



**Regular Session**

**RS**

**Milwaukie City Council**

**COUNCIL REGULAR SESSION**

City Hall Council Chambers, 10722 SE Main Street  
& Zoom Video Conference ([www.milwaukieoregon.gov](http://www.milwaukieoregon.gov))

**REVISED AGENDA****AUGUST 16, 2022**

(Revised August 10, 2022)

**Council will hold this meeting in-person and through video conference.** The public may attend the meeting by coming to City Hall or joining the Zoom webinar, or watch the meeting on the [city's YouTube channel](#) or Comcast Cable channel 30 in city limits. **For Zoom login** visit <https://www.milwaukieoregon.gov/citycouncil/city-council-regular-session-330>.

**To participate in this meeting by phone** dial 1-253-215-8782 and enter Webinar ID 841 6722 7661 and Passcode: 097479. To raise hand by phone dial \*9.

**Written comments** may be delivered to City Hall or emailed to [ocr@milwaukieoregon.gov](mailto:ocr@milwaukieoregon.gov). Council will take verbal comments.

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

**Page #**

1. **CALL TO ORDER** (6:00 p.m.)
  - A. **Pledge of Allegiance**
  - B. **Native Lands Acknowledgment**
  
2. **ANNOUNCEMENTS** (6:01 p.m.) **2**
  
3. **PROCLAMATIONS AND AWARDS**
  - A. **None Scheduled.**
  
4. **SPECIAL REPORTS**
  - A. **Youth Advocacy and Empowerment Summer Camp – Report** (6:05 p.m.) **4**  
Presenter: Michelle Bolling, Northwest Family Services
  - B. **City Manager Updates – Report** (6:25 p.m.)  
Staff: Ann Ober, City Manager
  
5. **COMMUNITY COMMENTS** (6:40 p.m.)

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

6. **CONSENT AGENDA** (6:45 p.m.)  
 Consent items are not discussed during the meeting; they are approved in one motion and any Council member may remove an item for separate consideration.
- A. **Approval of Council Meeting Minutes of:** 6
    - 1. July 19, 2022, work session, and
    - 2. July 19, 2022, regular session.
  - B. **Appointments to City Boards and Committees – Resolution** 10
  - C. **Oregon Liquor Control Commission (OLCC) Application for The Office, 10598 SE 32<sup>nd</sup> Avenue – Change of Owner** 13
7. **BUSINESS ITEMS**
- A. **Parks Levy Ballot Measure Referral – Resolution** (6:50 p.m.) 15  
 (Added to the agenda August 10, 2022)  
 Presenter: Mark Gamba, Mayor
  - B. **Parks System Development Charges (SDCs) – Resolution** (7:05 p.m.) 21  
 (Added to the agenda August 10, 2022)  
 Staff: Ann Ober, City Manager
  - C. **North Clackamas Watersheds Council (NCWC) Cooperative Study Agreement – Discussion** (7:20 p.m.) 23  
 Staff: Kelly Brooks, Assistant City Manager
  - D. **Main Street Trees and Sidewalks – Update** (7:50 p.m.)  
 Staff: Steve Adams, City Engineer
8. **PUBLIC HEARINGS**
- A. **None Scheduled.**
9. **COUNCIL REPORTS** (8:10 p.m.)
10. **ADJOURNMENT** (8:15 p.m.)

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

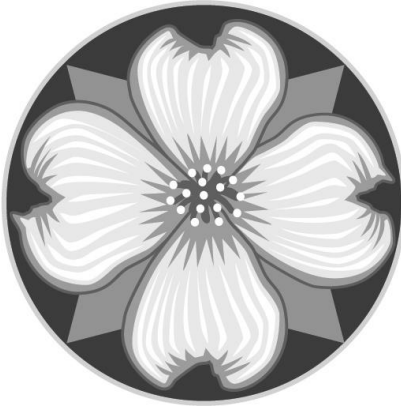
The city is committed to providing equal access to public meetings. To request listening and mobility assistance services contact the Office of the City Recorder at least 48 hours before the meeting by email at [ocr@milwaukieoregon.gov](mailto:ocr@milwaukieoregon.gov) or phone at 503-786-7502. To request Spanish language translation services email [espanol@milwaukieoregon.gov](mailto:espanol@milwaukieoregon.gov) at least 48 hours before the meeting. Staff will do their best to respond in a timely manner and to accommodate requests. Most Council meetings are broadcast live on the [city's YouTube channel](#) and Comcast Channel 30 in city limits.

**Servicios de Accesibilidad para Reuniones y Aviso de la Ley de Estadounidenses con Discapacidades (ADA)**

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

**Executive Sessions**

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



**RS Agenda Item**

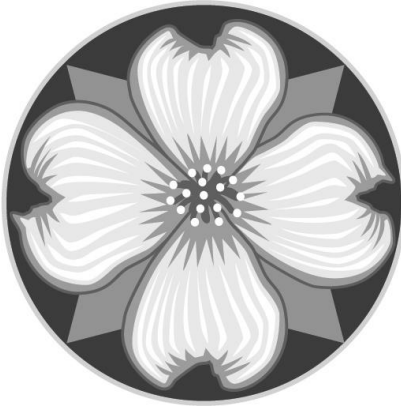
**2**

# **Announcements**



# Mayor's Announcements – August 16, 2022

- **Neighborhood Concerts in the Park – Wednesday & Thursday Evenings**
  - Lewelling – Wednesdays at 6:30 PM - Ball-Michel Park (9781 SE Stanley Ave.)
  - Ardenwald-Johnson Creek - Thursdays at 7 PM - Ardenwald Park (3667 SE Roswell St.)
- **Scott Park Project – Second Survey Closes August 19**
  - Review two new draft concept plans and take a short survey to provide feedback
  - Visit Engage Milwaukie to participate at [engage.milwaukieoregon.gov](https://engage.milwaukieoregon.gov)
- **Annual Johnson Creek Big Clean-Up – Saturday, August 20 (8:30 AM – 12 PM)**
  - Volunteer to jump into the creek and remove trash where it matters most
  - Various locations along the creek available
  - Learn more and register to volunteer at [jcw.org](https://jcw.org)
- **9K for K9 Fundraiser Walk – Saturday, August 27 (9 AM)**
  - Walks begin at 9, 10 and 11 AM in downtown Milwaukie
  - Participants can walk with or without a K9 companion
  - All proceeds benefit the Milwaukie Police Department's K9 program
  - For more information and to register visit [milwaukiepsf.org/k9-walk](https://milwaukiepsf.org/k9-walk)
- **City Manager Open Door Session – Tuesday, August 30 (4-5 PM)**
  - Ask questions, raise concerns, or just find out more about what the city is doing
  - No sign-up is necessary. First-come first-served.
  - Sessions limited to 15 minutes to accommodate as many sessions as possible
  - Sessions take place at City Hall (Council Chambers), 10722 SE Main St.
- **LEARN MORE AT [WWW.MILWAUKIEOREGON.GOV](https://www.milwaukieoregon.gov) OR CALL 503-786-7555**



**RS Agenda Item**

**4**

## **Special Reports**



# Environmental Impact of Vaping Products



Lithium-ion batteries in e-cigarettes have been known to explode and cause fires in garbage trucks and waste management plants if damaged or exposed to extreme heat.

- According to a California survey, 56% of the fires at waste facilities between 2016-2018 were reported to have been caused by batteries, mostly lithium-ion ones.<sup>1</sup>



- Incompletely used liquid cartridges and refills contain nicotine salts and heavy metals, which can leach into soil and waterways or be ingested by wildlife.
- E-cigarette waste is potentially a more serious environmental threat than cigarette butts because e-cigarettes introduce plastic, nicotine salts, heavy metals, lead, mercury, and flammable lithium-ion batteries into waterways, soil, and wildlife.<sup>2</sup>



## How do I dispose of a JUULpod?

JUULpods are closed systems and are not intended to be refilled. They can be thrown away in a regular trash can.

## Are you going to make non-nicotine e-liquid?

At this time all our JUULpods include nicotine. Our Product team is constantly working on new developments but we currently do not offer non-nicotine options. Please subscribe to our newsletter to keep up with the latest JUUL developments.

Single-use e-cigarettes' like JUUL do not provide guidance to consumers on how to dispose of used devices or pod/cartridge products, and there are no receptacles or specific processes in place.<sup>3</sup>

A Truth Initiative survey found that 46.9% of e-cigarette device owners said that the e-cigarette/vape device they currently use does not provide any disposal information, such as where to send used batteries or empty pods.

- The survey also found that 57.8% of those who had vaped in the past 30 days found it inconvenient to dispose of e-cigarette waste responsibly.<sup>1</sup>

## SOURCES

1. *Tobacco and the environment*. (2019, March 20). Truth Initiative. Retrieved August 3, 2022, from <https://truthinitiative.org/research-resources/harmful-effects-tobacco/tobacco-and-environment>
2. *A toxic, plastic problem: E-cigarette waste and the environment*. (2021, March 1). Truth Initiative. Retrieved August 10, 2022, from <https://truthinitiative.org/research-resources/harmful-effects-tobacco/toxic-plastic-problem-e-cigarette-waste-and-environment>
3. *3 ways JUUL harms the environment*. (2019, April 23). Truth Initiative. Retrieved August 10, 2022, from <https://truthinitiative.org/research-resources/emerging-tobacco-products/3-ways-juul-harms-environment>



**RS 4. A. 8/16/22  
Presentation**



# **The Impact of Flavored Tobacco Use on Youth**

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Milwaukie City Council Presentation 8/16/2022



# **Katie Knutsen & Jamie Zentner** **Clackamas County Public Health**

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Tobacco Prevention & Education Program (TPEP)

# About TPEP

## What we do

- Reduce exposure to secondhand smoke
- Encourage tobacco users to quit
- Prevent youth initiation of tobacco & vaping products

## How we do it

- Collaboration with local, regional and state partners
- Policy, systems and environmental changes (i.e., reduce access to tobacco and vaping products)

[Tobacco Prevention and Education Program | Clackamas County](#)

# Regional & State Updates

## **Statewide Tobacco Retail License** (Effective January 1, 2022)

- Requires businesses to purchase a license to sell tobacco and vaping products

## **Washington County**

- 76% voted for a ban on flavored tobacco products sales

## **Multnomah County**

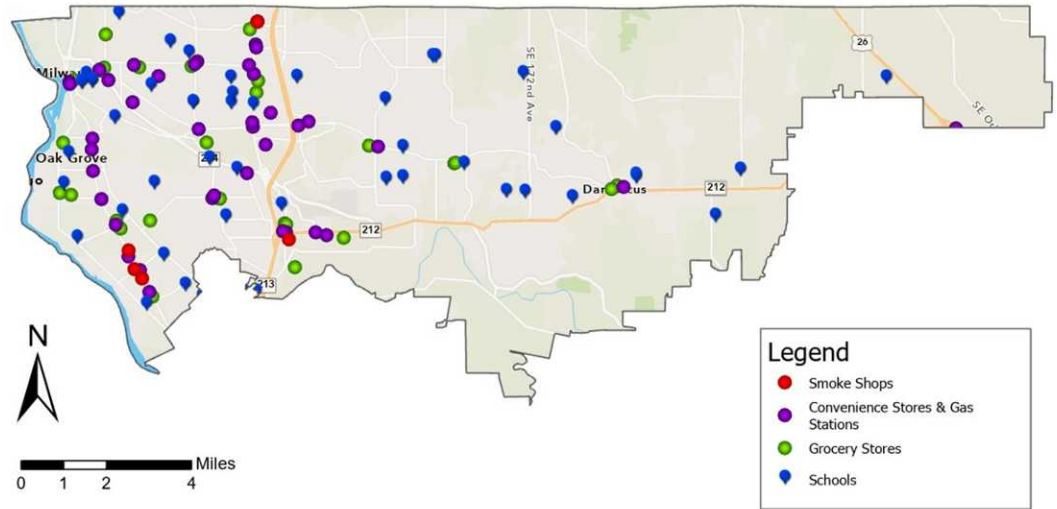
- Presentation to Board of Health re: flavored tobacco products

## **Clackamas County**

- Report describing impact of flavored tobacco products

# THE RETAIL ENVIRONMENT

## Tobacco Retailers and Schools in North Clackamas School District



Created by: Clackamas County Public Health Division  
Date: August 2022  
Source: ESRI Business Analyst Online, Oregon Liquor and Cannabis Commission

Oregon Metro, State of Oregon GEO, Esri, HERE, Garmin, SafeGraph, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, USDA

<https://gisdev.clackamas.us/portalwa/home/webmap/viewer.html?webmap=33ed10780a374d638704f6a7392c09bd&extent=-122.8689,45.0676,-121.8547,45.4673>

# Define Tobacco Products

## What is commercial tobacco?

- Manufactured & marketed by the tobacco industry
- Includes cigarettes, smokeless products, vape pens, and puff bars

## What is traditional tobacco?

- Used by American Indian tribes and nations for medicinal, spiritual, and ceremonial purposes
- Purest form or mixed with native plants



**Why are flavored  
products a  
problem?**

**85% of youth e-cigarette users use flavored products, with fruit, candy/desserts/other sweets, mint and menthol reported as the most popular flavors.**



**Flavored  
products  
contain high  
amounts of  
Nicotine**

One JUUL pod can contain as much nicotine as a pack of cigarettes.

Nicotine is highly addictive and can cause serious harm to young people's developing brains, impacting learning, memory, and attention.

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# **There is a Flavored Tobacco Epidemic in the Portland Metro area**

The problem is even more pronounced in Clackamas County

- Compared to their peers across Oregon, 11th graders in Clackamas County consistently use tobacco and vaping products at higher rates.
  - In 2019, 27.2% of 11th grade students reported using any tobacco products – 26.1% of those people reported e-cigarette use– highest rate in the region.
-

# Life Long Addiction

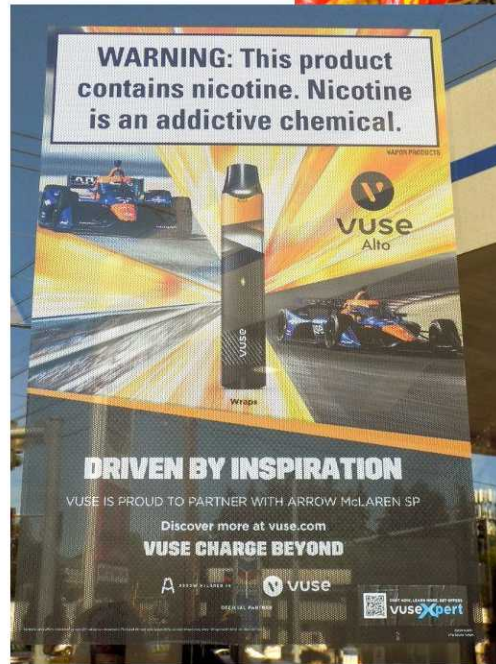
The tobacco industry knows that the flavors hook youth. This creates a new generation of smokers. There is substantial evidence that e-cigarette use increases the risk of ever using combustible tobacco cigarettes among youth and young adults.

**Milwaukie has the highest rate of adult smoking in Clackamas County, at 19.3%, compared to 17% county-wide**

National Academies of Sciences, Engineering, and Medicine. 2018. Public health consequences of e-cigarettes. Washington, DC: The National Academies Press. doi:<https://doi.org/10.17226/24952>  
<https://www.blueprintclackamas.com/indicators/index/view?indicatorId=8&localeTypeId=3>

# Observations from the Field

At the beginning of our Camp, we provided youth with an opportunity to go into the spaces themselves and observe tobacco product placement.



# Danica's Art

Third place winner in  
Multnomah County's "How  
Flavored Tobacco Affects my  
Community" art contest!



# Conclusion

- Flavored tobacco is a problem in Clackamas Clackamas County
- The retail environment is in close proximity to schools
- Flavors and marketing appeal to youth
- Youth tobacco and nicotine use can lead to lifelong addiction

# Thank you!

Contact information: [iwaqas@nwfs.org](mailto:iwaqas@nwfs.org), [mbollinger@nwfs.org](mailto:mbollinger@nwfs.org)



**Scott Stauffer**

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**From:** Michelle Bollinger <MBollinger@nwfs.org>  
**Sent:** Tuesday, August 16, 2022 10:28 AM  
**To:** Scott Stauffer  
**Subject:** FW: Media Release: Clackamas County Issues Public Health Advisory as Teen Vaping Surges

**This Message originated outside your organization.**

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Hi Scott,

This media release is also relevant to our presentation today. Not sure if the council members will have time to view this. It just came out today, so I could not to provide it in advance. Thank you!

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**From:** Hockaday, Bryan <BHockaday@clackamas.us>  
**Sent:** Tuesday, August 16, 2022 10:12 AM  
**To:** Zentner, Jamie <JZentner@clackamas.us>; Knutsen, Katie <KKnutsen@clackamas.us>  
**Subject:** FW: Media Release: Clackamas County Issues Public Health Advisory as Teen Vaping Surges

**Wanted to make sure you saw the release**



**Media Release: Clackamas County Issues Public Health  
Advisory as Teen Vaping Surges**

*Health officials report increased rates of teen vaping and recommend  
proven strategies to protect youth*

(Oregon City, OR, Aug. 16, 2022) — Today, Clackamas County issued a [public health advisory](#) raise awareness of health risks associated with the skyrocketing rates of teen vaping. While teen use of conventional cigarettes has fallen dramatically over decades, use of e-cigarettes has surged to nearly 30% among teens.

Flavored nicotine use among youth is an epidemic across the country, state and in the local community. The Portland metro region is experiencing the same epidemic of flavored nicotine use, though the problem is even [more pronounced in Clackamas County](#). These products are dangerous to teens and have shown to lead to the future use of conventional tobacco products.

“The percent of teens in Clackamas County who vape has increased by more than four times since 2013,” said [Philip Mason-Joyner, Clackamas County Public Health](#)



**Director.** “In fact, over 26% of Clackamas County 11th grade students report using e-cigarettes or tobacco products, which is the highest rate in the region.”

“Tobacco companies have a long history of using predatory methods to deliberately attract specific groups, including people of color, low-income individuals, and LGBTQ communities,” said Christina Bodamer, Co-Chair of the [Clackamas Public Health Advisory Committee](#). “Fortunately, we know from what’s worked in other communities that there are proven strategies we can pursue locally to protect youth from the dangerous, life-long health impacts caused by vape and tobacco products.”

In addition to issuing a public health advisory, Clackamas Public Health underscored the importance of pursuing strategies and policies proven effective in other communities to meaningfully reduce access and use of nicotine products. [Proven strategies](#) include:

- Removing nicotine from school zones
- Banning the sale of flavored nicotine and tobacco products
- Restricting promotional product pricing

## LINKS

- [Public Health Impact Report on the Dangers of Youth Vaping](#)
- [Public Health Advisory: Protecting Teens from E-Cigarettes & Flavored Nicotine](#)
- [Don't Lean on Nicotine](#)

**Contact:** Bryan Hockaday

**Phone:** 971-803-1752

**Email:** [bhockaday@clackamas.us](mailto:bhockaday@clackamas.us)

## ADDITIONAL RESOURCES

The Oregon Tobacco Quit Line helps you create a quit plan to get ready, take action and live tobacco-free. Quit Coaches, many of whom are former smokers, never pressure you to quit before you're ready.

- English: 1-800-QUIT-NOW (1-800-784-8669) or QUIT NOW
- Español: 1-855-DEJALO-YA (1-855.-35356-92) or DEJARLO AHORA
- TTY 1-877-777-6534

Learn about the “Don’t Lean on Nicotine” campaign and join the local effort to help local youth quit vaping:

- For help quitting, text GO VAPELESS to 88709
- Help spread the word by visiting [www.clackamas.us/publichealth/dont-lean-on-nicotine](http://www.clackamas.us/publichealth/dont-lean-on-nicotine)

Clackamas County | 2051 Kaen Rd, Oregon City, OR 97045

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Grant McHill  
KXL FM NEWS 101  
Portland, Oregon

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## **Clackamas County Health Advisory: Protecting Teens from E-Cigarettes & Flavored Nicotine**

August, 16, 2022 — Flavored nicotine use among youth is an epidemic across the country, state and in our local community. While teen use of conventional cigarettes has fallen dramatically over decades, use of e-cigarettes has skyrocketed to nearly 30% among teens.

The Portland metro region is experiencing the same epidemic of flavored nicotine use. In Clackamas County, the problem is even more pronounced, prompting Clackamas Public Health to issue a Health Advisory to youth and parents. Fortunately, there are proven strategies and community support for solutions that protect youth from the harms of tobacco and vaping products. Together, we can keep our kids safe.

### **Vaping is NOT Harmless**

- Appealing flavors, such as cotton candy, are added to e-cigarettes and other nicotine delivery devices to attract youth, soften the harsh taste, and entice new users.
- Nicotine contained in these products is highly addictive and can cause serious harm in young people, impacting learning, memory, and attention.
- Massive inequities for nicotine product use exist, most impacting youth of color, LGBTQ youth and low-income households.
- One JUUL pod can contain as much nicotine as a pack of cigarettes, and evidence shows youth e-cigarette use leads to future use of conventional tobacco products.

### **Reducing Access: Proven Strategies**

#### ***Implement bans on the sale of flavored products***

- There are over 300 jurisdictions across the U.S that have imposed flavor bans, which have shown to significantly decrease youth nicotine use.
- Washington County residents overwhelmingly voted (77%) in May 2022 to approve a local flavor ban, showing strong public support for the policy and an opportunity for other counties or the state to follow suit.

#### ***Remove nicotine from school zones***

- Studies consistently show that youth are more likely to smoke when they live or go to school in neighborhoods with a high density of tobacco retailers.
- In Clackamas County, over half of public schools have a tobacco retailer within a ten-minute walk from campus.

### ***Price promotion regulation***

- The price of tobacco products has a direct and significant effect on usage.
- Youth are more sensitive to tobacco price increases than adults. For every 10% cigarettes price increase, youth use is reduced by 5%.
- Washington County's recent flavor ban prohibits the use of coupons or price promotions for any tobacco or nicotine product.

### **Call to Action: Protecting Our Youth**

#### ***Parents, Prevention Partners and Advocacy Groups***

- Join Flavors Hook Oregon Kids, a statewide movement to protect children from tobacco and nicotine use.
- Talk with your local corner store about limiting advertising and/or sale of nicotine products.
- Contact your elected officials or tell your personal story on social media or with reporters to share why prohibiting flavored tobacco is so important to keep youth safe.
- Support youth in quitting by promoting the tri-county Don't Lean on Nicotine Campaign. Text QUIT to 88709 or visit <https://www.clackamas.us/publichealth/dont-lean-on-nicotine>.

#### ***Schools***

- Advocate for zoning restrictions to limit tobacco retail density near schools. Start by educating decision makers of the problem of youth access to tobacco and nicotine products in neighborhoods.
- Participate in Student Health Survey to monitor trends in tobacco and nicotine use, inform decisions and actions, and to prioritize resources.
- Support students in quitting by promoting the Tri-County Don't Lean on Nicotine Campaign (Text QUIT to 88709).

#### ***Decision Makers and Elected Officials***

- Pass policies that reduce access of flavored products to youth, including flavor bans, zoning restrictions, and prohibiting price promotions for tobacco products.

Best regards,



**Philip Mason-Joyner**

Director, Clackamas County Public Health Division



**Sarah Present**

Medical Director, Clackamas County Public Health Division

# Public Health Impact

## Youth Vaping & Use of Flavored Products: A Public Health Emergency

Volume 3 | August 2022



### Flavored Products Addict Youth

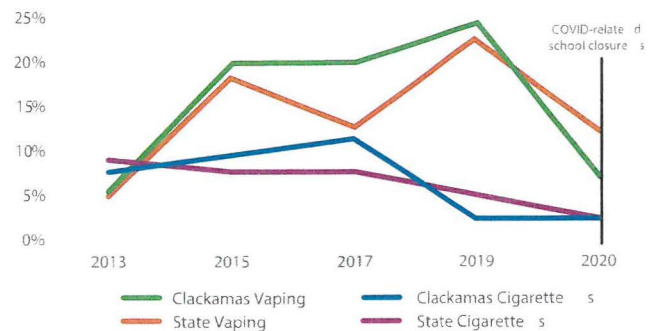
Teens overwhelmingly use e-cigarettes over conventional cigarettes, thanks to the tobacco industry's successful marketing of flavored products. While teen use of conventional cigarettes has fallen dramatically over decades (from 27.5% in 1991 to 2.9% in 2019), teen use of e-cigarettes has skyrocketed (from 1.5% in 2011 to 27.5% in 2019).<sup>1</sup> The drastic rise in vaping prompted the US Surgeon General to declare a public health epidemic.<sup>2</sup> Among youth who have ever used commercial tobacco products, over 80% reported that the first product they ever used was flavored.<sup>3</sup> Tobacco companies know that targeting youth is fundamental to creating lifelong nicotine dependence.

The Portland metro region is experiencing the same epidemic of flavored nicotine use; the problem is even more pronounced in Clackamas County. When compared to their peers across Oregon, 11th graders in Clackamas County consistently use tobacco and vaping products at higher rates. In 2019, 27.2% of 11th grade students reported using any tobacco products – 26.1% of those people reported e-cigarette use. This was the highest rate in the region.<sup>4</sup> Based on the Oregon Healthy Teen Survey, the percent of teens in Clackamas County who vape increased more than 4 times from 2013 to 2019.<sup>5</sup> Rates for 2020 are likely suppressed due to low response rate of the Student Health Survey, resulting from school closures from COVID.

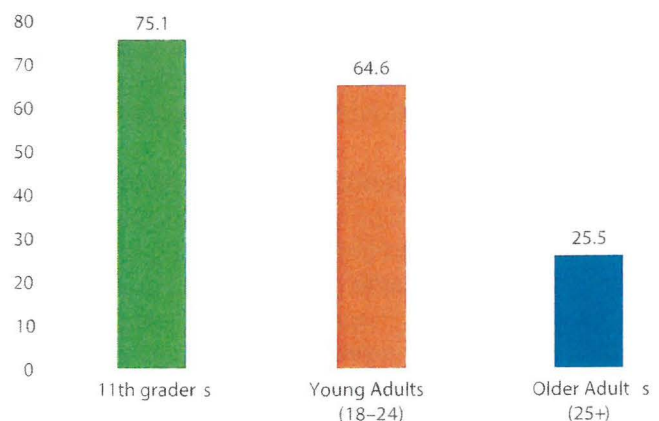
Youth who are using nicotine products are overwhelming choosing flavored tobacco. Youth-appealing flavors such as cotton candy are added to e-cigarettes and other nicotine delivery devices to soften the harsh taste and entice new users. In Oregon, 75% of 11th graders who use tobacco products report that they use flavored products. Compare that with just 25% of adults over the age of 25 and it becomes clear that flavored tobacco has a clear target demographic.<sup>6</sup>

### Percent of 11th Graders Using Cigarettes or Vaping

Source: Oregon Healthy Teens and Student Health Survey  
Created by: Clackamas County Public Health Aug. 2022



### Percentage of Flavored Tobacco or Vaping Product Use Among Current Tobacco Users by Selected Age Groups, Oregon, 2019



*'Commercial tobacco', manufactured and marketed by the tobacco industry, includes smoking products like cigarettes, smokeless products like chew, and Electronic Nicotine Delivery Systems like e-cigarettes, vape pens and puff bars.*

*It is necessary to make a distinction between commercial tobacco and traditional tobacco, used by American Indian tribes and nations as medicine with spiritual and ceremonial importance. Traditional tobacco is often used in its purest form or mixed with other native plants. Commercial tobacco is sold for profit and includes harmful chemicals that cause disease and death.*

## Rising Rates and Inequity

Tobacco companies have a long history of using predatory methods to deliberately attract specific groups, including people of color, low-income individuals, and LGBTQ communities.<sup>7,8</sup> These methods, which include targeted advertising, price discounts, and more retailers in certain neighborhoods, have caused persistent inequities among nicotine product users. Because brains are developing until mid-20s, youth are especially susceptible to the tobacco industry marketing products in colorful packaging and sweet flavors.<sup>1,7,9,10</sup>

In 2019, Congress launched an investigation into JUUL's role in the youth nicotine epidemic, including its marketing to youth, misleading health claims, and new partnerships with traditional tobacco companies.<sup>11</sup> After two days of hearings, committee members concluded that JUUL egregiously marketed their product to youth and falsified claims about its effectiveness as a smoking cessation device.<sup>11</sup> In spite of those findings, brands like Puff Bar continue to skirt regulations and novel products to young people.

## Race and Ethnicity

Massive inequities for tobacco product use exist across different racial and ethnic communities. Like many racial disparities, this happens by design.<sup>12</sup> Youth of color are more vulnerable to tobacco product initiation due to higher exposure to marketing and products in the retail environment.<sup>9</sup> 2019 data show significant disparities between race/ethnicity and exposure to tobacco products among 11th graders across Oregon.<sup>5</sup>

Sixty-four percent of American Indian/Alaska Native teens reported visiting a convenience store one or more times a week where tobacco is prolific, while only 33% of Asian or Pacific Islander teens reported the same. Much of this disparity is the consequence of the forced relocation of American Indian nations away from ancestral lands, resulting in reservations being surrounded by food deserts in which convenience stores often exist in lieu of grocery stores.<sup>12,13,14</sup>

Nearly a quarter (24%) of Native Hawaiian and other Pacific Islander youth regularly use nicotine products. The same is true for American Indian and Alaska Native and multiracial youth, with regular tobacco use rates at 21% and 17%, respectively. E-cigarettes are the most commonly used nicotine product for youth of color. These disparities last a lifetime. In Oregon, 18% of the non-Hispanic White population in Oregon smokes, compared to almost 30% of American Indian and Alaska Native, 26% Pacific Islanders, and 25% of African American adults.<sup>15,16,17,18</sup>

## Socioeconomic Status

The tobacco industry saturates lower-income neighborhoods with tobacco ads and discounts. Increased availability, combined with high levels of emotional stress, leads to more smoking among low-income youth and adults. More than one in three adults with a household income of less than \$15,000 a year smoke in Oregon. In comparison, one in 10 adults in Oregon with a household income of more than \$50,000 a year smoke.<sup>19,20,21</sup>

### Percentage of adult cigarette smoking, by select demographic groups, Oregon, 2019

Table 6.1

Annual hoshold income	Percentage (%)
Less than \$20,000	30.2
\$20,000–\$49,999	19.5
\$50,000 or more	10.1

## LGBTQ

Although lesbian, gay, bisexual, transgender, and queer or questioning (LGBTQ) individuals account for a small percentage of the total US population, they are disproportionately impacted by nicotine. Nearly 21% of LGB adults are current smokers. In comparison, about 15% of non-LGB- identified adults smoke. Young LGBTQ people, aged 18-24, are nearly two times more likely to smoke than their non- LGBT-identified peers.<sup>22-27</sup>

## Health impacts: Vaping is NOT Harmless

E-cigarettes share many of the same dangers as traditional cigarettes since they contain numerous known toxins.<sup>24</sup> Additionally, e-cigarettes contain extremely high levels of nicotine: one JUUL pod can contain as much nicotine as a pack of cigarettes.<sup>28</sup> Nicotine is highly addictive and can cause serious harm in young people's developing brains, impacting learning, memory, and attention.<sup>29,30,31</sup>

There is substantial evidence that e-cigarette use increases risk of ever using combustible tobacco cigarettes among youth and young adults. Further, people who vape often also use tobacco products (dual use). A study of nearly 40,000 people found that dual users smoked more cigarettes per day and reported more breathing difficulty compared to cigarette-only users.<sup>32,33</sup> The harmful effects of e-cigarettes underscore the importance of preventing youth from starting.

## Vaping and COVID-19

COVID-19 is a virus that causes respiratory distress. As such, any environmental exposure that weakens the respiratory system has the potential to worsen COVID-19 outcomes. Both conventional and e-cigarette users are much likelier to be diagnosed with COVID-19, and they are much likelier to experience symptoms. A positive COVID-19 diagnosis was seven times more likely among young dual users of cigarettes and e-cigarettes. Symptoms were five times more likely among youth who ever used e-cigarettes. The good news is that the strong relationship between COVID-19 symptoms and tobacco use disappeared among those who had not recently vaped or smoked.<sup>34</sup>

## Protect Our Youth: Proven Strategies

Clackamas, Washington, and Multnomah Counties can meaningfully reduce access and use of tobacco and nicotine products among young people through policy change.

In the last five years, Oregon has passed two meaningful policies to curb youth nicotine use. In 2018, Oregon enacted Tobacco 21 (T21), the law that restricts the sale of tobacco to people over age 21. Since T21 was passed, initiation decreased significantly among current tobacco users aged 13-17 (34% to 25%) and aged 18-20 years (23% to 18%).<sup>35</sup>

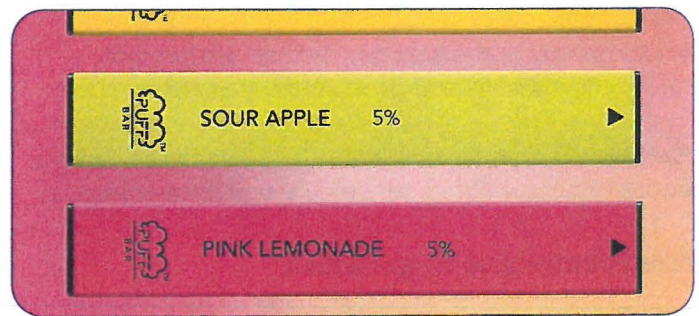
The second strategy is called Tobacco Retail Licensing (TRL). Licensing is commonplace; from alcohol to cannabis, licenses are an effective tool to maintain safety standards, guard public health, and ensure compliance with operational requirements. Starting on January 1, 2022, Oregon rolled out a new statewide tobacco retail license for any business selling tobacco and nicotine products. TRL helps track and regulate the sale of tobacco and nicotine products, ensures retailers comply with state and federal laws, and prevents youth from purchasing these products.

Numerous studies find that requiring a license to sell tobacco and embedding retailer education and enforcement mechanisms into the license effectively reduces youth access to tobacco and nicotine products.<sup>36,37</sup> TRL creates the necessary foundation to implement proven strategies, such as prohibiting the sale of flavored products and limiting the density and number of tobacco retailers.

## Ban the sale of flavored products

Nationwide, 80% of youth who have ever used a nicotine product started with a flavored product. Kid-friendly flavorings including fruit, bubble gum, cotton candy and chocolate mask the harsh taste of tobacco products.<sup>38</sup> Since 2009, flavors other than menthol have been banned in traditional cigarettes to help decrease youth use, but this ban does not apply to e-cigarettes.

In 2020, the FDA banned most flavored e-cigarette cartridge flavors (excluding mint/menthol). However, a large loophole allowed all flavors to continue to be sold in disposable devices. The tobacco industry started marketing non-refillable devices such as Puff Bar, Posh and blu to keep youth addicted to flavored products. As a result, disposable devices are the most popular type of e-cigarettes among youth.<sup>38</sup> The FDA regulations do not address the root problem of flavor use, which is why we need stronger local action.



There are over 300 jurisdictions across the U.S that have imposed additional flavor bans. Flavor bans in Massachusetts municipalities demonstrated a significant impact on youth nicotine initiation and current use. Notably this result was even stronger when neighboring municipalities also had a flavor ban in effect. This highlights the importance of the widespread adoption of flavor bans.<sup>39</sup>

In December of 2021, Washington County passed an ordinance that prohibits the sale of flavored vaping products and menthol cigarettes and prohibits tobacco vending machines and price promotions/discounts. This is the first ban of its kind in Oregon. The nicotine industry challenged this ban with a ballot measure, which forced Washington County voters to decide the fate of the ban. This May, with over 76% of the vote, Washington County voters overwhelmingly chose to keep the flavor ban. This outcome shows that there is public support to protect children from nicotine products and opens the door for other counties or the state to follow suit.

## Remove nicotine from school zones

When retailers of tobacco products are located near homes and schools, people smoke or vape more and have worse health. Further, communities of color and less affluent communities are more likely to have higher densities of tobacco retail outlets.<sup>40,41,42</sup> Studies have consistently shown that youth are more likely to smoke when they live or go to school in neighborhoods with a high density of tobacco retailers.<sup>43,44,45</sup> In addition to location, retailer density matters. Several studies have found that the density of tobacco outlets in school neighborhoods is related to experimental smoking, and that youth living in areas with the highest density of tobacco retailers are more likely to have smoked cigarettes in the past month than those in areas of the lowest density of retailers.<sup>46-51</sup>

In the United States, 44% of teenagers attend a school that is within 1,000 feet of a tobacco retailer, and 77% of all public schools are only a ten-minute walk to a tobacco retailer location. Limiting locations where tobacco products are sold can reduce density and proximity to schools and other youth- populated areas.

In Clackamas County, over half of public schools have a tobacco retailer within a ten-minute walk from campus.

## Price Promotion Regulation

The price of tobacco products has a direct and significant effect on usage. The tobacco industry is aware that people use less when prices rise, so they have spent billions of dollars each year on price promotions to make tobacco and nicotine prices more affordable and accessible. In 2018, The Federal Trade Commission reported the industry spent 85%, or \$7.2 billion of its total budget, on price promotions. Youth are more sensitive to nicotine price increases than adults. For every 10% cigarettes price increase, youth use is

reduced by 5%. There is a strong association between youth receiving a price promotion for e-cigarettes and youth initiating, currently using, and regularly using those products.<sup>52</sup>

## Taking Action

### Parents, Prevention Partners and Advocacy Groups

Join Flavors Hook Oregon Kids, a statewide movement to protect children from tobacco and nicotine use. Visit [www.flavorshookoregonkids.org](http://www.flavorshookoregonkids.org) to learn more.

Talk with your local corner store about limiting advertising and/or sale of nicotine products.

If you have been impacted by flavored tobacco or nicotine or know youth who have been impacted, consider writing a letter to the editor to your local news outlet. Media coverage is a great way to elevate an issue and need for policy changes.

Write or call your elected officials to share why flavored tobacco should be prohibited in your county or state. They need to know that parents and advocacy groups want to break the cycle of nicotine addiction that begins in adolescence. Visit [www.usa.gov/elected-officials](http://www.usa.gov/elected-officials) to find your federal, state, and local officials.

### Schools

Advocate for zoning restrictions to limit tobacco retail density near schools. Start by educating decision makers on the problem of youth access to tobacco and nicotine products in neighborhoods.

Stay informed about emerging nicotine products to talk with youth about the risks. The Truth Initiative

## Percentage and Number of Oregon Retailers with Tobacco Product Marketing, Tri-County Region, 2018

Source: Oregon Health Authority. Tobacco Retail Assessment, 2018. As of February 2022, there are approximately 290 businesses that sell tobacco products in Clackamas County

Locale	Any tobacco product or advertisement that is placed in a manner that appeals to youth	Tobacco advertisements within 3 ft. of the floor	Tobacco products 12 inches from toys	Any tobacco price promotion	Flavored tobacco available	Total number of retailers
Oregon	33.0%	21.4%	19.7%	63.9%	93.2%	3145
Clackamas	15.4%	4.4%	12.3%	39.0%	93.4%	240
Multnomah	30.8%	16.6%	19.8%	73.1%	93.7%	608
Washington	36.4%	21.9%	30.7%	53.5	88.2%	265



and Campaign for Tobacco-Free Kids maintain robust libraries of fact sheets and research. Support school-based prevention programs and education.

Participate in Student Health Survey to monitor trends in tobacco and nicotine use, inform decisions and actions, and prioritize resources.

Encourage students to quit tobacco and nicotine. The Truth Initiative's This Is Quitting (Text QUIT to 88709) is peer-to-peer support via text specifically for youth that has shown to be a very effective support tool for youth looking to quit nicotine products.

### **Local Public Health Authorities**

Work with diverse communities to better understand the impact of flavored tobacco products on youth of color. Data collection should be led by community partners in a way that builds trust and accesses the expertise of communities.

Support community partners with data, resources, and a platform to elevate their personal stories. Educate community partners and decision-makers about options to address youth use of tobacco and nicotine use through policy and environmental changes.

### **Decision Makers and Elected Officials**

Pass policies that reduce access to flavored products to youth, including flavor bans, zoning restrictions, and prohibiting price promotions for nicotine products. Statewide and national policies often start with a groundswell of local policies that demonstrate support for stronger protections for youth.

Flavored nicotine use among youth is an epidemic across the country, state, and here in the region.

There are proven policy solutions that protect youth from the harms of tobacco and vaping products, please visit [www.clackamas.us/publichealth/dangers-of-youth-vaping](http://www.clackamas.us/publichealth/dangers-of-youth-vaping) to learn more.

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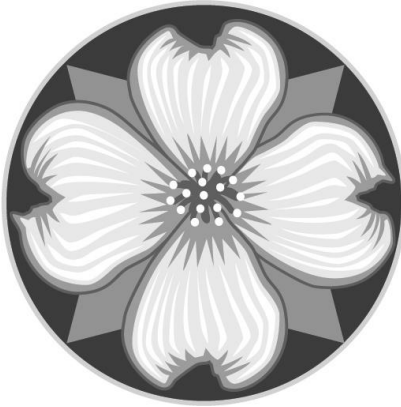
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**RS Agenda Item**

**6**

# **Consent Agenda**



## **COUNCIL WORK SESSION**

City Hall Council Chambers, 10722 SE Main Street  
& Zoom Video Conference ([www.milwaukieoregon.gov](http://www.milwaukieoregon.gov))

## **MINUTES**

**JULY 19, 2022**

**Council Present:** Councilors Adam Khosroabadi, Lisa Batey, Desi Nicodemus, Council President Kathy Hyzy, and Mayor Mark Gamba

**Staff Present:** Joseph Briglio, Community Development Director  
Bonnie Dennis, Administrative Services Director  
Justin Gericke, City Attorney  
Nicole Madigan, Deputy City Recorder  
Ann Ober, City Manager  
Scott Stauffer, City Recorder  
Peter Passarelli, Public Works Director  
Natalie Rogers, Climate & Natural Resources Manager  
Courtney Wilson, Urban Forester

**Mayor Gamba** called the meeting to order at 4:01 p.m.

### **1. Climate Financing – Discussion**

**Passarelli** introduced consultants Todd Chase and Martin Shaw from Financial Consultant Solutions (FCS) Group who were hired by the city to identify means for generating long-term revenue for Council’s climate goals within the city’s current revenue collection sources. **Passarelli** noted FCS had four approaches with seven different options to present. **Chase** commended Council on the city’s Climate Action Plan, introduced FCS, and **Chaw** shared FCS’ objectives for the evening.

**Chaw** presented the four general options for where fees could be included with existing city services, local transportation and green house emission calculations and then detailed what three options had been determined for adding a fee to utility bills. The group discussed option C; a fee based on the amount of water used. **Chaw** and **Passarelli** presented the option for adding a fee to the annual business license. **Chaw** presented two options for assigning fees based on transportation, the group discussed option B, made comparisons to the business license fee option, and commented on whether there could be an option that omitted multi-family dwellings. **Chaw, Passarelli** and **Chase** covered the greenhouse gas emission option.

**Chaw** presented how FCS evaluated the options they provided based on the city’s policies and goals. **Passarelli** noted concern with the three utility options and **Councilor Batey** and **Chase** compared implementation between a utility option and a greenhouse gas option. **Chaw** summarized which options scored highest and lowest.

**Chaw** explained how FCS analyzed the impact of each option on customers by designating five customer groups that ranged from single family residential homes to restaurant type businesses and shared the results of their analysis. **Mayor Gamba** and **Passarelli** clarified how the results were being presented. The group discussed the customer impact monthly charges, how the Street Surface Maintenance Program (SSMP) funding is calculated, the possibility of creating hybrid fee options, and energy use as it pertains to businesses and renewable options. **Gamba** summarized that Council was interested in the greenhouse gas version with an option to omit low-income residents from the fee including those in multi-family dwellings and **Council President Hyzy** expanded on how different multi-family dwelling developments could be evaluated.

**Ober** asked whether Council wanted to discuss using the new fee to incentivize new developments to install methods for reducing greenhouse gas emissions and **Mayor Gamba** stated interest in having the topic included in the next discussion. **Council President Hyzy** stated interest in hearing the stakeholder feedback when FCS returns. **Gamba** confirmed with **Passarelli** that staff had the direction they needed from Council.

## **2. Adjourn**

**Mayor Gamba** adjourned the meeting at 5:35 p.m.

Respectfully submitted,

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Nicole Madigan, Deputy City Recorder

**COUNCIL REGULAR SESSION**

City Hall Council Chambers, 10722 SE Main Street  
& Zoom Video Conference ([www.milwaukieoregon.gov](http://www.milwaukieoregon.gov))

**MINUTES**

JULY 19, 2022

**Council Present:** Councilors Adam Khosroabadi, Lisa Batey, Desi Nicodemus, Council President Kathy Hyzy, and Mayor Mark Gamba

**Staff Present:** Justin Gericke, City Attorney  
Ann Ober, City Manager  
Kenny Simac, Police Officer

Scott Stauffer, City Recorder  
Luke Strait, Police Chief  
Courtney Wilson, Urban Forester

**Mayor Gamba** called the meeting to order at 6:03 p.m.

**1. CALL TO ORDER**

**A. Pledge of Allegiance.**

**B. Native Lands Acknowledgment.**

**2. ANNOUNCEMENTS**

**Mayor Gamba** announced upcoming activities, including open houses at Balfour and Bowman-Brae parks, the city's Porchfest concerts and Carefree Sunday event. **Councilor Batey** noted concert in the park events and **Stauffer** announced 2022 Council election dates and process steps.

**3. PROCLAMATIONS AND AWARDS****A. Recognition of Councilor Angel Falconer's Service**

Council thanked former Councilor Falconer for serving the community and presented a recognition plaque to Falconer. **Falconer** thanked Council and staff for the support.

**4. SPECIAL REPORTS**

**A. None Scheduled.**

**5. COMMUNITY COMMENTS**

**Mayor Gamba** reviewed the public comment procedures and **Ober** reported that there was no follow-up report from the June 21 community comments.

**Pat Strauss**, Milwaukie resident, discussed a complaint and notice of violation that had been issued by the city regarding the placement of a boat on the Strauss' private property. **Mayor Gamba** asked Strauss to follow-up with Council via email and suggested staff would be in contact with Strauss as well.

**6. CONSENT AGENDA**

**It was moved by Council President Hyzy and seconded by Councilor Nicodemus to approve the Consent Agenda as presented.**

**A. City Council Meeting Minutes:**

1. June 7, 2022, work session,
2. June 7, 2022, regular session,
3. June 14, 2022, study session,
4. June 21, 2022, work session, and
5. June 21, 2022, regular session.



- B. Resolution 54-2022: A resolution of the City Council of the City of Milwaukie, Oregon, making appointments to city boards and committees.
- C. Resolution 55-2022: A resolution of the City Council of the City of Milwaukie, Oregon, authorizing a lease with T-Mobile West LLC for the purpose of installing, operating, and maintaining a communications facility.
- D. Approval of an Oregon Liquor Control Commission (OLCC) application for Milwaukie Premium Beverages, 10804 SE Oak Street – Off-Premises Sales.

Motion passed with the following vote: Councilors Khosroabadi, Batey, Nicodemus, and Hyzy and Mayor Gamba voting “aye.” [5:0]

## **7. BUSINESS ITEMS**

### **A. Behavioral Health and Outreach Positions – Discussion**

**Strait** provided an update on Milwaukie Police Department (MPD) plans to hire behavioral health and peer outreach staff, noting the department’s work on behavioral health services with the county and non-profit organizations, and how the department had addressed such issues to date. **Strait** explained that because of an increase in behavioral health related calls the department would hire staff dedicated to assisting MPD officers in responding to such calls. **Simac** commented on relationships officers had built and how dedicated behavioral health staff would benefit the community.

**Councilor Nicodemus** supported MPD hiring behavioral health staff and asked about plans to retain the new hires. **Ober**, **Simac**, and **Strait** noted how compensation and workload would be based on how other cities manage such positions and explained that a goal would be to keep the hired individuals on staff.

**Councilor Nicodemus**, **Strait**, and **Ober** noted that the behavioral health staff would not wear law enforcement uniforms and would not drive MPD vehicles.

Council thanked staff for working on the positions and building regional and community relationships around these issues. **Ober** remarked on the city’s overall approach to behavioral health and housing issues.

### **B. Main Street Trees and Sidewalks – Update** (removed from the agenda)

### **C. New City Hall Council Chambers – Update**

**Stauffer** presented an updated third floor layout of the new city hall building that included the Council Chambers. Council had no specific requests to change the layout.

## **8. PUBLIC HEARING**

### **A. None Scheduled.**

## **9. COUNCIL REPORTS**

None.

## **10. ADJOURNMENT**

It was moved by Councilor Nicodemus and seconded by Council President Hyzy to adjourn the regular session. Motion passed with the following vote: Councilors Khosroabadi, Batey, Nicodemus, and Hyzy and Mayor Gamba voting “aye.” [5:0]

**Mayor Gamba** adjourned the meeting at 7:15 p.m.

Respectfully submitted,

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Scott Stauffer, City Recorder

## COUNCIL STAFF REPORT

**To:** Mayor and City Council  
Ann Ober, City Manager

**Reviewed:** Scott Stauffer, City Recorder

**From:** Nicole Madigan, Deputy City Recorder

**Subject:** **Appointments to City Boards and Committees**

**Date Written:** August 3, 2022

---

### ACTION REQUESTED

As outlined in the Milwaukie Municipal Code (MMC), Council is asked to consider approving a resolution making appointments and reappointments to city boards and committees (BCs).

### HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

On June 30, 2022, Jay Panagos's term on the Public Safety Advisory Committee (PSAC) expired. Staff did not learn of Panagos' interest in being reappointed to PSAC until after the previous term had expired.

[On May 31, 2022](#) then Planning Commissioner Adam Khosroabadi was appointed to fill an interim position on Council, leaving a vacancy on the Planning Commission. The 2022 annual recruitment process for BCs had not produced an alternate to fill the vacant Commission seat. Staff re-opened the application process and an interview panel consisting of members of Council, the staff liaison, and BC chair met and recommended that Joshua Freeman be appointed to the Commission for the remaining two years of the four-year term.

### ANALYSIS

Authority to fill city BC vacancies is granted to the Mayor and Council by Section 26 of the City Charter. To fill vacant positions, panels consisting of members of Council, staff BC liaisons, and BC members, conduct interviews from applications received by the city. The panels make appointment recommendations to Council, which considers and typically approves recommendations through the regular session consent agenda. Appointed individuals serve for a term length determined by the MMC. Upon the completion of a term, if the individual is eligible, they may be reappointed by Council to serve another term.

BC appointments are made when a term has expired or when a position has been vacated. BC terms expire on June 30, but appointments are also made as needed to fill vacancies. All BC positions are term limited, meaning there is a limit to the number of times that members can be re-appointed.

The individual nominated for appointment to the PSAC is eligible for reappointment. If appointed by Council, this would be the second consecutive term for Panagos.

### BUDGET, CLIMATE, & WORKLOAD IMPACTS

The staff and budget of office of the city recorder (OCR) can handle the costs and workload related to supporting the city's BC recruitment process.

## COORDINATION, CONCURRENCE, OR DISSENT

The OCR worked with the PSAC's staff liaison to confirm that the nominated individual would like to continue serving on the committee and the Planning Commission's staff liaison to recruit and interview new applicants.

## STAFF RECOMMENDATION

Staff recommends making the following appointments:

**Public Safety Advisory Committee (PSAC):** two-year terms, limit of three consecutive terms for at-large members and no term limits for NDA representatives.

Position	Name	Term Start Date	Term End Date
10	Jay Panagos	8/16/2022	6/30/2024

**Planning Commission:** four-year terms, limit of two consecutive terms unless there is an interval of at least one term prior to the reappointment.

Position	Name	Term Start Date	Term End Date
6	Joshua Freeman	8/16/2022	6/30/2024

## ALTERNATIVES

Council could decline to make the recommended appointments, which would result in a vacancy on the PSAC and Planning Commission.

## ATTACHMENTS

1. Resolution



**COUNCIL RESOLUTION No.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, MAKING APPOINTMENTS TO CITY BOARDS AND COMMITTEES.**

WHEREAS Milwaukie Charter Section 26 authorizes the mayor, with the consent of the Council, to make appointments to boards and committees (BCs), and

WHEREAS two BC positions are currently vacant, and

WHEREAS the individuals named below have either been nominated by a panel of Council members, city staff, and BC representatives, or are current BC members eligible and willing to be renominated to their current BC positions, and

WHEREAS the following individuals have been nominated for appointment.

**Public Safety Advisory Committee (PSAC):**

Position	Name	Term Start Date	Term End Date
10	Jay Panagos	8/16/2022	6/30/2024

**Planning Commission:**

Position	Name	Term Start Date	Term End Date
6	Joshua Freeman	8/16/2022	6/30/2024

**Now, Therefore, be it Resolved** by the City Council of the City of Milwaukie, Oregon, that the individuals named in this resolution are appointed to the identified boards and committees of the City of Milwaukie for the term dates noted.

Introduced and adopted by the City Council on **August 16, 2022.**

This resolution is effective immediately.

ATTEST:

\_\_\_\_\_  
Mark F. Gamba, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Scott S. Stauffer, City Recorder

\_\_\_\_\_  
Justin D. Gericke, City Attorney



MILWAUKIE POLICE DEPARTMENT

Memorandum

To: Mayor Gamba and Milwaukie City Council

From: Luke Strait, Chief of Police *Luke Strait*

Through: Ann Ober, City Manager

Date: August 1, 2022

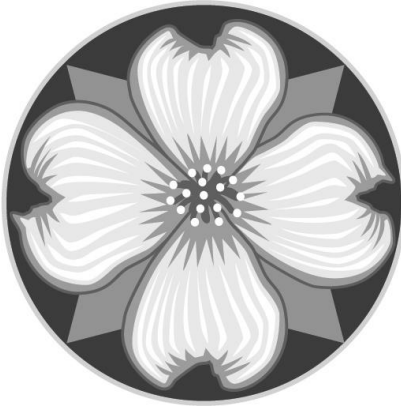
Re: OLCC Application – The Office – 10598 SE 32<sup>nd</sup> Ave , Milwaukie

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Action requested:

It is respectfully requested the council approve the OLCC application for The Office located at 10598 SE 32<sup>nd</sup> Ave, Milwaukie, OR 97222.

We have conducted a background check and find no reason to deny the request for the liquor license.



**RS Agenda Item**

**7**

**Business Items**

**COUNCIL STAFF REPORT**

**To:** Mayor and City Council

**Reviewed:** Justin Gericke, City Attorney  
Clark Balfour, Attorney, and  
Peter Passarelli, Public Works Director

**From:** Ann Ober, City Manager

**Subject:** **Five-Year Parks and Recreation Local Option Levy**

**Date Written:** Aug. 12, 2022

**ACTION REQUESTED**

Council is asked to review and approve the draft resolution and ballot measure for city voters to establish a five-year parks and recreation local option levy in place of the North Clackamas Parks and Recreation (NCPRD) tax.

**HISTORY OF PRIOR ACTIONS AND DISCUSSIONS**

[May 10, 2022](#): Council directed staff to investigate leaving the district.

[August 9, 2022](#): Council heard a presentation about parks that included a discussion about NCPRD system development charges (SDCs) and the 2018 Council resolution that supported the comingling of SDC zone funds.

**ANALYSIS**

The following is included in the resolution and provides the analysis for the action.

[The attached] measure will not increase taxes. Instead, this measure maintains the previous rate imposed by NCPRD, but directs the funds raised by the levy to the city rather than NCPRD in the event the city withdraws from NCPRD.

The City of Milwaukie intends to assume the role of the parks and recreation provider from NCPRD. Property owners currently pay property taxes to NCPRD at the rate of \$0.5382 per \$1000 of assessed value (approximately \$108/year for the Milwaukie median home value).

Milwaukie is asking voters to consider a levy at the same rate as the current NCPRD tax. If approved, the levy would replace the funds that residents currently pay to NCPRD and direct those resources to the City for parks maintenance and recreation programming. If the city does not withdraw from NCPRD, the city will not collect this rate to avoid duplicate taxation of property owners in Milwaukie.

It is estimated that this rate will generate approximately \$1,350,000 per year over the next five years. Should this levy fail, the city would not have enough resources to maintain the parks or provide recreation programming. The amount of funds raised by this proposed levy for each of the next five fiscal years is estimated to be as follows: FY 2023/24: \$1,271,000; FY 2024/25: \$1,309,000; FY 2025/26: \$1,349,000; FY 2026/27: \$1,389,000; FY 2027/28: \$1,431,000, for an estimated total of \$6,748,000.

The City of Milwaukie owns all of the parks within the city limits including the majority of the land within North Clackamas Park. The city also owns the Milwaukie Community Center. The

city is currently constructing Balfour, Bowman-Brae, and Scott Park. In 2025, the city is scheduled to reconstruct Dogwood Park.

This measure would allow the city to collect revenue beyond its permanent tax rate on a five-year basis dedicated to parks and recreation service.

This proposed levy continues the overall existing tax rates. Instead of \$0.5382/\$1,000 of assessed value going to NCPRD, the levy will direct that amount to the city to be used for park maintenance and recreation programming.

#### **BUDGET IMPACT**

Placing this item on the ballot will lead to the use of city resources to educate the public about the measure.

#### **WORKLOAD IMPACT**

Placing this item on the ballot will lead to the use of limited staff time to educate the public about the measure.

#### **ATTACHMENTS**

1. Resolution and Ballot Measure Title





**COUNCIL RESOLUTION No.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, CALLING FOR AN ELECTION IN THE CITY OF MILWAUKIE ON NOVEMBER 8, 2022 TO SUBMIT TO CITY VOTERS THE ESTABLISHMENT OF A FIVE-YEAR PARKS AND RECREATION LOCAL OPTION LEVY IN PLACE OF THE NORTH CLACKAMAS PARKS AND RECREATION TAX.**

**WHEREAS** public park and recreation services are some of the most important community services provided for the community members of Milwaukie; and

**WHEREAS** park and recreation services are currently provided to the community members of Milwaukie by the North Clackamas Parks and Recreation District (NCPRD); and

**WHEREAS** the Council believes that it is in best interest of the community members of Milwaukie to re-establish a city-run parks department to provide the services currently provided to the city by NCPRD; and

**WHEREAS** the Council has determined that in order to do so there is a need to seek funding from property owners in Milwaukie of approximately one million three hundred and fifty thousand dollars (\$1,350,000) per year in order to provide dedicated park maintenance and recreation services in Milwaukie for the fiscal years 2023/2024 through 2027/2028; and

**WHEREAS** the Council finds it is in the best interest of the community members of Milwaukie to submit to the voters a local option levy for parks and recreation services of \$0.5382 per \$1,000 of assessed value for five years beginning with Fiscal Year 2023/24; and

**WHEREAS** this levy is equal to the tax rate that property owners in Milwaukie have paid and are currently paying to NCPRD, and

**WHEREAS** the city will not impose this levy if the city does not withdraw from NCPRD or otherwise establish a city-run parks department.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Milwaukie, Oregon that:

**Section 1.** An election is hereby called in and for the City of Milwaukie, Clackamas County, Oregon, to submit to the legal voters of the city the following question:

**Shall Milwaukie maintain a tax rate of \$0.538/\$1,000 previously levied by NCPRD for parks and recreation provided by the city?**

**Section 2.** Tuesday, November 8, 2022 is hereby designated as the date for holding the election for voting on the measure.

**Section 3.** The election shall be conducted by the Clackamas County Elections Department.

**Section 4.** The precincts for said election shall be and do constitute all of the territory included within the corporate limits of the City of Milwaukie.

**Section 5.** The ballot title to appear on the ballots shall read as follows:

**CAPTION: APPROVAL OF MILWAUKIE PARKS AND RECREATION LEVY FOR FIVE-YEARS**

**QUESTION: Shall Milwaukie maintain a tax rate of \$0.538/\$1,000 previously levied by NCPRD for parks and recreation provided by the city? This measure may cause property taxes to increase more than three percent.**

**SUMMARY:**

This measure replaces and maintains the current rate imposed by the North Clackamas Parks and Recreation District (NCPRD), but directs the funds raised by the levy to the city rather than NCPRD in the event the city withdraws from NCPRD.

Milwaukie intends to resume the role of the parks and recreation provider from NCPRD. Property owners currently pay property taxes to NCPRD at the rate of \$0.5382 per \$1000 of assessed value.

If approved, the levy would replace the funds that property owners currently pay to NCPRD and direct those resources to the city for park maintenance and recreation programming. If the city does not withdraw from NCPRD, the city will not collect this rate to avoid duplicate taxation of property owners in Milwaukie.

It is estimated that this rate will generate approximately \$1,350,000 per year over the next five years. Should this levy fail, the city would not have enough resources to maintain the parks or provide recreation programming. The amount of funds raised by this proposed levy for each of the next five fiscal years is estimated to be as follows: FY 2023/24: \$1,271,000; FY 2024/25: \$1,309,000; FY 2025/26: \$1,349,000; FY 2026/27: \$1,389,000; FY 2027/28: \$1,431,000, for an estimated total of \$6,748,000.

**Section 6.** Consistent with ORS 251.345, the City Recorder is hereby authorized to submit an impartial explanatory statement for the Clackamas County Voters' Pamphlet on behalf of the city to read substantially similar to the following:

**EXPLANATORY STATEMENT:**

This measure replaces and maintains the current rate imposed by the North Clackamas Parks and Recreation District (NCPRD), but directs the funds raised by the levy to the city rather than NCPRD in the event the city withdraws from NCPRD.

The City of Milwaukie intends to resume the role of the parks and recreation provider from NCPRD. Property owners currently pay property taxes to NCPRD at the rate of \$0.5382 per \$1000 of assessed value.

Milwaukie is asking voters to consider a levy at the same rate as the current NCPRD tax. If approved, the levy would replace the funds that residents property owners currently pay to NCPRD and direct those resources to the city for parks maintenance and recreation programming. If the city does not withdraw from NCPRD, the city will not collect this rate to avoid duplicate taxation of property owners in Milwaukie.

It is estimated that this rate will generate approximately \$1,350,000 per year over the next five years. Should this levy fail, the city would not have enough resources to maintain the parks or provide recreation programming. The amount of funds raised by this proposed levy for each of the next five fiscal years is estimated to be as follows: FY 2023/24: \$1,271,000; FY 2024/25: \$1,309,000; FY 2025/26: \$1,349,000; FY 2026/27: \$1,389,000; FY 2027/28: \$1,431,000, for an estimated total of \$6,748,000.

The City of Milwaukie owns all of the parks within the city limits including the majority of the land within North Clackamas Park. The city also owns the Milwaukie Community Center. The city is currently constructing Balfour, Bowman-Brae, and Scott Park. In 2025, the city is scheduled to reconstruct Dogwood Park.

This measure would allow the city to collect revenue beyond its permanent tax rate on a five-year basis dedicated to parks and recreation service.

This proposed levy continues the overall existing tax rates. Instead of \$0.5382/\$1,000 of assessed value going to NCPRD, the levy will direct that amount to the city to be used for park maintenance and recreation programming.

**Section 7.** A copy of the ballot title shall be published in the next available edition of a newspaper of general distribution in the city as well as notice of the seven day challenge ballot title challenge period as required in ORS 250.296.

**Section 8.** This resolution is effective upon its adoption by the City Council.

Introduced and adopted by the City Council on **August 16, 2022**.

This resolution is effective immediately.

---

Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

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Scott S. Stauffer, City Recorder

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Justin D. Gericke, City Attorney

**Scott Stauffer**

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**From:** Lisa Lashbrook <lisamlashbrook@gmail.com>  
**Sent:** Tuesday, August 16, 2022 6:14 PM  
**To:** Scott Stauffer  
**Cc:** Ann Ober; Kathy Hyzy; Mark Gamba; Adam Khosroabadi; Lisa Batey; Desi Nicodemus  
**Subject:** Testimony for Parks

**This Message originated outside your organization.**

---

Hello Scott, Ann and members of the council,

I have another commitment tonight and can only watch part of the meeting, so I decided to give a brief written testimony.

My name is Lisa Lashbrook and I have resided in the Lewelling neighborhood for 26 years. I served on the Parks and Recreation Board for the City of Milwaukie for 8 years, first as Vice Chair, and then Chair. I also served on the Steering Advisory Committee for the design selection for Milwaukie Bay Park.

I am in support of the resolution to put the tax levy to fund parks and recreation for the City of Milwaukie on the ballot. I also support SDC's that are generated from within the city to be retained by the City for parks in Milwaukie.

Thank you for your time and consideration,  
Lisa



CITY OF MILWAUKIE  
CITY COUNCIL

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

# Speaker Registration

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

Name: GARY KLEIN

Address: 10795 SE RIVERWAY LANE,

Organization:

Phone: 503/780-2294 MIL., OR.

Email:

Meeting Date: 8.16.22

Topic: PARK LEVY BALLOT REFERRAL

Agenda Item You Wish to Speak to:

You are Speaking...

#4 Audience Participation

in Support

#5 Public Hearing, Topic:

in Opposition

#6 Other Business, Topic:

from a Neutral Position

7. A. Parks Levy

to ask a Question

Comments:



CITY OF MILWAUKIE  
CITY COUNCIL

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## Speaker Registration

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

Name: REBECCA STAVERJORD

Organization:

Address: 4467 SE MASON HILL DR  
Phone: 503-810-7873  
Email: staverjord@gmail.com

Meeting Date: 9/16/22 Topic: PARKS

Agenda Item You Wish to Speak to:

- #4 Audience Participation
- #5 Public Hearing, Topic:
- #6 Other Business, Topic: PARKS

You are Speaking...

- in Support
- in Opposition
- from a Neutral Position
- to ask a Question

Comments:

**COUNCIL STAFF REPORT**

**To:** Mayor and City Council

**Date Written:** Aug. 12, 2022

**Reviewed:** Justin Gericke, City Attorney, and  
Peter Passarelli, Public Works Director

**From:** Ann Ober, City Manager

**Subject:** **Resolution to Retain NCPRD System Development Charge (SDC) Zones**

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**ACTION REQUESTED**

Council is asked to consider adopting a resolution rescinding its previous support for comingling system development charge (SDC) zones in the North Clackamas Parks and Recreation District (NCPRD).

**HISTORY OF PRIOR ACTIONS AND DISCUSSIONS**

[April 3, 2018](#): Council approved a resolution in support of comingling NCPRD SDCs.

[August 9, 2022](#): Council heard a presentation about parks that included a discussion about NCPRD SDCs and the 2018 resolution.

**ANALYSIS**

In April 2018, the Council adopted a resolution supporting the comingling of NCPRD SDCs. Currently, these funds are segregated by zones and this process would combine the funds into a single account. The Milwaukie City Council's position on zone specific versus districtwide expenditure of parks SDCs was issued before recent discussions between NCPRD and the city regarding the city leaving the district. Given Council's recent direction to explore the possibility of the city leaving the district, staff have submitted the attached resolution to retract the 2018 resolution.

**BUDGET IMPACT**

None.

**WORKLOAD IMPACT**

None.

**ALTERNATIVES**

Council could continue to support the comingling of NCPRD SDCs.

**ATTACHMENTS**

1. Resolution Against Eliminating NCPRD SDC Zones.



**COUNCIL RESOLUTION No.****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, RECINDING SUPPORT FOR ELIMINATING ZONES WITHIN THE NORTH CLACKAMAS PARKS AND RECREATION DISTRICT FOR THE PURPOSES OF SYSTEM DEVELOPMENT CHARGE FUND DISTRIBUTION.**

**WHEREAS** on April 3, 2018, City Council approved a resolution to support the elimination of fund zones within the North Clackamas Parks and Recreation District (“NCPRD”) and thereby supporting the comingling of System Development Charges (“SDC”); and

**WHEREAS** circumstances have changed since that time and the City Council is now considering withdrawing from NCPRD and recreating a city-run parks department to provide parks and recreation services to the residents of Milwaukie; and

**WHEREAS** this change in circumstances has caused the City Council to reevaluate its support for eliminating the fund zones; and

**WHEREAS** the City Council finds that the existing district policy that requires SDCs to be used within the fund zone from which they were generated is more equitable as it requires SDCs generated within the City of Milwaukie to be used in the City of Milwaukie.

**Now, Therefore, be it Resolved** by the City Council of the City of Milwaukie, Oregon, that the Milwaukie City Council rescinds its support for the elimination of fund zones within NCPRD; and

**Be it Further Resolved** that Milwaukie City Council authorizes the Mayor, City Council and staff to advocate continued use of funding zones within the district.

Introduced and adopted by the City Council on **August 16, 2022**.

This resolution is effective immediately.

---

Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

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Scott S. Stauffer, City Recorder

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Justin D. Gericke, City Attorney

**COUNCIL STAFF REPORT**

**To:** Mayor and City Council  
Ann Ober, City Manager

**Date Written:** Aug. 5, 2022

**Reviewed:** Peter Passarelli, Public Works Director  
Kelli Tucker, Accounting and Contracts Specialist, and  
Justin Gericke, City Attorney

**From:** Kelly Brooks, Assistant City Manager

**Subject:** **Cooperative Agreement for Kellogg Creek Restoration & Enhancement Project**

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**ACTION REQUESTED**

Council is asked to receive an update on development of a cooperative agreement with North Clackamas Watershed Council (NCWC) for the purposes of administering \$585,000 in Congressional Directed Spending (CDS) funds awarded to the Kellogg Creek Restoration and Community Enhancement Project. Staff will also provide a brief update on a grant application submitted on August 15 to obtain additional design funds for dam removal.

**ANALYSIS****Congressionally Directed Spending (CDS) - Awarded**

In March 2022, Congress passed an omnibus spending bill which included \$585,000 in congressionally directed spending for a Kellogg Dam Channel Study. NCWC worked directly with United States (US) Senator Jeff Merkley's office to request the funds. While NCWC will be the primary subrecipient of the funding, they are not eligible to receive the dollars directly from the National Oceanic and Atmospheric Administration (NOAA). Therefore, the city must receive and administer the funds in accordance with all applicable rules and regulations. The purpose of the attached cooperative agreement is to ensure that the primary subrecipient, NCWC, and any other subrecipients, agree to fulfill all federal responsibilities prior to the city releasing the first round of funds in the fall of 2022.

The attached draft is still under review by NOAA, the city attorney, and NCWC and will change prior to final adoption. The purpose of the August Council discussion is to provide an update on the timing of the funds, the restrictions and rules related to their use, and answer any questions in advance of a September vote to approve the cooperative agreement.

**Restoring Fish Passage through Barrier Removal Grants – Application Pending**

Up to \$65 million in funding is available under the federal Bipartisan Infrastructure Law for fish passage projects that will remove in-stream barriers. This funding will support transformational projects that reopen migratory pathways and restore access to healthy habitat for fish around the country. NCWC has partnered with the non-profit group American Rivers to submit a \$15 million grant request on August 15. If secured, these funds would substantially complete design of all elements of the project including bridge replacement, channel design and lakebed restoration.

**BUDGET IMPACT**

The city will claim a total of \$45,091 from the CDS grant to provide administrative oversight and support to meet grant reporting requirements, technical review, and technical advisory committee participation. The city will also retain an additional \$6,759.40 to cover indirect costs associated with the funds.

**WORKLOAD IMPACT**

City staff will provide oversight and ensure grant compliance. City staff will disburse funds to the subrecipient (NCWC) and complete federal financial reports and required audits, and NOAA Performance Progress Reports. Workload will be interdependent on evolving project needs and any unforeseen changes in the scope of work.

**CLIMATE IMPACT**

Restoration of Kellogg Creek will help restore up to 14 acres of floodplain connectivity and riparian habitat to reduce flood risk, provide shading, create ecological uplift, and stabilize water temperature.

**COORDINATION, CONCURRENCE, OR DISSENT**

In early 2022, NCWC coordinated key partners in forming a project Technical Advisory Committee (TAC). The TAC will provide technical support to address constraints associated with design and permitting and ensures a collaborative design process will be conducted. The TAC is comprised of representatives from:

- NCWC
- NOAA Fisheries
- American Rivers
- Oregon Department of Fish and Wildlife (ODFW)
- Oregon Department of Transportation (ODOT)
- Oregon Division of State Lands (DSL)
- Oregon Department of Environmental Quality (DEQ)
- US Fish & Wildlife Services
- Confederated Tribes of the Warm Springs Indian Reservation
- Confederated Tribes of the Grande Ronde
- Clackamas County Water Environment Services (WES)
- North Clackamas Parks & Recreation District (NCPRD)
- Native Fish Society

**STAFF RECOMMENDATION**

Not applicable.

**ALTERNATIVES**

Not applicable.

**ATTACHMENTS**

1. CDS Project Narrative
2. Barrier Removal Grant Project Narrative (if provided by NCWC to staff)

# Narrative

## **Kellogg Creek Restoration & Community Enhancement Project** *Restoring Habitat and Fish Passage, Strengthening Community, and Updating Infrastructure*

### **Summary**

Removing Kellogg Dam and restoring fish passage into the Kellogg – Mt. Scott Watersheds is the highest-priority fish passage project in Oregon owned by ODOT (ODFW, 2020). The dam was built before statehood and has served no functional purpose since the 1890s. The Highway 99E Kellogg Creek Bridge, resting on the dam, is rated as earthquake vulnerable.

This project will:

- Restore volitional fish passage past Kellogg Dam and create access to Kellogg & Mt. Scott Watershed's spawning and juvenile rearing and migration habitat for Willamette and Lower Columbia ESA-listed salmonids
- Remove the existing impoundment behind the dam that has flooded the lower portion of Kellogg Creek and restore a natural channel and stream biophysical processes
- Create a new publicly accessible natural area, improved access to Milwaukie Bay Park, the Willamette River, Downtown Milwaukie, and the Orange Line MAX with a trail undercrossing of Highway 99E
- Restore needed floodplain storage and reduce flood risk to adjacent properties.
- Remove a warm-water hazard to aquatic life and contribute to species climate resiliency
- Produce quality of life improvements for the community and increase public accessibility to nature for low-income communities and communities of color
- Provide an unparalleled example of stream restoration in an area of high visibility allowing many education opportunities and increased public understanding of natural system functioning and its benefits to society
- Create 563 jobs in construction and environmental restoration
- Leverages \$8 million in OWEB funding invested in restoring the Clackamas Fish Populations.
- The project has a proven successful analog in lower Rinearson Creek at its confluence with the Willamette River. Following removal of a similar dam in Gladstone in 2017, over 500 juvenile Chinook salmon returned to the restored habitat.

Previous efforts to begin planning for Kellogg Dam removal and a restored lower Kellogg Creek have been made at different times since 2010. Project planning will build upon the stakeholder support and studies conducted since 2010 and leverage private and public funding to advance planning of a project that can be successfully delivered

with Infrastructure Investment & Jobs Act funding. We will utilize these appropriated funds to advance integrated planning of the Kellogg Restoration Project, including site studies and assessments needed for permitting and design, development of the project management framework with all project elements integrated, and coordination of partners and stakeholders to ensure all necessary issues, risks and constraints are being considered and addressed so the project can efficiently move through planning.

## **Statement of Need and Benefits**

### **Ecological Significance**

Kellogg Dam is the #1 statewide fish passage priority for ODOT-owned infrastructure as ranked by the Oregon Wildlife Commission. Located at the confluence of Kellogg Creek and the Willamette River, Kellogg Dam blocks passage into all of Kellogg and Mt. Scott watersheds, including 14.8 miles of mainstem and tributaries. Restoring fish passage and eliminating the warm-water impoundment behind the dam will benefit threatened and endangered salmonids and other priority species, including winter steelhead, Chinook and coho salmon, Pacific lamprey, and cutthroat trout. ESA-listed salmon and steelhead from the Clackamas River and upper Willamette Basin use the lower Willamette River and its tributary junctions and lower reaches; for migration, and creek confluences in the lower Willamette provide critical and limited off-channel rearing habitat for juveniles. In addition, the project will open 7.8 miles of juvenile rearing habitat and spawning habitat, including spawning habitat in Upper Mt. Scott Creek.

Specifically, the project will:

- Address critical habitat needs of ESA-listed salmon and steelhead, including multiple ESUs: Upper Willamette steelhead, Lower Columbia River steelhead, Lower Columbia River coho salmon, and Upper Willamette River Chinook salmon.
- Address multiple critical needs in the ESA Recovery Plan for Lower Columbia River coho salmon, Lower Columbia River Chinook salmon, Lower Columbia River chum salmon, and Lower Columbia River steelhead, as well as addressing key limiting factors cited in the Oregon Department of Fish and Wildlife's Lower Columbia River Conservation & Recovery Plan for Oregon Populations of Salmon and Steelhead, and the Upper Willamette River Conservation & Recovery Plan for Chinook Salmon & Steelhead.
- Support Pacific lamprey access to important spawning and rearing habitat.
- Provide access to cold-water tributaries as the Willamette River mainstem more frequently exceeds 22\* C (USGS, 2018; DEQ, 2020), and reduce the water quality impact of the warming created by Kellogg Lake.
- Provide up to 14 acres of increased floodplain storage for reduced flood risk and restore a natural stream channel.

This request for appropriated funds is the result of a stakeholder process involving the North Clackamas Watersheds Council (NCWC), the City of Milwaukie (City), the Natural Resources Office of Governor Kate Brown (Governor's Office), multiple state agencies,

Metro, The Confederated Tribes of the Warm Springs Indian Reservation, the Confederated Tribes of Grande Ronde, the Native Fish Society, the United States Fish & Wildlife Service (USFWS), NOAA Fisheries (NMFS), American Rivers (AR), and private, state, and local funders to restore a free-flowing Kellogg Creek.

### **Environmental Equity and Significance to Disadvantaged and Minority Communities**

Disadvantaged and minority communities are disproportionately impacted by pollution burdens that negatively affect their physical health and have higher rates of respiratory disease, as well as reduced quality of life access to green, natural, and outdoor recreation spaces (EPA, 2010). Revegetation of the current lakebed will provide additional trees and a shaded natural area for relief from extreme heat events, a reduction in air pollution and urban heat island index, and increased carbon sequestration of greenhouse gas emissions.

Access to nature for healthy exercise is particularly important to low-income populations and populations of color, which has been highlighted during the Covid pandemic. The pandemic highlighted longstanding disparities in who has access to venues for exercise and experiencing nature.

The Kellogg-Mt. Scott watershed's human population is more diverse than Oregon as a whole, with Latinx and Asian populations above the statewide average. (US Census Bureau, RLIS, Zohner, 2018). The Census tract containing Kellogg Dam (#410050210002) is the most racially diverse tract in Milwaukie. The Census FIPS areas containing the north shore of Kellogg Lake (#41005020800) is the second most diverse census tract in Milwaukie and has been identified as a low-income community by the US Small Business Administration (8.3% poverty rate). These two tracts rate the worst (6.9 out of 10) in Milwaukie in terms of Pollution Index (10 being the most polluted) (Shandas, 2021). In 2022, Metro identified the Kellogg-Mt. Scott Watersheds as offering multiple opportunities to increase equity and to address the watershed's low access to nature, low environmental justice scores, and high environmental burdens, especially in the western portion of the watershed, including the area near Kellogg Dam (Metro, 2022).

Kellogg Dam and the project site is located two blocks from Milwaukie High School, whose students routinely use the Kellogg Lake pedestrian Bridge, Kronberg Park, and the Milwaukie Presbyterian Church Nature Sanctuary within the project area. Milwaukie High School is made up of 49% students of color and 59% students on free/reduced lunch. The school district has seen a 92% increase in students of color from 2010 to 2020 (North Clackamas School District, 2022). Students of color comprise a higher percentage of the student population than the adult population, indicating that the future population of these watersheds will be increasingly diverse. High School students have been involved in making a video history of Kellogg Dam and in restoration projects in the riparian zone of the current impoundment. The project will provide many additional opportunities for environmental awareness, evidence based and interactive learning, scientific research and involvement with monitoring and/or adaptive management of the

restored stream channel and floodplain as a real-world laboratory. With additional awareness and interaction between nature and students, we envision a longer-term opportunity to increase the diversity of the workforce seeking a career in the environmental industry with implications for longer-term environmental justice and broad societal benefit.

Two Indian Tribes, the Confederated Tribes of the Warm Springs Indian Reservation, and the Confederated Tribes of the Grande Ronde) consider the area part of their traditional territory and their usual and accustomed places. Both are engaged in planning and have representatives on the project Technical Advisory Committee. Kellogg Creek is historical Pacific lamprey habitat, a culturally important species for both tribes. The Confederated Tribes of the Warm Springs Indian Reservation have formally petitioned ODOT and the Governor's Office to prioritize this project for the significant cultural resource benefits it would provide.

#### Other Project Benefits:

Additional surrounding community benefits include:

- Providing a trail crossing of Highway 99E to connect bike/pedestrians from downtown Milwaukie and light rail to Milwaukie Bay Park/and the Willamette River as Milwaukie Bay Park becomes more heavily used.
- Creating new access and recreational opportunities in a new natural area.
- Connecting pedestrian and bicycle routes to the Trolley Trail, Kronberg Park, and Light Rail (Milwaukie Downtown Max Station), and Milwaukie High School to increase public accessibility to a natural resource.
- Further revitalizing downtown Milwaukie with a restored stream at the center.
- Creating jobs in construction and environmental restoration. The project will create an estimated 453 jobs based on methodology developed by the University of Oregon (Economic Policy Institute, 2019, Neilsen-Pincus & Moseley, 2010).

#### Future Science, Stewardship and Education Opportunities

Many opportunities exist to engage diverse populations, as well as Milwaukie High School, mentioned above, and those at its nearby feeder school, Rowe Middle School, located just upstream of the impoundment behind the dam. These include:

- Student monitoring and documenting of changes in the area as the lake impoundment is restored to a natural stream channel with volitional fish passage. This could include monitoring of vegetation change, photo points, fish surveys, wildlife habitat surveys, managing wildlife cameras, water sampling, etc. These activities have multiple rich service-learning opportunities to tie directly to science, math, language arts, and other curricula.
- Stewardship of the restored river channel, including tree planting, weed management, monitoring vegetation survival, trail construction and maintenance, leading tours of the restored natural area, etc.
- Creation of interpretive signage and interpretive programs. These could be designed by Native American tribal partners to ensure that their history is articulated as well as to convey the story of dam removal and restoration.

- Engagement of local residents, graduate students, and Milwaukie High School in monitoring fish upstream of the dam site as fish passage is restored, modeled after Johnson Creek Watershed Council's salmon survey community science project. Because salmon are noted well upstream in upper Mt. Scott Creek after the 4-5 days/year when the Willamette River is high enough for adult salmon and steelhead to move upstream, this will be a watershed-wide monitoring effort and will need to use multiple methodologies to determine increased habitat use by multiple species and life stages of salmon, steelhead, trout, and lamprey.

### **Project History:**

Kellogg Dam was constructed in 1858, before either Oregon statehood or the Civil War, for a flour mill. The mill stopped operation in the 1890s, but the dam was left in place and has served no purpose since.

In 1932, Highway 99E was built atop Kellogg Dam. The bridge, now 90 years old, is earthquake vulnerable. A fish ladder was constructed in 1934 and again in the 1970s, both with little to no fish passage efficiency. Various studies and planning efforts related to the current project being proposed were conducted by a number of local, state, and federal entities between 2001 and 2018. A review of and information acquired from those efforts helped to shape the current understanding of the proposed project and allow identification of desired project outcomes for project goal development, with a better understanding of constraints and issues that need to be addressed.

### **Project Goals and Objectives**

The draft project goal statement is to remove a barrier at the mouth of Kellogg Creek to restore volitional fish passage, critical habitat, and floodplain habitat; improve water quality, flood conveyance, recreational access, and pedestrian safety; reduce interdependency of constraining infrastructure on Kellogg Dam for long-term resilience; and create educational opportunities and quality of life benefits for the surrounding diverse community.

Collaborative stakeholder development of specific, measurable, achievable, realistic, time-based, inclusive, and equitable (SMARTIE) objectives are currently under development by the project's Technical Advisory Committee. The goal statement and objectives statement will be confirmed in July 2022. Objectives will encompass the following desired outcomes and key aspects of the project:

- Provide volitional fish passage past Kellogg Dam to access to 14.8 miles of the greater Kellogg-Mt Scott watershed for species resiliency to climate change impacts
- Restore a naturally functioning stream channel through the previous impoundment created by the dam to improve water quality and ecological function, address contaminated sediment stored in the impoundment, and provide thermal refugia riverine habitat for off-channel utilization by fish species.
- Restore up to 14 acres of floodplain connectivity and riparian habitat to reduce flood risk, provide shading, and create ecological uplift.



- Reduce or eliminate dependence of the Oregon State Highway 99E Bridge on the Kellogg Dam, improve or modernize the bridge to ensure seismic criteria compliance for long-term bridge infrastructure resiliency, and address any other adjacent infrastructure constraints on the project goal.
- Create and/or improve access connectivity between City, park, and restored resources for public access with a focus on improved pedestrian safety, access, recreational opportunities, and project awareness through informational kiosks
- Equitably engage diverse, minority, and disadvantaged stakeholders to address needs, incorporate input and considerations, and collaborate to develop educational opportunities and benefits to the surrounding community

### **Project Initiation and Collaborative Framework**

In 2018, NCWC, the City, Governor's Office, ODOT, ODFW, DEQ, NOAA Fisheries, USFWS, and other partners launched a stakeholder engagement effort to identify next steps to move the project forward. This effort identified the need for additional site studies, development of design concepts, and stakeholder selection of a preferred design alternative. Fulfilling this need will create a pathway to implementation by integrating and addressing planning needs for all elements of the project, including fish passage, restoration of the stream channel and floodplain, bridge replacement, improved public safety and recreational access, among others. Funding support from private foundations, state agencies, and in-kind contributions from partners above enabled that effort.

In late 2021, NCWC, the City, American Rivers, and ODOT began project management coordination of the proposed project. These entities will serve as the Leadership Team and have ultimate responsibility for delivering the project as the project sponsor and project management team.

In early 2022, NCWC coordinated key partners in forming a project Technical Advisory Committee (TAC). The TAC will provide technical support to address constraints associated with design and permitting and ensures a collaborative design process will be conducted. The TAC is comprised of representatives of:

- City of Milwaukie
- North Clackamas Watersheds Council
- NOAA Fisheries
- American Rivers
- Oregon Dept. of Fish & Wildlife
- Oregon Dept. of Transportation
- Oregon Division of State Lands
- Oregon Dept. of Environmental Quality
- NOAA Fisheries
- US Fish & Wildlife Service
- Confederated Tribes of the Warm Springs Indian Reservation
- Confederated Tribes of the Grande Ronde

- Clackamas Water Environment Services
- North Clackamas Parks & Recreation District
- Native Fish Society

Iterative review by the TAC with critical input from regulatory agencies will be facilitated through at least five TAC meetings in 2022. That same collaborative TAC role in design development and addressing permitting requirements will continue until final design has been completed and project permits secured. The broader community will also be engaged through meetings, presentations, and outreach soliciting their input and feedback to optimize their realization of project benefits, while also allowing the project planning timeline to be streamlined as much as possible given the inherent complexity of the project.

### **Current Phase and Allocation of FY22 Appropriations Act Funding**

Appropriations fill a critical gap in the Feasibility & Design phases.

Inter-fluve, Inc. and a team of subcontractors, including a bridge expert, was retained in May 2022 to provide professional services and has initiated the feasibility phase with the goal of completing key site studies and modeling, alternatives analysis, and development of conceptual design alternatives for restoration. The selection of a preferred restoration alternative that best meets the project goal, the site analysis performed by Interfluve, and assessment of infrastructure constraints and recommendations will combine to inform ODOT's development of bridge design.

Several additional site studies and consideration of built infrastructure integration is proposed for completion with the appropriated funding and is outlined below. This will allow the primary interdependent project elements (barrier removal, bridge, stream and floodplain restoration through the previous impoundment) to advance together in an integrated fashion through the formal planning phase to include advanced stages of design and permitting.

The appropriated funding for the project will answer remaining feasibility questions and allow integration of:

- project management, stakeholder coordination, communication, and outreach;
- completion of critical site studies to inform identification of a streamlined permitting pathway and design of all project elements;
- and transition to integrated planning of all project elements with a more targeted focus on infrastructure constraints.

Specific activities, products, sub-award recipient, and contract services funded through this proposal are detailed in the Budget Justification Narrative and Budget worksheet. Additional funding will be sought in the future for final design, permitting, construction, and post-project monitoring.

### **Project Phase Timeline with Outcomes Description**

Appropriations fill a critical gap in the Feasibility & Design phases and the transition between them.

The table below outlines the project phases and provides a brief description of what each phase entails or key outcomes. The grey-shaded feasibility phase is the current phase where appropriated funds will be primarily utilized.

Project Phases with Description	Status/Target
<p><b>Scoping and Project Initiation</b> Key stakeholders coordinated on leadership and technical teams, site studies and feasibility effort scoped, and consultant procured to initiate the project feasibility phase.</p>	<p>Complete: 2021 - May 2022</p>
<p><b>Feasibility (Pre-Design) (This phase)</b> Site Studies and H&amp;H modeling, Conceptual Restoration Design Alternatives Development, Alternatives Analysis, Range of Magnitude Cost Estimate, and Project Fundraising for final planning, construction, and monitoring phases. A preferred alternative will be selected and implementation pathway defined in this phase.</p>	<p>Underway: 2022-2023</p>
<p><b>Design and Permitting:</b> Preliminary to Final Design with design review at several design milestones completed, project permits secured, and remaining project funding secured. Bid document finalization will occur at the end of this phase.</p>	<p>2023 - 2025*</p>
<p><b>Construction:</b> Contractor procurement, Mobilization, Implementation, As-built surveys, Substantial Completion achieved</p>	<p>2026-2027</p>
<p><b>Post-Project:</b> Effectiveness Monitoring &amp; Adaptive Management</p>	<p>2027-2032</p>
<p>*Conservative Estimate. The goal is to integrate project elements in design and permitting, and secure all funding needed to fast track the project for earlier implementation. The project will be evaluated after the Feasibility Phase to determine its eligibility for an alternative delivery method, which could speed project delivery.</p>	

**Qualifications of Applicant and Sub-Award Recipient**

The City of Milwaukie owns much of the overall project footprint and will have long-term management responsibilities. The City has a key interest in preserving and enhancing the quality of life for the City’s population and therefore the opportunities and resources available to them. The City has a key role in defining project goals and objectives, and

ensuring City requirements are met to achieve desired outcomes. The City has received and administered many grants, frequently sponsors public works projects, and has partnered with NCWC for years to achieve greater benefits in the watershed for the community.

The North Clackamas Watersheds Council (NCWC) has a vested interest in Kellogg Creek watershed restoration and developed key partnerships and raised critical seed funding to initiate the first phase of project planning. NCWC had led many restoration projects in the Kellogg-Mt Scott watershed, has a history of securing and managing grant funds and overseeing consultants, and is the primary contact for the project.

American Rivers (AR) NW Dam Removal program staff focuses on developing and managing dam removal projects, coordinating a broad range of project partners and stakeholders, and guiding design, permitting and fundraising through an integrated planning process so complex high-quality projects can be completed faster than is traditional. Program staff specialize in complex river restoration projects that involve water resource infrastructure components, in either a direct project development role or management role. American Rivers will provide direct support to NCWC and the City in project management plan, process development, and project fundraising.

Inter-Fluve has completed over 2,400 river restoration projects across the United States and on four continents, and has worked on 135 dam removal project focused on improving fish passage and aquatic habitat. Marty Melchior is one of the country's leading dam removal experts. Marty has been a key player in the development of national dam removal standards of practice, having written some of the first scopes of work for dam removals in New England and the Midwest, and helped numerous states develop dam removal standards of practice. Marty was an invited participant in the Federal Subcommittee on Sedimentation taskforce that developed sediment management guidelines for dam removal (USBR 2019), and has managed or designed over 40 dam removal projects across the country. Inter-Fluve has conducted over 50 dam removal feasibility studies across the country, and has in experience covers all aspects of dam removal and impoundment restoration, including concept design, final design, sediment management plans, drawdown and demolition plans, water routing and dewatering plans, infrastructure protection plans, and river and floodplain restoration plans.



# Kellogg Dam Project Update

Kelly Brooks  
8/16/2022

# Project Overview

- Restore fish passage past Kellogg Dam and create access to Kellogg & Mt. Scott Watershed's spawning and juvenile rearing and migration habitat for Willamette and Lower Columbia ESA-listed salmonids
- Remove the existing impoundment behind the dam that has flooded the lower portion of Kellogg Creek and restore a natural channel
- Restore needed floodplain storage and reduce flood risk to adjacent properties.
- Remove a warm-water hazard to aquatic life and contribute to species climate resiliency



# Congressionally Directed Spending (CDS)

## Scope

- Establish a preferred alternative for the channel design.

## Schedule

- Funding begins in Fall of 22 and will continue for three years.

## Funding

- \$585,000 - City will claim \$51,850 for staff time and indirect costs associate with administering funds.

# NOAA Fisheries Grant

## Scope

- Fully design all elements (bridge, sediment management, and lake restoration)
- Complete permitting and bid development
- Contracting and beginning of some construction activities is possible.

## Schedule

- Dec 22 / Jan 23 - Notice of Award. Funding will be for 3 years with option to extend to 5 years
- March / April 2023 - Grant agreement with American Rivers
- Summer /Fall 2023 subagreements with City, NCWC and ODOT

## Funding

- \$15,000,000 grant submitted on 8/15/2022 by American Rivers. \$150,000 for city staff.
- Remainder of construction costs will have to come from other sources.
- USDOT expected to release additional Culvert Replacement funds in August/September.



# Next Steps

