to a receiving water and includes the MS4. The natural elements of the conveyance system include swales and small drainage courses, streams, rivers, lakes, and wetlands. The human-made elements of the conveyance system include gutters, ditches, pipes, channels, and most retention/detention facilities.
- ~~(19)~~ **“Waters of the State”** lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon, and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters) that are located wholly or partially within or bordering the state or within its jurisdiction.
- (20) **“Stormwater”** means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

(21) **“Structural Stormwater Control”** means a structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow. [Ord. 2011-0243]

(22) **“Uncontaminated”** means, for the purposes of this chapter, that outflow does not result in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 117.21 or 40 CFR 302.6 at any time since November 16, 1987; or result in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 110.6 at any time since November 16, 1987; or contribute to a violation or exceedance of an applicable Oregon water quality standard.

(23) **“Waters of the State”** may include lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon, and other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh water or salt water, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters) that are located wholly or partially within or bordering the state or within its jurisdiction.

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II. PROHIBITIONS

36.200 Prohibition of Illicit Discharges

No person shall discharge any pollutants or waters containing any pollutants, into the Benton County ~~municipal-separate-stormwater-sewer-conveyance~~ systems. To “discharge” includes any means of causing pollutants to enter the subject waters, including allowing others under the person’s control to discharge pollutants. The range of discharges covered by this Code Chapter include, but are not limited to those listed in the current NPDES MS4 Phase II General Permit, Schedule A.3.c.iii.[Ord. 2011-0243]

36.205 Exemptions

~~These exemptions do not authorize the d~~Discharge of non-stormwater is allowable if it satisfies ~~except where such discharges satisfy~~ one of the following conditions:

- (1) The non-stormwater discharge is regulated under a separate NPDES permit;
- (2) The non-stormwater discharge originates from emergency firefighting activities, fire hydrant flushing, or other discharges necessary to protect public health and safety;
- (3) The non-stormwater discharge is categorized as an authorized allowable non-stormwater discharge as listed below:

~~The following discharges are exempt from the prohibition of section 36.200 above:~~

- (a) Uncontaminated water line flushing performed by a government agency;
- (b) Water associated with dye testing necessary to protect public health and safety;
- (c) Landscape irrigation or lawn watering. For areas owned or operated by Benton County, landscape irrigation will be considered allowable only if any pesticides and fertilizers that are present are applied within the manufacturer's instructions and do not flow past the landscaped area nor into a stormwater conveyance system;
- ~~(d)~~ (d) Discharges resulting from forest practices performed pursuant to the Oregon Forest Practices Rules and from accepted farm practices as defined in the guidance, rules, and BMPs, of the Oregon Department of Forestry and Oregon Department of Agriculture, respectively;
- ~~(e)~~ (e) Stream flows that are diverted under the authorization of the appropriate state or federal agency;
- (f) Natural flows from riparian habitat or wetlands;
- ~~(d)~~ (g) Natural springs;
- ~~(e)~~ (h) Rising groundwater;
- ~~(f)~~ (i) Uncontaminated groundwater infiltration to stormwater drains and conveyances (as defined in CFR §35.2005(20));
- ~~(g)~~ (j) Uncontaminated pumped groundwater, as long as provided it does not cause visible erosion;
- (k) Potable water sources (including potable groundwater monitoring wells and draining and flushing of municipal potable water sources and start-up flushing of groundwater wells), provided as long as no visible erosion is caused;
- ~~(h)~~ (l) Foundation, footing, and crawl space drains and pumps (where flows are not contaminated, this exemption does not include process water);
- ~~(i)~~ (m) Uncontaminated Air conditioning or compressor condensate;
- ~~(j)~~ (n) Individual or charity car washing (provided that chemicals, soaps, detergents, steam or heated water are not used. Washing is restricted to the outside of vehicles);
- (o) Street and pavement wash waters (provided that chemicals, soaps, detergents, steam or heated water are not used);
- ~~(k)~~ (p) Routine external building wash-down and wash waters (provided that chemicals, soaps, detergents, steam or heated water are not used);

- (q) Dechlorinated swimming pool and dechlorinated hot tub discharge and drainage waters (heated water must be cooled for at least 12 hours and reach ambient temperature prior to discharge);
- (r) Road maintenance activities performed under a public agencies' Best Management Practices and/or the conditions of a public agencies' DEQ 1200-CA permit;
- (s) Activities, conducted by public agencies, that meet or are better than state or federal standards for erosion and sediment control;
- (t) Discharges resulting from excavations for gas or oil facilities for which the operator demonstrates compliance with 40 CFR §122.26;
- (n) Mining activities performed pursuant to that are in applicable state permit requirements;
- (u) Activities, conducted by public agencies that meet or exceed state or federal standards for erosion and sediment control; Discharges of treated water from investigation, removal, and remedial actions selected or approved by DEQ pursuant to Oregon Revised Statute (ORS) Chapter 465.

36.210 Connections

The unlawful discharge of non-stormwater to illegal connections and other connections to the stormwater conveyance system is prohibited. In addition:

- (1) A person violates this chapter if the person connects a line or other conveyance of pollution to the stormwater conveyance system, or uses an existing connection to convey non-stormwater water discharges.
- (2) Improper connections, and discharge via those connections, in violation of this chapter shall not be allowed to discharge. If necessary to appropriately treat discharge, it shall be redirected to an approved onsite wastewater treatment system or the sanitary sewer system upon approval of the sanitary sewer agency appropriate governing agency.
- (3) Any drain or conveyance that has not been previously documented in plans, maps or equivalent images submitted to Benton County Public Works, Community Development, or Environmental Health for review and approval, and which the County determines might be connected to the stormwater conveyance system, shall be located by the owner or occupant of that property upon receipt of written notice from Benton County requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be completed, that the drain or conveyance be identified (for example, "stormwater sewer" or "sanitary sewer"), and that the outfall location or point of connection to the stormwater conveyance system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to Benton County. [Ord. 2011-0243]

36.215 Industrial or Construction Activity Discharges

Any person subject to ~~an industrial or construction activity~~any NPDES stormwater discharge permit or Benton County Erosion and Sediment Control Permit shall comply with all provisions of such permit. Proof of compliance with said ~~industrial activity activities~~ permit may be required in a form acceptable to Oregon Department of Environmental Quality, prior to allowing discharges to the ~~municipal separate storm~~stormwater sewer conveyance system. Benton County Public Works and Community Development may require proof of compliance with applicable construction activity. [Ord. 2011-0243]

III. INVESTIGATION AND NOTICE

36.300 Illicit Discharge Investigation Procedure

- (1) When reported illicit discharge related incidents occur in the Benton County road right of way, Benton County Public Works Department will lead investigation, coordination, and illicit discharge related responses. This includes identifying a responsible party to pay for the investigation and cleanup of the illicit discharge. Public Works will coordinate with local law enforcement and fire departments to receive critical information to identify the responsible party, and to determine if spills or illicit discharges occur that meet or exceed reportable quantities and require reporting to the Oregon Emergency Response System.
- (2) For areas outside of the road right of way on private properties, Benton County Environmental Health and/or Community Development will lead investigations where illicit discharges have been reported and are within their authority and capability ~~of Environmental Health these departments/divisions~~. This includes identifying a responsible party to pay for the investigation and cleanup of the illicit discharge. ~~These are currently limited to activities, facilities, and related illicit discharge issues associated with:~~
 - ~~(a) failing septic systems;~~
 - ~~(b) restaurants;~~
 - ~~(c) public swimming pools and spas;~~
 - ~~(d) private pool and spas;~~
 - ~~(e) hotel/motel;~~
 - ~~(f) recreational parks;~~
 - ~~(g) public water systems;~~
 - ~~(h) schools;~~

~~(i) bed and breakfasts; and~~

~~(j) solid waste;~~

~~(k) —~~

- (3) Benton County Environmental Health, Community Development and Public Works ~~will~~ shall coordinate reporting hazardous materials related incidents to the State Oregon Department of Environmental Quality and the Oregon Emergency Response System when occurrences are known. [Ord. 2011-0243]

36.305 Access and Inspection of Properties and Facilities

The ~~Health Administrator~~ County's designated authority ~~County~~ may enter and inspect properties and facilities ~~identified-causing the discharges~~ in section 36.300(2) at reasonable times and as often as may be necessary to determine compliance with this chapter.

- (1) If a property or facility has security measures in force which require proper identification and clearance before entry into its premises, the owner or operator shall make the necessary arrangements to allow access to representatives of Benton County.
- (2) Inspection of the property may include but is not limited to interviews, testing (including tracing dye), sampling, photography, videotaping, and examination and copying of any records pertaining to an NPDES permit.
- (3) The ~~Health Administrator~~ County's designated authority ~~County~~ shall have the right to set up on any property or facility such devices as are necessary in the opinion of the County's designated authority ~~County~~ ~~Health Administrator~~ to conduct monitoring and/or sampling of flow discharges.
- (4) The ~~Health Administrator~~ County's designated authority ~~County~~ may require the owner or operator to purchase and install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the ~~Health Administrator~~ County's designated authority ~~County~~. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator at his/her own expense. All devices used to measure flow and quality shall be calibrated to ensure their accuracy.
- (5) Any temporary or permanent obstruction to safe and easy access to the property or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the ~~Health Administrator~~ County's designated authority ~~County~~ and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.
- (6) Unreasonable delays in allowing the ~~Health Administrator~~ County's designated authority ~~County~~ access to a facility are a violation of this chapter.
- (7) If the ~~Health Administrator~~ County's designated authority ~~County~~ has been refused access to any part of the premises from which illicit discharges are occurring, and the ~~Health~~

~~Administrator~~ County's designated authority ~~County~~ is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then the County's designated authority ~~County~~ ~~Health Administrator~~ may seek issuance of an administrative search warrant from any court of competent jurisdiction and the property owner shall reimburse the County for the administrative costs of such action.

- (8) In the event the violation constitutes an immediate danger to public health or public safety, the ~~Health Administrator~~ County's designated authority ~~County~~ is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The ~~Health Administrator~~ County's designated authority ~~County~~ is authorized to seek costs of the abatement as outlined in Benton County Code Chapter 31. [Ord. 2011-0243]

36.310 Notification of Accidental Discharges and Spills

- (1) Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility, activity or operation has information of any known or suspected release of pollutants or other non-~~storm~~water discharges from that facility or operation which are resulting or may result in illicit discharges or pollutants discharging into the ~~municipal separate~~ stormwater conveyance ~~sewer~~ systems, state waters, or waters of the ~~state~~ U.S., said person shall notify Benton County and all other entities as required by state and federal law, which may include Oregon Department of Environmental Quality and ~~including the~~ Oregon Emergency Response System by live discussion via phone, or by facsimile or in person as soon as reasonably possible and no more than four hours after obtaining such information, which is expected to be within a few hours, no later than the next business day. The nature of the pollutant, quantity, time of occurrence, and other pertinent details of the discharge shall be provided. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the ~~Health Administrator~~ County's designated authority ~~County~~ ~~or Public Works Director~~ within three business days of the phone call or in-person notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the aforementioned details of the discharge, the actions taken after the discharge, and the actions taken to prevent its recurrence. The actions taken to prevent recurrence shall be reviewed and approved by the County's designated authority ~~County~~. Such records shall be retained for at least three years and shall be available for inspection by the County. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill. ~~In the event of such a release of hazardous materials, emergency response agencies and/or other appropriate agencies shall be immediately notified.~~
- (2) Failure to provide notification of an illicit discharge as provided above is a violation of this Chapter. [Ord. 2011-0243]

36.315 Violations, Enforcement and Penalties

- (1) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. Any person, who has violated or continues to violate the provisions of this chapter, may be subject to the enforcement actions outlined in Benton County Code Chapter 31, or any other legal remedies available to Benton County. Benton County may require the property owner, company responsible, or any other responsible party to pay Benton County a fee of \$1,000.00 per day with every 24-hour period being considered a separate violation.
- (2) Ongoing Illicit Discharges - If the elimination of an illicit discharge will take more than 15 working days due to technical, logistical, or other reasonable issues, the County shall within 20 working days of identifying the source of an illicit discharge initiate procedures to eliminate the illicit discharge. Upon confirmation of an illicit connection, the County shall use the escalating enforcement procedures of Benton County Code 31.020 and document the effort to eliminate the illicit connection within six months to the extent allowable under state law. All known illicit connections to the stormwater conveyance system must be eliminated. Additionally, the property owner, business owner, and/or other responsible party shall be fined a minimum of \$1,000 per day with every 24-hours-of infraction period considered a separate violation.
- (3) In addition to Chapter 31 enforcement requirements, Benton County, upon finding that a violation of this chapter has occurred, may order compliance by written notice of violation. The notice of violation shall contain:
- The name and address of the alleged violator;
 - The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
 - A statement specifying the nature of the violation;
 - A description of the remedial measures necessary to restore compliance with this chapter,
 - A time schedule for the completion of such remedial action;
 - A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and,
- (4) Such notice may require without limitation:
- A professional or credentialed professional to complete remediation requirements;
 - The performance of monitoring, analyses, and reporting;
 - The elimination of illicit discharges and illegal connections;
 - That violating discharges, practices, or operations shall cease and desist;
 - The abatement or remediation of stormwater pollution or contamination hazards;
 - The restoration of any affected property;
 - Payment of costs to cover administrative, follow up inspections, abatement, and clean-up costs; and
 - The implementation of pollution prevention practices.

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- (5) This chapter shall not establish responsibility on the part of Benton County to abate or clean up private property, or for Benton County to incur costs related thereto. [Ord. 2011-0243]

36.320 Detection and Elimination of Illicit Discharges

(1) Illicit Discharge Complaints or Reports - Benton County shall publicize a phone number, webpage, and/or other communication channel that the public can use to report illicit discharges. The complaint/reporting communication channel ~~must~~shall be answered or responded to by trained staff during normal business hours, shall include a system to record or capture incoming complaints or reports during non-business hours, and shall include 24-hour emergency contact communication channel.

~~— Initial Investigation or Evaluation — Conduct an initial investigation or evaluation within an average of one business day or refer the complaint to the appropriate agency (see Schedule A.3.e.v.C below).~~

~~— Complaints Tracking — The permit registrant must maintain a procedure or system to document all complaints or reports of illicit discharges into and from the MS4. The tracking system must document, at minimum the following by the County and County staff:~~

~~(A) Date the complaint was received by staff and, if available, the complainant's name and contact information.~~

~~(B) Staff responding to the complaint.~~

~~(C) Date the investigation was initiated.~~

~~(D) The outcome of the investigation.~~

~~(E) Corrective action(s) taken to eliminate the illicit discharge.~~

~~(F) The responsible party for the corrective action(s).~~

~~(G) The status of enforcement procedure(s), when necessary.~~

~~(H) The date the corrective action(s) was completed and staff that evaluated final compliance.~~

~~(I) Complaint tracking information must be summarized in each Annual Report.~~

(2) Response to Complaints or Reports - Benton County shall respond to all complaints or reports of illicit discharges, as soon as reasonably possible, and within two business days, unless there is a threat to human health, welfare, or the environment. For discharges, including spills, which constitute a threat to human health, welfare, or the environment, the County shall respond within one business day. Spills, or other illicit discharges, that may endanger human health or the environment must be reported in accordance with all applicable federal and state laws, including notification to the Oregon Emergency Response System and the Oregon Department of

Environmental Quality. The County's complaint response and the associated investigation shall, at minimum, use the following timelines:

- (a) Initial Investigation or Evaluation - Conduct an initial investigation or evaluation within an average of one business day or refer the complaint to the appropriate agency (see subsection (4) of this section).
- (b) Complaints Tracking - The County shall maintain a procedure or system to document all complaints or reports of illicit discharges into and from the MS4stormwater conveyance system. The tracking system must document, at minimum the following by the County and County staff:
 - (A) Date the complaint was received by staff and, if available, the complainant's name and contact information.
 - (B) Staff responding to the complaint.
 - (C) Date the investigation was initiated.
 - (D) The outcome of the investigation.
 - (E) Corrective action(s) taken to eliminate the illicit discharge.
 - (F) The responsible party for the corrective action(s).
 - (G) The status of enforcement procedure(s), when necessary.
 - (H) The date the corrective action(s) was completed and staff that evaluated final compliance.
 - (I) Complaint tracking information must be summarized in each Annual Report.

(3) Ongoing Illicit Discharges Involving Capital Improvements - If the elimination of the illicit discharge involves the repair or replacement of Benton County's stormwater sewer conveyance systems, the Countypermit registrant must remove the source of the illicit discharge within three years of the date of its identification unless DEQ approves an extension.

(4) Notification of Other Authorities. If the illicit discharge originates outside the County'spermit registrant's jurisdictional authority, the Countypermit registrant must notify the jurisdictional authority within one business day of becoming aware of the illicit discharge. MS4 Phase II General Permit Effective: March 1, 2019 Expiration: February 29, 2024 Page 17 of 47 (C)

36.400 Ultimate responsibility

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore this chapter does not intend or imply that compliance by any person will ensure that

there will be no contamination, pollution, or unauthorized discharge of pollutants into the waters of the state caused by said person. This chapter shall not create liability on the part of Benton County, or any agent or employee thereof for any damages that result from any discharger's reliance on this chapter or any administrative decision lawfully made thereunder. [Ord. 2011-0243]

36.500 Severability

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Chapter 36 or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Chapter 36. [Ord. 2011-0243]

**BEFORE THE BOARD OF COMMISSIONERS
FOR THE STATE OF OREGON, FOR THE COUNTY OF BENTON**

In the Matter of Amending Benton County Code Chapter 36, Illicit (Non-Stormwater) Discharges	)))	Ordinance No. 2022-0308
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WHEREAS:

Pursuant to the National Pollution Discharge and Elimination System, Benton County is required by Oregon Department of Environmental Quality (DEQ) to effectively prohibit non-stormwater discharges into the County's municipal separate storm sewer system.

In order to comply with the terms of NPDES permit issued to Benton County by DEQ, the County adopted Chapter 36 of the Benton County Code to establish procedures for detecting and eliminating illicit discharges into the Benton County small municipal separate storm sewer conveyance system.

Revisions to Benton County's permit from DEQ necessitate modifications to Chapter 36 in order to comply with DEQ requirements.

Benton County Board of Commissioners held a duly advertised public meeting and conducted the First Reading of the proposed Ordinance on February 15, 2022.

NOW THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY ORDAINS AS FOLLOWS:

PART I: Short Title. Amendments to Chapter 36 of the Benton County Code regarding illicit (non-stormwater) discharges.

PART II: Authority. The Board of County Commissioners of Benton County has authority to amend the county code pursuant to the Benton County Charter.

PART II: Benton County Code Chapter 36 is hereby adopted as shown in "Exhibit I."

PART IV: The effective date for these amendments to the Benton County Code will be:

First Reading: February 15, 2022

Second Reading: March 1, 2022

Effective Date: March 31, 2022

Approved as to Form:

Vance M. Cronney
80D6732447204EA
County Counsel

Erika
Recording Secretary

BENTON COUNTY BOARD OF COMMISSIONERS

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Nancy Wyse, Chair

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Pat Malone, Commissioner

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