

Agenda

Shady Cove Regular City Council Meeting

Shady Cove City Council Chamber
22451 Highway 62, Shady Cove, Oregon
Thursday, July 16, 2015
6:00 p.m.

I. Call to Order

- A. Roll call
- B. Pledge of Allegiance
- C. Announcements by Presiding Officer
 - 1. This meeting is being digitally recorded.
 - 2. The next meeting of the Planning Commission will be on July 23 at 6:30 p.m. in the City Council Chamber.
 - 3. The next regular City Council meeting is scheduled for August 6 at 6:00 p.m. in the City Council Chamber.

II. Public Hearing

None

III. Public Comment

The public may comment on agenda items as they come up for discussion, but before deliberation by the Council.

IV. Presentation

None

V. Consent Calendar

- A. Accounts Payable, \$202,661.66 (pg. 3)
- B. Regular Meeting Minutes of June 18, 2015 (pg. 4-7)

VI. Written Communications

None

VII. Staff Reports

Monthly Financial Report

VIII. Unfinished Business

None

IX. New Business

- A. First Reading – Vacation Rental Dwelling Ordinance (pg. 8-14)
- B. First Reading – Chronic Nuisance Property Ordinance (pg. 15-22)
- C. Resolution 15-24 – Council Rules of Government (pg. 23-28)
- D. OLCC License Renewals (pg. 29-32)

X. Public Comment on Non-Agenda Items

Public must state name and address and standing to discuss issue. Issues must have city-wide impact and not be personal issues.

XI. Council Comments

XII. Adjournment

City of Shady Cove
Paid/Unpaid Bills Report
June 19, 2015 to July 10, 2015

PAID INVOICES 06.19.2015 to 06.30.2015

<u>Payee</u>	<u>Amount</u>	<u>Description</u>
Avista	\$15.41	Natural Gas
Celtic Circle	\$700.00	Shop Rent
Crystal Fresh	\$33.00	Bottled Water
CenturyLink Svcs.	\$710.93	Phone Services
CenturyLink LD	\$37.33	Long Distance
First American Title Co. of Oregon	\$175.00	Title Search
Jackson County Surveyor	\$850.00	Surveying Services
Jackson County Recycling Partnership	\$389.48	Recycling Program Reimbursement
GFOA	\$310.00	Dues
Postmaster	\$296.76	Sewer Postage
PBP, Inc.	\$90,000.00	Chevney Park
Pitney Bowes Purchase Power	\$402.50	Postage
Pacific Power	\$1,201.23	Utilities
RVCOG	\$3,475.25	Planning/Floodplain
Richard J. Andrest	\$150.00	Music in the Park
Southern Oregon Sanitation	\$98.50	Sanitation
	\$98,845.39	

UNPAID INVOICES 07.01.2015 to 07.10.2015

<u>Payee</u>	<u>Amount</u>	<u>Description</u>
Bonnie Pickett	\$83.00	Per Diem
Canon Financial Services, Inc.	\$270.97	Copier Lease
Canon Solutions America, Inc.	\$137.81	Copies
Caselle, Inc.	\$585.00	Software Maintenance & Support
CIS Trust	\$15,390.52	Property/Liability 2015-2016 Renewal
CIS Trust	\$4,155.02	Workers Comp 2015-2016 Renewal
CIS Trust	\$48.73	Life Insurance
Costco	\$99.96	First Aid Kits
C N A Surety	\$455.00	OR P.E. Position Schedule
Crater Car Wash	\$10.00	Vehicle Maintenance
Double Tree	\$525.56	Training
Hornecker Cowling, LLP	\$596.00	General
ICMA	\$496.00	Dues
Jackson County Health & Human Svcs.	\$62.04	Dead Animal Pick Up
KAS & Associates, Inc.	\$266.17	Surveying Services
Mary Gunderlock	\$240.00	Website - Monthly Update
Medford Fuel	\$89.93	Public Works Gasoline/Diesel
Office Depot	\$99.99	Office Supplies
Old Town Inn	\$435.60	Training
Pape Machinery Exchange	\$2,311.08	Equipment Maintenance
PBP, Inc.	476.48	Property Taxes - Chevney Park
Perfection Cleaning	\$280.00	Cleaning Services
Prunty, Aaron	\$76.00	Per Diem
Rogue Valley Sewer Services	\$75,971.84	Quarterly Invoice
Shady Cove Hardware, LLC	\$18.62	Streets/Park
Shelly M. Dent	\$297.48	Per Diem/Travel Expense
Staples	\$272.47	Office Supplies
Upper Rogue Independent	\$65.00	Publication/Advertising
	\$103,816.27	

City of Shady Cove
City Council Regular Meeting Minutes
Thursday, June 18, 2015

CALL TO ORDER

Mayor Anderson called the Regular City Council Meeting to order at 6:00 p.m. in the City Council Chamber.

Council Present: Mayor Anderson, Councilor Ulrich, Councilor Sanderson, Councilor Burgess and Councilor Mitchell Absent

Staff Present: Aaron Prunty, City Administrator; Dick Converse, Planner; Debby Jermain, Planning Secretary; and Bonnie Pickett, Administrative Assistant

ANNOUNCEMENTS

The Mayor led the audience in the Pledge of Allegiance and made the announcements on the agenda. The Mayor added two agenda items, a motion to request the Planning Commission commence development of a TMDL ordinance and a revision to the rules of government.

The Mayor recessed the council meeting at 6:02 pm.

PUBLIC HEARING

A. Public Hearing to Consider Proposed Amendments to the City of Shady Cove Cod of Ordinance to Add Vacation Rental Dwellings to the List of Conditional Uses in its Residential Zones and to Establish Regulations Governing Their Use

Dick Converse reviewed his staff report and recommendations from the Planning Commission.

Vickie Siemon asked what would need to be done to have a Vacation Rental in Shady Cove. Mayor Anderson advised this question will be answered later in the council meeting.

Lana Lee commented on nuisance rentals, whether they are vacation or long term rentals. Mayor Anderson advised the staff is working on nuisance concerns.

Kathy Parara thanked the the Chamber for supporting vacation rentals in Shady Cove and stated, allowing vacation rentals will be good for the city along with drawing in more people.

Richard Gyuro, President of the Shady Cove Chamber, advised the council that the Chamber supports the concept and idea of vacation rentals and would like to see it go forward. Vacation rentals tend to be better maintained than some long term rentals. The City gets transient room tax from the vacation rental, where they don't with the long term rentals.

Suzanne Falces thanked the Council for support of vacation rentals. She stated she is having a very good experience owning and operating and vacation rental.

John Binford expressed his concern regarding possible security issues with renters of vacation homes.

Mayor Anderson closed the public hearing at 6:22 pm

CONSENT CALENDAR

Revised Accounts Payable, \$3,364.75
Regular Meeting Minutes of June 4, 2015

Motion to Approve the Consent Calendar.

Motion: Councilor Ulrich Second: Councilor Sanderson
All ayes. Motion carried 4-0

STAFF REPORT

The City Administrator noted that Deputy Scow has re-upped for another three months with the City of Shady Cove. The City Administrator and the Council thanked the deputy for his service.

The City Administrator advised the Council that the budget is tracking as expected.

NEW BUSINESS

A. Discussion Only – Vacation Rentals as a Permitted Use in Residential Zones

Mayor Anderson read comments from Councilor Mitchell, who was absent from the meeting.

Mayor Anderson reviewed his suggestions for a vacation rental ordinance and then opened it up for additional discussion by the council. The council discussed the issue of animals and neighborhood safety, the use of carbon monoxide sensors and fire ladders for multiple story homes.

John Binford asked if nuisances will be complaint driven. The council advised him that nuisances will be complaint driven.

B. Discussion Only – Chronic Nuisance Property

The Mayor and the City Council are in favor of a chronic nuisance ordinance and directed staff to present an ordinance, for a first reading, at the next council meeting.

C. Resolution 15-23 – Authorizing the City Administrator to Sign an Agreement for Purchase of Real Property

The City Administrator read the resolution in its entirety.

Motion to Approve Resolution 15-23 – Authorizing the City Administrator to Sign an Agreement for Purchase of Real Property

Motion: Councilor Sanderson Second: Councilor Burgess
All ayes. Motion carried 4-0

D. Development of a TMDL Ordinance

Motion to Request the Planning Commission Commence Development of a TMDL Ordinance

Motion: Councilor Ulrich Second: Councilor Sanderson
All ayes. Motion carried 4-0

E. Council will review changes to the Rules of Government at the next council meeting.

COUNCIL COMMENTS

Councilor Burgess asked for a time frame on when the sprinkler system and sod will be done in Aunt Caroline’s park. The City Administrator advised that he wants a few more bids for the project and plans to have the work done in July.

Councilor Ulrich noted that the Council receives correspondence with varying viewpoints of what the citizens want in the City of Shady Cove.

Councilor Sanderson noted that the citizens should be confident that there is police coverage for the City.

ADJOURNMENT

There being no further business before the council, the Mayor adjourned the regular meeting at 7:30 p.m.

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Approved:

Attest:

Tom Anderson
Mayor

Aaron Prunty
City Administrator

Council Vote:

Mayor Anderson _____
Councilor Ulrich _____
Councilor Sanderson _____
Councilor Burgess _____
Councilor Mitchell _____



City Council Agenda Item Summary City of Shady Cove, Oregon

Meeting Date: July 16, 2015

Prepared By: Aaron Prunty, City Administrator

Agenda Title: First Reading – Vacation Rental Dwelling Ordinance

Attachment List: Proposed Ordinance and Attached Exhibits A and B

Issue Before the Council: This is a first reading of an ordinance to amend the current zoning ordinance, permitting vacation rentals as a conditional use in residential zones.

Key Facts and Information Summary: The City Council has allowed vacation rentals to operate in residential zones through a lengthy trial period. Both the Planning Commission and City Council have held public hearings and taken public testimony relative to vacation rentals. This is a first reading of a proposed ordinance that would allow vacation rentals, as a conditional use, in residential zones.

Fiscal Notes: The City may receive several thousand dollars annually in transient occupancy taxes from vacation rental owners if this use is allowed in residential zones.

Staff Recommendation: Staff recommends a first reading of the proposed ordinance.

Proposed Motion: **N/A**

City of Shady Cove

Ordinance No.

AN ORDINANCE OF THE CITY OF SHADY COVE, OREGON AMENDING THE SHADY COVE CODE OF ORDINANCES TO INCLUDE VACATION RENTAL DWELLINGS AS A CONDITIONAL USE IN RESIDENTIAL ZONING DISTRICTS

Whereas, Chapter 154, of the Shady Cove Code of Ordinances governs Type IV Legislative Procedures within the corporate limits of the City and requires, if approval is recommended by the Planning Commission, that the City Council of the City of Shady Cove make the final decision regarding the application; and,

Whereas, The criteria used to evaluate the requested amendments to the Code of Ordinances are contained in Section 154.438 with additional considerations in Section 154.380(F).

Whereas, The Shady Cove Planning Commission, after providing proper public notice, met in Public Hearing on May 14, 2015, to consider amendments to Chapter 154 of the Shady Cove Code of Ordinances to add vacation rental dwellings to the list of permitted uses in its residential zones and to establish regulations governing their use. The Commission received testimony from interested parties and staff. The staff recommendations, as submitted to the Planning Commission, are contained in a staff report that is part of the record; and,

Whereas, Following the close of the public hearing, the Planning Commission deliberated on the record of the proceedings, after which a motion was made and duly seconded, to recommend that the City Council approve File VR 15-01 to allow vacation rentals, not as a permitted use, but as a conditional use, in residential zoning districts; and,

Whereas, On June 18, 2015, the City Council, after providing proper public notice, met in Public Hearing to consider the Planning Commission recommendation.

THE COUNCIL OF THE CITY OF SHADY COVE ORDAINS AS FOLLOWS:

The Shady Cove Code of Ordinances is amended as follows:

- | | |
|------------------------|---|
| Section 1: Title | This Ordinance shall be known as the Vacation Rental Dwelling Ordinance of the City of Shady Cove, Oregon. |
| Section 2: Description | Vacation Rental Dwelling regulations, attached as Exhibit A, approved by the City Council. |
| Section 3: Amendment | The conditional uses sections contained in Sections 154.037 (R-1), 154.052 (R-2), and 154.067(R-3) of the Shady Cove Code of Ordinances Plan Map are amended to add Vacation Rental Dwellings. Chapter 154 is further amended to add Vacation Rental Standards. |

Section 4: The City Council adopts as its own, and incorporates by reference, the Planning Commission recommendation attached as Exhibit B, to the extent that it is consistent with the City Council decision.

PASSED AND APPROVED by the Common Council of the City of Shady Cove this ___ day of _____, 2015.

Approved:

Attest:

Tom Anderson
Mayor

Aaron Prunty
City Administrator

Council Vote:

Mayor Anderson _____
Councilor Burgess _____
Councilor Mitchell _____
Councilor Sanderson _____
Councilor Ulrich _____

EXHIBIT "A"

PROPOSALS FOR A VACATION RENTAL ORDINANCE

Approval of this ordinance adds vacation rentals as a conditional use in all areas zoned residential.

Vacation rentals that were included in the City's trial between June 1, 2014 and December 31, 2014 will be grandfathered, and exempt from the conditional use requirement, provided that the owner of that property has a valid vacation rental Business License for fiscal year 2015-2016. Should the property owner of the grandfathered residence fail to meet the foregoing or expand the size of that residence, the conditional use process will be in effect.

STANDARDS

1. Maximum occupancy: 10 people
2. Maximum number of vehicles: 4
3. Vehicles must be parked on the rental property, not on the public right of way
4. Not more than 50% of the front yard setback area may be used for parking. The balance must be "landscaped" to prevent parking
5. No outdoor activities, constituting a nuisance or loud noise are permitted after 9:00pm
6. Vacation rentals must comply with all City policies, standards and ordinances
7. Animals, other than service animals, are not permitted
8. Vacation rental property owners must subscribe to a scheduled waste collection service and provide garbage receptacles on the property
9. With the exception of enclosed barbecues, any outside fire is prohibited

SAFETY REQUIREMENTS

1. Smoke alarms must be present and functioning. Smoke alarms 10 years and older must be replaced with new smoke alarms that have a 10-year battery and hush button. Smoke alarms must be installed on each floor of the residence, including basement and attached garage, if existing
2. At least one 2A-10BC rated fire extinguisher must be visible and readily accessible for each floor of the residence including basement, if existing. Portable fire extinguishers shall be fully charged and serviced annually
3. Exit doors cannot be blocked to prevent egress. Corridors and exit ways must be free of obstructions. Each sleeping room will have at least one operable window for use as a secondary means of escape
4. At least one plug-in rechargeable flashlight will be readily accessible on each occupied floor of the residence
5. Two story vacation rentals must provide a roll out ladder for use as a secondary means of escape
6. A carbon monoxide alarm must be present and functioning in a structure having a carbon monoxide source as defined in ORS 105.836

GENERAL

1. A 500 foot minimum spacing between vacation rental properties, on the same side of the river, is required
2. A copy of the vacation rental standards shall be posted in a conspicuous place inside the vacation rental
3. Owners of vacation rental property must have a local contact, and provide the City Administrator with the name and telephone number for that contact
4. Written consent is required from affected property owners if the vacation rental property is accessed by a shared driveway. A copy of the written consent is to be provided to the City Administrator
5. Transient Occupancy Tax will apply to all rentals of 30 days or less

EXHIBIT "A"

ENFORCEMENT

1. Annually, prior to the issuance of a Business License for vacation rentals, the City's CSO will make a premise visit. The visit will ensure that all safety requirements (smoke alarms, fire extinguishers, flash lights and exit provisions) are in place as well as a posted sign reflecting vacation rental standards
2. Complaint handling:
 - a. Any confirmed complaint made to the City, regarding vacation rentals, will be evaluated by the City Administrator for validity. If deemed valid the complaint will be directed to the City's CSO for action
 - b. Complaints filed directly with the Sheriff's Office, will be handled by that group. Information concerning resultant action will be provided to the City Administrator
3. Valid complaint action:
 - a. A first valid complaint will result in a warning.
 - b. A second valid complaint is subject to a fine of up to \$500.00 per day, for each day during the period of the rental which generated the complaint
 - c. A third valid complaint will result in cancellation of the Business License, and may include additional fine(s)
4. With the exception of the grandfathered property noted in this ordinance, property owners offering their property for vacation rental without going through the conditional use process and/or possessing a valid Business License is a violation of this ordinance. In addition to a cease and desist order, the property owner will be subject to a fine of up to \$500.00 for each day the property is/was rented for vacation purposes.

EXHIBIT "B"

**BEFORE THE PLANNING COMMISSION
OF THE CITY OF SHADY COVE
COUNTY OF JACKSON, STATE OF OREGON**

IN THE MATTER OF CONSIDERATION OF)
AMENDMENTS TO CHAPTER 154 OF THE)
SHADY COVE CODE OF ORDINANCES TO) RECOMMENDATION
ADD VACATION RENTAL BY OWNER (VRBO)) TO CITY COUNCIL
AS A PERMITTED USE IN THE RESIDENTIAL)
ZONING DISTRICTS)

APPLICANT: City of Shady Cove Planning File No. VR 15-01

RECITALS:

- 1) Chapter 154, of the Municipal Code of the City of Shady Cove governs Type IV Legislative Procedures within the corporate limits of the City and requires, if approval is recommended by the Planning Commission, that the City Council of the City of Shady Cove make the final decision regarding the application; and,
- 2) The Shady Cove Planning Commission, after providing proper public notice, met in Public Hearing on May 14, 2015, to consider amendments to Chapter 154 of the Shady Cove Code of Ordinances to add vacation rental dwellings to the list of permitted uses in its residential zones and to establish regulations governing their use. The Commission received testimony from interested parties and staff. The staff recommendations, as submitted to the Planning Commission, are contained in a staff report that is part of the record; and,
- 3) On May 14, 2015, following the close of the public hearing, the Planning Commission deliberated on the record of the proceedings, after which a motion was made and duly seconded, to recommend that the City Council approve File VR 15-01 to allow vacation rentals, not as a permitted use, but as a conditional use in residential zoning districts. The motion passed by a roll call vote of 3 to 0.

NOW THEREFORE, the Planning Commission of the City of Shady Cove finds, concludes, and recommends as follows:

SECTION 1: FINDINGS

- 1) The Planning Commission hereby incorporates by reference all oral deliberations and findings of fact established in the record of the public hearing, and cites by reference: oral and written testimony of interested citizens and staff, and findings of fact which are a part of the record, the City Planner's staff report; and,
- 2) The Planning Commission hereby finds that it has received all information and evidence necessary to consider the above request; and,

- 3) The City provided public notice through the Upper Rogue Independent, and mailed notices to owners of all properties within the city limits via United States Postal Service. The Planning Commission finds and concludes that proper notice has been given; and,
- 4) The Planning Commission received testimony from those who supported vacation rentals, citing the positive effect on the city's economy. It also heard from opponents who were concerned about the potential adverse effects on surrounding residential uses. Others spoke neither for nor against the proposal, but had concerns about the difficulty of ensuring compliance with the proposed operating standards. They also recommended informing applicants of the need to carry liability insurance. During deliberations, the Commission discussed the merits of limiting occupancy to two adults per bedroom, continuing the maximum occupancy in proposed Standard 1. This would permit fewer guests in smaller homes.
- 5) The criteria used to evaluate the requested amendments to the Code of Ordinances are contained in Section 154.438 with additional considerations in Section 154.380(F). The Planning Commission finds that the request meets the criteria and considerations.

SECTION 2: CONCLUSION

The Planning Commission concludes that the proposed amendments to Section 154 of the Shady Cove Code of Ordinances comply with procedural requirements of the Shady Cove Code of Ordinances. The commission also concludes that, based on the hearings record, it is appropriate to include vacation rentals as a conditional use rather than a permitted use, requiring a public hearing before approval of a vacation rental.

SECTION 3: DECISION

Based on the record of the public hearing on this matter, the Planning Commission recommends approval of amendments to Section 154 of the Shady Cove Code of Ordinances to include vacation rentals as a conditional use in residential zoning districts. The Commission recommends modifying Standard 1 to allow a maximum of two adults per bedroom, with a maximum occupancy of ten persons. The Commission further recommends adding the following approval standards:

19. Owner shall provide liability insurance.
20. The City shall maintain a registry of vacation rentals.
21. Existing members of the VRBO registry are exempt from the conditional use permit requirements unless they are to be expanded.

This RECOMMENDATION for APPROVAL is given to the Shady Cove City Council this 29th day of May 2015, in Shady Cove, Oregon.



Diak McGregor, Planning Commissioner



**City Council Agenda Item Summary
City of Shady Cove, Oregon**

Meeting Date: July 16, 2015

Prepared By: Aaron Prunty, City Administrator

Agenda Title: First Reading – Chronic Nuisance Property Ordinance

Attachment List: Proposed Ordinance

Issue Before the Council: This is a first reading of an ordinance to define and abate nuisance property.

Key Facts and Information Summary: The City recognizes there are properties that receive a higher volume of calls for law enforcement service. Also, the City receives a significant number of complaints of nuisance activity. The proposed ordinance will properly define chronic nuisance property and provide for additional legal remedies for abating the nuisance.

Fiscal Notes: N/A

Staff Recommendation: Staff recommends a first reading of the proposed ordinance.

Proposed Motion: **N/A**

City of Shady Cove

Ordinance No. _____

AN ORDINANCE OF THE CITY OF SHADY COVE DEFINING CHRONIC NUISANCE PROPERTY, PROVIDING FOR THEIR ABATEMENT AND PROVIDING ACTIONS, REMEDIES AND ENFORCEMENT

Whereas, the City of Shady Cove identifies numerous conditions as nuisances, along with abatement, appeals and penalty procedures; and

Whereas, the City Council recognizes certain property to present a nuisance to the community and City of Shady Cove; and

Whereas, nuisance properties pose a threat to public welfare.

THE COUNCIL OF THE CITY OF SHADY COVE ORDAINS AS FOLLOWS:

Sections:

- Section 1. Definitions.
- Section 2. Violation.
- Section 3. Procedure--Notice.
- Section 4. Commencement of action--Remedies.
- Section 5. Emergency closure during pendency of action.
- Section 6. Enforcement--Costs.
- Section 7. Severability.

Section 1. Definitions.

For purposes of this chapter, the following definitions apply:

“Chronic nuisance property” means property on which two or more nuisance activities have occurred during any thirty-day period; property on which, or within two hundred feet of, any person associated with the property has engaged in two or more nuisance activities during any thirty-day period; or property which, upon request for execution of a search warrant, has been the subject of a determination by a court that probable cause that possession, manufacture, or delivery of a controlled substance or related offenses under Oregon law have occurred within the previous thirty days; and the execution of the search warrant has resulted in the discovery of such controlled substances.

“Control” means the ability to regulate, restrain, dominate, counteract or govern conduct that occurs on a property.

“Nuisance activities” means any of the following activities, behaviors or criminal conduct, as defined under Oregon state law: harassment; intimidation; disorderly conduct; assault or menacing; sexual abuse, contributing to the delinquency of a minor, or sexual misconduct; public indecency; prostitution or related offenses; alcoholic liquor violations; theft; arson or related offenses; possession, manufacture, or delivery of a controlled substance or related offenses; illegal gambling; criminal mischief; any attempt to commit (as defined by ORS 161.405), or conspiracy to commit (as defined by ORS 161.455), any of the above offenses; unlawful discharge of a firearm; unlawful operation of sound-producing or reproducing equipment or unnecessary noise.

“Permit” means to suffer, allow, consent to, acquiesce by failure to prevent, or expressly assent or agree to the commission of an act.

“Person” means any natural person, agent, association, firm, partnership or corporation capable of owning, occupying or using property in the city of Shady Cove.

“Person associated with” means any person who, on the occasion of a nuisance activity, has entered, patronized, visited, or attempted to enter, patronize or visit, or waited to enter, patronize or visit a property or person present on a property, including without limitation any officer, director, customer, agent, employee, or any independent contractor of a property, person in charge, or owner thereof.

“Person in charge” means any person, in actual or constructive possession of a property, including but not limited to an owner or occupant of property under his or her dominion, ownership or control.

“Property” means any property, including land and that which is affixed, incidental or appurtenant to land, including but not limited to any business or residential premises, room, house, parking area, loading area, landscaping, building or structure or any separate part, unit or portion thereof, or any business equipment, whether or not permanent. For property consisting of more than one unit, property is limited to the unit or the portion of the property on which any nuisance abatement has occurred or is occurring, but includes areas of the property used in common by all units of property including without limitation other structures erected on the property and areas used for parking, loading and landscaping.

Section 2. Violation.

A. Any property within the city of Shady Cove which is a chronic nuisance property is in violation of these provisions and subject to the remedies prescribed herein. A property is not in violation of these provisions if an occupant of the property is the victim of a crime constituting the nuisance activity or an innocent occupant’s family member is the victim of such crime.

B. Any person in charge who permits property to be a chronic nuisance property shall be in violation of these provisions and subject to the remedies prescribed herein. Any person in charge who is a victim of a crime constituting the nuisance activity or any innocent person in charge whose family member is the victim of such crime shall not be in violation of these provisions.

Section 3. Procedure--Notice.

A. When the city administrator receives a police report documenting the occurrence of a nuisance activity on or within two hundred feet of a property within the city, the city administrator or the city administrator's designee shall independently review such reports to determine whether they describe any acts enumerated under nuisance activities above. Following such review, the city administrator may notify the person in charge in writing that the property is in danger of becoming chronic nuisance property. The notice shall contain the following information:

1. The street address or a legal description sufficient for identification of the property.
2. A statement that the city administrator has information that the property may be chronic nuisance property, with a concise description of the nuisance activities that may exist or that have occurred. The city administrator shall offer the person in charge an opportunity to propose a course of action that the city administrator agrees will abate the nuisance activities giving rise to the violation.
3. Demand that the person in charge respond to the city administrator within ten days to discuss the nuisance activities.

B. After notification of nuisance activities to a person in charge, when the city administrator receives a police report documenting the occurrence of a second nuisance activity at or within two hundred feet of a property and determines that the property has become a chronic nuisance property, the city administrator shall notify the person in charge in writing that the property has been determined to be a chronic nuisance property. The notice shall contain the following information:

1. The street address or legal description sufficient for identification of the property.
2. A statement that the city administrator has determined the property to be a chronic nuisance property with a concise description of the nuisance activities leading to his findings.
3. Demand that the person in charge respond within ten days to the city administrator and propose a course of action that the city administrator agrees will abate the nuisance activities giving rise to the violation.
4. Service shall be made either personally or by first class mail, postage prepaid, return receipt requested, addressed to the person in charge at the address of the property, or

such other place which is likely to give the person in charge notice of the determination by the city administrator.

5. A copy of the notice shall be served on the owner at such address as shown on the tax rolls of the county, and/or the occupant at the address of the property, if these persons are different than the person in charge, and shall be made either personally or by first class mail, postage prepaid.

6. A copy of the notice shall also be posted at the property if ten days have elapsed from the service or mailing of the notice to the person in charge and the person in charge has not contacted the city administrator.

7. The failure of any person to receive notice that the property may be a chronic nuisance property shall not invalidate or otherwise affect the proceedings under these provisions.

C. If after the notification, but prior to the commencement of legal proceedings by the city pursuant to these provisions, a person in charge stipulates with the city administrator that the person in charge will pursue a course of action the parties agree will abate the nuisance activities giving rise to the violation, the city administrator may agree to postpone legal proceedings for a period of not less than ten nor more than thirty days.

D. Concurrent with any notification procedures set forth above, the city administrator shall send copies of the notice, as well as any other documentation which supports legal proceedings against the property, to the city attorney.

E. When a person in charge makes a response to the city administrator, any conduct or statements made in connection with the furnishing of that response shall not constitute an admission that any nuisance activities have or are occurring. This section does not require the exclusion of any evidence which is otherwise admissible or offered for any other purpose.

Section 4. Commencement of action--Remedies.

A. The city council may, by resolution after affording the person in charge of the property an opportunity to be heard before the council, authorize the city attorney to commence legal proceedings in a court of competent jurisdiction to enjoin or abate chronic nuisance property and to seek closure, the imposition of civil penalties against any or all of the persons in charge thereof, and any such other relief deemed appropriate. Proof shall be by a preponderance of the evidence.

B. If, after the commencement but prior to the trial of any action or suit brought by the city, a person in charge of chronic nuisance property stipulates with the city that he or she will pursue a course of action the parties agree will abate the nuisance activities giving rise to the violation, the city may agree to stay proceedings for a period of not

less than ten nor more than sixty days, except in the case of nuisance activity involving drugs where a search warrant was executed at the property. The person in charge or the city may thereafter petition the court for such additional periods of time as may be necessary to complete the action(s) to abate the nuisance activities. However, in the event that the city reasonably believes the person in charge of a property is not diligently pursuing the action(s) necessary to abate the nuisance activities, the city may seek such relief as is deemed appropriate.

C. It is a defense to an action for chronic nuisance property that the person in charge at all material times could not, in the exercise of reasonable care or diligence, determine that the property had become chronic nuisance property, or could not, in spite of the exercise of reasonable care and diligence, control the conduct leading to the determination that the property is chronic nuisance property.

D. In the event a court determines property to be chronic nuisance property, the court shall order that the property be closed and secured against all access, use and occupancy for a period of not less than six months, nor more than one year. The court shall retain jurisdiction during any period of closure. The person in charge may petition the court for an order reducing the period of closure if the person in charge and the city stipulate that the nuisance has been and will continue to be abated.

E. If a property is found to be chronic nuisance property, the person in charge of the chronic nuisance property is subject to a civil penalty of up to one hundred dollars per day for each day nuisance activities occurred on the property following notice.

F. In establishing the amount of any civil penalty requested, the court may consider any of the following factors and shall cite those found applicable:

1. The actions taken by the person in charge to mitigate or correct the nuisance activities at the property;
2. The financial condition of the person in charge;
3. Whether the problem at the property was repeated or continuous;
4. The magnitude or gravity of the problem;
5. The cooperativeness of the person in charge with the city;
6. The cost of the city of investigating and correcting or attempting to correct the nuisance activities; and
7. Any other factor deemed by the court to be relevant.

G. Nothing in these provisions shall require any conviction for criminal activities prior to the commencement of any action provided herein.

Section 5. Emergency closure during pendency of action.

If warranted, the city may seek emergency closure of the property. Any emergency closure proceeding initiated under this provision shall be based on evidence showing that nuisance activities have occurred on the property and that emergency action is necessary to avoid an immediate threat to public welfare and safety. Proceedings to obtain an order of emergency closure shall be governed by the provisions of Oregon Rule of Civil Procedure 79 for obtaining temporary restraining orders. In such an event the notification procedures set forth above need not be complied with.

Section 6. Enforcement--Costs.

A. The court may authorize the city to physically secure the property against all access, use or occupancy in the event that the person in charge fails to do so within the time specified by the court. In the event that the city is authorized to secure the property, all costs reasonably incurred by the city to physically secure the property shall be paid to the city by the person in charge and may be included in the city's money judgment. As used in this section, "costs" means those costs actually incurred by city for physically securing the property, as well as tenant relocation costs pursuant to this section.

B. The city department(s) physically securing the property shall prepare a statement of costs and the city shall thereafter submit that statement to the court for its review. If no objection to the statement is made within the period prescribed by Oregon Rule of Civil Procedure 68, the statement of costs shall be included in the city's money judgment.

C. Judgments imposed by this chapter shall bear interest at the rate of nine percent per year from the date the judgment is entered.

D. Any person who is assessed the costs of physically securing the property by the court shall be personally liable for the payment thereof to the city.

E. The person in charge shall pay reasonable relocation costs of a tenant as defined by ORS 90.100(31) if, without actual notice, the tenant moved into the property after either:

1. A person in charge received a notice from the city administrator's determination that the property may be nuisance property; or

2. A person in charge received notice of an action brought to close a chronic nuisance property.

Section 7. Severability.

The provisions of this chapter are intended to be consistent with any applicable provisions of state law. If any provision, or its application to any person or circumstances, is held to be invalid for any reason, the remainder of these provisions, or

the application of them to other persons or circumstances, shall not in any way be affected.

PASSED AND APPROVED by the City Council of the City of Shady Cove this _____ day of August, 2015.

Approved:

Attest:

Tom Anderson
Mayor

Aaron Prunty
City Administrator

Council Vote:

Mayor Anderson _____
Councilor Ulrich _____
Councilor Sanderson _____
Councilor Burgess _____
Councilor Mitchell _____



City Council Agenda Item Summary City of Shady Cove, Oregon

Meeting Date: July 16, 2015

Prepared By: Aaron Prunty, City Administrator

Agenda Title: Resolution 15-24 – Council Rules of Government

Attachment List: Resolution 15-24, A Resolution of the City Council of the City of Shady Cove, Oregon Revising Rules of Government

Issue Before the Council: Shall the City Council amend the Council Rules of Government?

Key Facts and Information Summary: The Council Rules of Government should be reviewed by Council at least annually and amended according to preferences. Council last adopted an amendment to the Council Rules of Government in November 2013.

Other Alternatives Considered: Council could make further modifications, adopt the proposed resolution, or decide not to adopt a new resolution at this time.

Fiscal Notes: N/A

Goals/Policies: N/A

Staff Recommendation: The City recommends Council review Resolution 15-24.

Proposed Motion in Favor:

“I MOVE TO APPROVE RESOLUTION 15-24, ‘A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHADY COVE, OREGON REVISING RULES OF GOVERNMENT’”

City of Shady Cove

Resolution No. 15-24

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHADY COVE,
OREGON, REVISING RULES OF GOVERNMENT**

WHEREAS, the City Council of the City of Shady Cove desires to conduct city council meetings in accordance with all appropriate rules of order in a professional and organized manner; and

WHEREAS, the existing Shady Cove Council Rules of Government were last updated by Resolution 13-25 on November 7, 2013; and

WHEREAS, the City Council now desires to further update the existing Council Rules of Government.

THE CITY COUNCIL RESOLVES AS FOLLOWS:

The Shady Cove City Council Rules of Government, as attached and labeled Exhibit "A", are hereby adopted; and

The effective date of this Resolution shall be July 16, 2015; and

Resolution 13-25 is hereby repealed.

Adopted by the City Council of the City of Shady Cove this 16th day of July, 2015.

Approved:

Attest:

Tom Anderson
Mayor

Aaron Prunty
City Administrator

Council Vote:

Mayor Anderson _____
Councilor Ulrich _____
Councilor Sanderson _____
Councilor Burgess _____
Councilor Mitchell _____

EXHIBIT "A"

Attachment to City of Shady Cove Resolution 15-24
Adopted July 16, 2015

City Council Rules of Government

Meeting Procedure

The presiding officer shall conduct all meetings in accordance with basic principles of parliamentary procedure in order to facilitate transaction of business and to promote cooperation and harmony.

Ordinance and Resolution Procedure

The City Charter, Chapter VIII, Section 33, identifies conditions under which an Ordinance may be read by title only.

Quorum

The Mayor or in his/her absence, the President of the Council, shall call the meeting to order at the hour designated for the meeting. If a quorum is not present, the Administrator shall immediately inform the absent members, except those known to be unavoidably detained, that their presence is required to enable the Council to proceed. If the absent member or members do not appear after the notice, the members present shall adjourn until a specific time or until the next regular meeting.

Temporary Chairman

In event of the absence of the Mayor and Council President, the City Administrator shall call the Council to order and call the roll of the members; if a quorum is present, those Councilors present shall elect, by majority vote, a Temporary Chairman for that meeting. Should the Mayor or Council President arrive, the Temporary Chairman shall relinquish the chair immediately upon the conclusion of the item of business then under consideration before the Council.

Agenda

The Mayor, or designated representative, will provide the City Administrator a list of items to be covered in Unfinished and New Business not later than 3:00 p.m. on Friday the week prior to a

scheduled Council meeting. The City Administrator will prepare an agenda not later than 3:00 p.m. on the Monday prior to the scheduled Council meeting. Agendas will be posted and mailed not later than 3:00 p.m. on the same day.

Complete Council packages will be available not later than 3:00 p.m. on the Tuesday prior to a scheduled meeting.

During announcements, the presiding officer may add items to, or delete items from, the agenda. Verbal explanations will be provided for additions and deletions.

Order of Business

City Council meeting agendas will reflect the following items and order:

Call to Order

Roll Call
Pledge of allegiance
Announcements
This meeting is being digitally recorded.
Next City Council meeting
Next Planning Commission meeting
Any other scheduled public meeting(s)

Recess for Public Hearing if Scheduled*

Public Comment

Public may comment on agenda items as they come up for discussion but before deliberation by the Council.

Consent Calendar

Accounts Payable
Minutes from previous meeting(s)

Written Communications

Staff Reports

1. Paid Invoice Report
2. Monthly Financial Report

Unfinished Business

New Business

Public Comment on Non-Agenda Items

Public must state name and address and standing to discuss issue. Issues must have city-wide impact and not be personal issues.

Council Comments

Recess for Executive Session if Scheduled*

Adjournment

Voting

Only one question at a time will be considered at any given time. Every motion will be discussed fully and freely. Each council member has the right to know at all times what the pending question is and to have it restated before a vote is taken. The presiding officer will request a random roll call vote on all motions.

Tie Vote. In case of a tie in votes of any motion, the motion is not approved. A new motion would then be in order.

Decorum

Council members shall be recognized by the presiding officer before speaking.
Council members shall address any remarks to the council rather than to the audience unless given permission by the presiding officer

Upon recognition and with permission of the presiding officer, a person in the audience may address the Council, not the audience.

Conflict of Interest

Each Councilor will be requested to vote, when present, at a regular or special meeting of the Council except when that Councilor has a conflict of interest (actual or potential), as defined by ORS 244.020(1) and 244.020(12). If a conflict of interest exists, the councilor will so declare and identify the cause of the conflict. A Councilor may participate in discussion of the issue for which a potential conflict exists; or, if an actual conflict exists then discussion as well as a vote is prohibited, all in accordance with ORS 244.120.

Rules Revision

Rules may be added, deleted, or revised at any meeting of the Shady Cove City Council.

Meetings of the City Council

Regular City Council meetings will be held on the first and third Thursday of each month. Meetings will begin at 6:00 p.m. and end no later than 8:30 p.m. unless by a majority vote of the Council.

Public hearings may be scheduled for the regular Council meeting or at any time on any other day.

Special City Council meetings can be called for any date, at any time, consistent with the City Charter, Chapter IV, Section 13.

Study sessions will be combined with the Council meeting. Order of business will be:

- Presentations
- Discussion Items
- Action Items

* Indicates a change from prior City Council Rules of Government



**City Council Agenda Item Summary
City of Shady Cove, Oregon**

Meeting Date: July 16, 2015

Prepared By: Aaron Prunty, City Administrator

Agenda Title: OLCC License Renewals

Attachment List: Local Government Notification: Renewing Licenses

Issue Before the Council: Shall the City Council recommend renewal of OLCC licenses.

Key Facts and Information Summary: ORS 471.166 establishes the process for local governments to make recommendations to the OLCC. OLCC is requesting a recommendation from the council, either favorable or unfavorable for annual license renewals.

Fiscal Notes: The City receives \$35 in revenue for each license renewal.

Goals/Policies: N/A

Staff Recommendation: Staff recommends license renewal for all of the listed licenses.

Proposed Motion: **"I MOVE THE CITY OF SHADY COVE RECOMMEND APPROVAL OF OLCC LICENSES AS PROVIDED."**



June 30, 2015

City of Shady Cove
SHADY COVE
PO Box 1210
Shady Cove OR 97539

RENEWAL NOTIFICATION PROCESS

It's time again for liquor license renewals in your area. Liquor licenses are due to expire **9/30/2015**. Attached is the list of licensees who are required to submit their renewal application to local government for comment. According to our records you charge:

\$35.00 Renewal Fee for ON PREMISES **\$35.00** Renewal Fee for OFF PREMISES
We told applicants to mail your local government fees to the address on this letter.

PLEASE NOTIFY US IMMEDIATELY IF THE FEE(S) OR ADDRESS ARE INCORRECT

HOW TO MAKE A RECOMMENDATION

You have until 9/3/2015 to make your recommendation. Below are your options for renewals:

RECOMMEND APPROVAL

1. **DO NOTHING.** If you do not submit a recommendation by **9/3/2015**, the OLCC will process the renewal application as a favorable recommendation.

RECOMMEND DENIAL (see additional information on page 2)

1. File an unfavorable recommendation, stating the grounds for the unfavorable (must meet the denial criteria on back of form); **OR**
2. Make a written request for additional time to complete an investigation. The request must state: 1.) you are considering making an unfavorable recommendation; 2.) the specific grounds being considered. **The grounds must be one referenced in Oregon Administrative Rule 845-005-0308(3).** If your request is granted you will be given a 45-day extension to file your unfavorable recommendation. Unfavorable means recommending denial of a license or requesting restrictions be placed on a license.

If you need assistance or would like to discuss a specific application, please contact your Local OLCC office for help. Please send renewal recommendation correspondence to OLCC License Renewals, P.O. Box 22297, Portland, OR 97269-2297. If you have questions, contact our license renewal section at 503.872.5138 or toll free at 1.800.452.6522 ext 5138.

**REASONS WE MAY
DENY OR RESTRICT A LICENSE
ORS 471.313 (4)(5), OAR 845-005-0320, 845-005-0321, 845-005-0322
845-005-0325, 845-005-0326(4)(5) or 845-005-0355**

The following is a list of problems relating to the **APPLICANT** or **BUSINESS** that OLCC can consider to refuse or restrict a license:

1. Applicant has a habit of using alcohol or drugs to excess
2. Applicant makes a false statement to OLCC (must be related to a refusal basis)
3. Applicant has been convicted of local, state or federal laws that are substantially related to the fitness of holding a liquor license
4. Applicant has demonstrated poor moral character
5. Applicant has a poor record of compliance when previously licensed by OLCC
6. Applicant is not the legitimate owner of the business
7. The business has a history of serious and persistent problems at this location.

The problems can include:

obtrusive or excessive noise, music or sound vibrations
public drunkenness
fights or altercations
harassment
unlawful drug sales
alcohol or related litter

OLCC is not able to consider the following issues when deciding to renew a liquor license:

lack of parking
increase in traffic
too many licenses in a specific area (saturation)
entertainment type - nude dancing, gambling, live bands, etc.
increased noise
zoning issues

Visit www.oregon.gov/olcc/ to see the full text of ORS and OAR referenced above. In order for an unfavorable recommendation from a local government to be valid, the grounds must be found in the license refusal bases of ORS 471.313(4), 471.313(5), OAR 845-005-0320, 845-005-0321, 845-005-0322, 845-005-0325 or 845-005-0326(4)(5) or the license restriction bases of OAR 845-005-0355, and must be supported by reliable factual information.

Dist. # 4 Local Government: SHADY COVE

License	Premises	Tradename	Participant	License Type	Premises Address
209770	20339	62 MARKETPLACE	DAVID L BOWMAN INC	L	21171 HWY 62, SHADY COVE, OR 97539
209777	20339	62 MARKETPLACE	DAVID L BOWMAN INC	O	21171 HWY 62, SHADY COVE, OR 97539
209058	51898	LUCKY'S II	GRIMES, JANICE	O	22225 HWY 62, SHADY COVE, OR 97541
209060	51899	LUCKY'S II	GRIMES, JANICE P	F-COM	22225 HWY 62, SHADY COVE, OR 97541
208502	39048	MA'S RESTAURANT	M & Y INC	F-COM	20756 HWY 62, SHADY COVE, OR 97539
207370	50368	MAC'S DINER	MCELROY, KIMBERLY A	F-COM	21900 HWY 62, SHADY COVE, OR 97539
209992	28544	MIGUEL'S GUADALAJARA	MIGUEL'S GUADALAJARA INC	F-COM	21679 HWY 62, SHADY COVE, OR 97539
208531	27459	MOOSE LODGE #2480 UPPER ROGUE	MOOSE LODGE #2480 UPPER ROGUE	F-CLU	61 ALDER ST, SHADY COVE, OR 97539
208038	44999	PIZZA AT THE COVE	HODGES, SADIE M	L	22251 HWY 62, SHADY COVE, OR 97539
208196	24325	SHADY COVE CHEVRON	COLVIN OIL COMPANY INC	O	21222 HWY 62, SHADY COVE, OR 97539
208977	5684	SHADY COVE MARKET	SHADY COVE MARKET INC	O	22111 HWY 62, SHADY COVE, OR 97539
208864	18220	SHADY COVE STATION & COUNTRY STORE	SAC ENTERPRISES LLC	O	21825 HWY 62, SHADY COVE, OR 97539
208978	11742	SHY'S CAFE & LOUNGE	SISSON, WILLIAM B	F-COM	21303 HWY 62, SHADY COVE, OR 97539
208979	11742	SHY'S CAFE & LOUNGE	SISSON, WILLIAM B	O	21303 HWY 62, SHADY COVE, OR 97539
208271	23183	THE PICNIC BASKET DELICATESSEN	JERMAIN, JACK D	O	21873 HWY 62, SHADY COVE, OR 97539
	23183		JERMAIN, FRANCES		
207853	44004	UPPER ROGUE 76	BILL TERPENING INC	O	21882 HWY 62, SHADY COVE, OR 97539