

Title 2

ADMINISTRATION AND PERSONNEL

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Chapter 2.10

RULES OF COUNCIL

Sections:

- 2.10.010 Purpose.
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- 2.10.040 Hearings and council impartiality.
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2.10.010 Purpose.

In order to establish an orderly procedure for the conduct of city council business and to elaborate upon the provisions set forth in the Philomath city charter, the city council of the city of Philomath hereby adopts rules of council. City of Philomath Ordinance No. 273 will continue to govern the conduct of public hearings. In the event of a conflict between the provisions of this chapter and Ordinance No. 273, the provisions of this chapter shall govern. [Ord. 557 § 1, 1988.]

2.10.020 Order of business.

The order of business of the city council shall be as follows:

- A. Roll call.
- B. Consent agenda.
- C. Public hearings.
- D. Visitors and petitions.
- E. Standing committee reports.
- F. Representative reports.
- G. Staff reports.
- H. Unfinished business.
- I. New business.
- J. Ordinances and resolutions.
- K. Adjournment. [Ord. 557 § 2, 1988.]

2.10.030 Consent agenda.

Before the vote is taken on the consent agenda, a council member may request that one or more items be excluded therefrom. The remaining items may then be voted upon as a whole. Items removed from the consent agenda as provided above shall be taken up for action immediately after the consent

agenda vote and before the next item on the agenda is taken up. [Ord. 557 § 3, 1988.]

2.10.040 Hearings and council impartiality.

A. Challenging Participation by a Council Member.

1. Any proponent, opponent of, or other party interested in a matter to be heard by the council may challenge the qualification of any council member to participate in such proceeding and decision. Such challenge must state facts relied upon by the party relating to a council member's bias, pre-judgment, personal interest, or other facts from which the party has concluded that the council member will not participate and make a decision in an impartial manner.

a. Such challenge must be made prior to the commencement of the public hearing.

b. Such challenge shall be incorporated into the record of the hearing.

2. No council member shall participate in discussion or vote on the matter when for any reason the council member determines he or she cannot participate in the hearing and decision in an impartial manner.

3. No other officer or employee of the city who has a financial or other private interest shall participate in discussion with, or give an official opinion to, the council on the matter without first declaring for the record the nature and extent of such interest.

4. The general public has a right to have councilors free from prehearing or ex parte contacts on matters heard by them. It is recognized that a countervailing public right is free access to public officials on any matter. Therefore, councilors shall reveal any significant prehearing or ex parte contacts with regard to any matter as early as possible under the circumstances in the hearing on the matter. If such contacts have impaired the council member's impartiality or ability to vote on the matter, the council member shall so state and shall abstain therefrom.

5. The remaining members of the council, by a two-thirds vote, may exclude a member of the council from participation in discussion and vote on a matter if the council member refuses to abstain and the council finds that the council member is not capable of participating in an impartial manner

because of a conflict of interest or pre-hearing contacts.

6. Notwithstanding any provision of this or any other rule, an abstaining or disqualified council member may be counted for purposes of forming a quorum; and a council member may represent himself or herself, a client or any other member of the public at a hearing; provided, that the council member:

- a. Abstains from the vote on the matter;
- b. Removes himself or herself from the council area and joins the audience; and
- c. Makes full disclosure of his or her status and position at the time of addressing the council.

B. During public hearings, public testimony may be limited to five minutes for each witness, other than the proponent and appellant.

C. Preservation of Order. The presiding officer shall preserve order and decorum, discourage attacks on personalities or the impugning of council member's motives, and confine council member debate to the question under discussion. Persons in attendance at the meeting who become disorderly, abusive, or disruptive may be removed from the meeting. The presiding officer may summon the assistance of the police or other administrative staff to assist in maintaining order, and if an arrest of a person(s) is deemed necessary by the presiding officer to restore or maintain order, the presiding officer may sign a complaint or citation on behalf of the city. [Ord. 666, 1998; Ord. 557 § 4, 1988.]

2.10.050 Committee and representative assignments.

A. At the first regular meeting of each calendar year, or as soon as practicable thereafter, the mayor shall, after consultation with and consent of the members affected, appoint the members of the council to the council's standing committees and evenly assign representative responsibilities to the council members.

B. The standing committees for the council shall be:

1. Public works;
2. Finance and administration;
3. Ordinance;
4. Police.

C. Standing committee appointments and representative assignments shall be for at least one

year. A member may, with the consent of the mayor, have his or her assignment changed. If a member of the council is temporarily unable to fulfill committee responsibilities, the mayor may appoint another council person to fill the assignment pro tem, until the council member is able to resume the assignment.

D. If a vacancy occurs on the council, the outgoing member's standing committee and representative duties shall pass to his or her replacement. During the period in which a new council member has not yet been elected or appointed, the mayor may assign additional committee and representative responsibilities to the remaining council members.

E. The standing committees of the council shall choose a chairperson from among their members and organize themselves as they see fit.

F. In addition to the above, the mayor or majority of the council may appoint temporary special committees as deemed necessary. [Ord. 557 § 5, 1988.]

2.10.060 Committees, commissions and boards of the city.

A. Unless otherwise provided for by ordinance, the committees, commissions and boards of the city, other than the committees of the council and special committees, may be established and their members appointed by the majority vote of the council.

B. Proposed appointees to the city's committees, commissions and boards shall be presented to the council not less than two weeks prior to council action. This requirement may be specifically waived by the council.

C. Appointees to the city's committees, commissions and boards shall serve for a term not to exceed four years and shall serve no more than two consecutive terms, unless provided otherwise in the ordinance establishing the commission or board. In the event that there is an insufficient number of eligible applicants available to appoint to an advisory body, the council may waive prior length of service as a consideration for a particular appointment.

D. Committees, commissions and boards so established by the council shall choose a chairperson from among their members and shall organize

themselves as they see fit. [Ord. 732, 2005; Ord. 557 § 6, 1988.]

2.10.070 Procedural matters.

A. If, when a vote is taken, a dissenting vote is cast, at the request of any member of the council, the vote shall be repeated by roll call and the vote of each council member shall be recorded.

B. Should any member so request, a motion or resolution shall be submitted in writing.

C. The council may by majority vote, in the course of its proceedings, temporarily suspend any rule, part of any rule or any number of rules provided in this chapter.

D. It shall be the duty of the chair, and the privilege of any member of the council, to call to order any member who violates any established rule of council.

E. A member who willfully violates any rule of council may be disciplined either by a vote of censure or by a reprimand from the chair, as the council may direct.

F. A proposed ordinance may be amended after any reading, provided the amendment does not materially alter the substance of the ordinance. Such an amendment of an ordinance does not require the repeating of any reading.

G. "Robert's Rules of Order, Newly Revised," shall be the parliamentary authority in all matters not specifically covered by these rules of council or by the Philomath city charter.

H. Matters brought before the council which are not included on the meeting agenda may be discussed. Prior to taking any action, council may refer the matter to staff or the appropriate committee for a recommendation. Upon development of a recommendation, the item will be placed on the next available meeting agenda for council action.

Nothing in this subsection shall prevent the council from taking action on a matter where a majority of the council determines that the public interest would be best served to act without any time delay. [Ord. 666, 1998; Ord 557 § 7, 1988.]

Chapter 2.15

NOMINATING PETITIONS

Sections:

2.15.010 Petitions.

2.15.020 Signatures required.

2.15.030 Time for filing petition.

2.15.010 Petitions.

A. A qualified elector of the city of Philomath, who shall have resided in the city during the six months immediately preceding the election, may be nominated for an elective city position. Nominations shall be by petition which shall contain:

1. The name by which the candidate is commonly known. (The candidate may use a nickname in parentheses in connection with the candidate's full name);

2. The mailing address of the residence of the candidate;

3. The office for which the candidate seeks nomination;

4. A statement that the candidate is willing to accept the office if elected;

5. A statement that the candidate will qualify if elected; and

6. The signature of the candidate.

B. For purposes of this section, residency is defined as the place where a person has their true, fixed and permanent home, and principal establishment and to which, whenever they are absent, they have the intention of returning. [Ord. 637, 1995; Ord. 629, 1994; Ord. 554 § 1, 1987.]

2.15.020 Signatures required.

Such petition shall be signed by not fewer than 20 registered voters who reside within the city limits of the city of Philomath. No signer shall sign more than one petition for each vacant position. If a signer does so, the signature shall be valid only on the first sufficient petition filed for the position. The signature sheets and forms therefor shall be in accordance with the applicable rules and forms designed by the Secretary of State. [Ord. 637, 1995; Ord. 554 § 2, 1987.]

2.15.030 Time for filing petition.

All nominating papers comprising a petition shall be assembled and filed with the recorder as

one instrument not sooner than the fifteenth day after the date of the primary election, and not later than the seventieth day before the date of the general election. The recorder shall make a record of the exact time at which each petition is filed and shall take and preserve the name and address of the person by whom it is filed. If the petition is not signed by the required number of qualified registered voters, the recorder shall notify the candidate and the person who filed the petition within five days after the filing. If the petition is insufficient in any other particular, the recorder shall return it immediately to the person who filed it, certifying in writing wherein the petition is insufficient. Such deficient petition shall be amended and filed again as a new petition, or a substitute petition for the same candidate may be filed within the regular time before filing nomination petitions. A petition of nomination for a successful candidate at an election shall be preserved in the office of the recorder until the term of office for which the candidate is elected expires. [Ord. 637, 1995; Ord. 554 § 3, 1987.]

Chapter 2.20

JURY TRIAL PROCESS

Sections:

- 2.20.010 Right to trial by jury.
- 2.20.020 Request for jury trial.
- 2.20.030 Jury terms.
- 2.20.040 Jury list.
- 2.20.050 Exemption from jury service.
- 2.20.060 Certification of jury list.
- 2.20.070 Notification of jurors.
- 2.20.080 Return of jury list.
- 2.20.090 Jury box.
- 2.20.100 Selection of jurors.
- 2.20.110 Disqualification of jurors.
- 2.20.120 Summons of jurors.
- 2.20.130 Additional jurors.
- 2.20.140 Reuse of ballots.
- 2.20.150 Selection of jurors.
- 2.20.160 Verdicts.
- 2.20.170 Compensation of jurors.
- 2.20.180 Failure to appear.

2.20.010 Right to trial by jury.

Every person charged with a crime defined and made punishable by the charter or an ordinance of this city shall have the right to trial by jury in the municipal court upon the terms and conditions hereinafter set forth. [Ord. 705 § 1, 2002.]

2.20.020 Request for jury trial.

The right to a jury trial shall be exercised by giving notice in writing to the municipal judge that a trial by jury is demanded. Such notice shall be signed by the defendant or his or her attorney and shall be effective only if given not less than 30 days before the date set for the trial of the cause. [Ord. 705 § 2, 2002.]

2.20.030 Jury terms.

Each calendar year shall be divided into two jury terms beginning on the effective date of the ordinance codified in this chapter and thereafter on the first day of January and July in each year. [Ord. 705 § 3, 2002.]

2.20.040 Jury list.

Within 10 days after the effective date of the ordinance codified in this chapter and thereafter,

and not more than 30 days before the commencement of each succeeding jury term, the court clerk shall make a jury list of 100 persons residing in the city. The jurors shall be competent to serve as jurors in the circuit court of the state of Oregon. [Ord. 705 § 4, 2002.]

2.20.050 Exemption from jury service.

In preparing the jury list, the court clerk shall discard the names of the persons drawn who are known to be disqualified as jurors or who are exempt from jury duty under the laws of the state of Oregon. [Ord. 705 § 5, 2002.]

2.20.060 Certification of jury list.

The jury list shall include the full name, residence address and occupation of each of the persons named therein and shall be certified by the court clerk at the time the list is prepared. [Ord. 705 § 6, 2002.]

2.20.070 Notification of jurors.

Not more than 10 days before the commencement of each jury term, the court clerk shall notify each juror by letter of his or her selection to the jury list for the term. During the term, each juror drawn for service at a trial shall be summoned to the municipal court at a time and place set for trial by written notice forwarded by ordinary mail. [Ord. 705 § 7, 2002.]

2.20.080 Return of jury list.

The court clerk shall return the jury list for the term to the municipal judge specifying the jurors notified of their selection to the jury list for the term, the manner in which each juror was notified and the date of notification. [Ord. 705 § 8, 2002.]

2.20.090 Jury box.

The municipal judge shall keep the jury box for each term; after the jury list has been made and returned, the court clerk shall prepare and deposit in the jury box a separate ballot containing the name, residence and occupation of each juror shown by the return to be notified as provided in PMC 2.20.080. [Ord. 705 § 9, 2002.]

2.20.100 Selection of jurors.

When a jury trial has been demanded as provided herein, and the date has been set, the court

clerk shall draw 15 ballots from the jury box. [Ord. 705 § 10, 2002.]

2.20.110 Disqualification of jurors.

When it appears to the municipal judge that a juror whose ballot is drawn does not qualify to act as a juror and is exempt from jury duty under the laws of the state of Oregon, the ballot shall be returned to the jury box and another ballot shall be drawn. [Ord. 705 § 11, 2002.]

2.20.120 Summons of jurors.

When the drawing of jurors as provided in PMC 2.20.100 and 2.20.110 is completed, the court clerk shall summon each of the jurors as so drawn by ordinary mail, specifying the time and place of the trial and the provisions of PMC 2.20.180. The summons shall be mailed to each of the jurors not less than five days before the date set for trial. Before the date set for jury trial, the court clerk shall make a return of summons to the municipal judge specifying the name, address and date of mailing of summons to each juror summoned. [Ord. 705 § 12, 2002.]

2.20.130 Additional jurors.

When the number of jurors summoned do not appear at the time and place of trial, or when the municipal judge determines that the number of jurors to appear is likely to be exhausted before a jury is duly impaneled, he may draw additional names from the jury box and summon the jurors so drawn in the manner provided in PMC 2.20.120, or in person, if there is insufficient time to give the notice provided in PMC 2.20.120. [Ord. 705 § 13, 2002.]

2.20.140 Reuse of ballots.

The ballots drawn from the jury box, except ballots described in PMC 2.20.110, shall not be returned to the jury box during the term until all other ballots have been drawn from the jury box. Such ballots shall be kept secure by the court clerk. [Ord. 705 § 14, 2002.]

2.20.150 Selection of jurors.

At the trial, a jury of six persons shall be selected to hear the cause in the same manner in which juries are selected in the circuit courts of the

state of Oregon in criminal proceedings. [Ord. 705 § 15, 2002.]

2.20.160 Verdicts.

When the cause has been submitted to the jury and before proceeding to its deliberation, the jurors shall select from their number a foreperson; and when the verdict has been reached, the foreperson shall report the verdict orally to the court. The six jurors selected to hear the cause must concur to render a verdict. [Ord. 705 § 16, 2002.]

2.20.170 Compensation of jurors.

The jurors selected to hear the cause shall receive the sum of \$10.00 for each day of service. Jurors who appear in response to a summons but who are not selected to hear the cause shall receive the sum of \$10.00 for each day of service. [Ord. 705 § 17, 2002.]

2.20.180 Failure to appear.

Any person who is summoned for jury service as provided in this chapter who fails to appear as directed in the said summons is in contempt of court and shall be punished, upon conviction, by a fine not exceeding \$25.00. [Ord. 705 § 18, 2002.]

Chapter 2.25

DISPOSITION OF UNCLAIMED PERSONAL PROPERTY

Sections:

- 2.25.010 Personal property in city custody.
- 2.25.020 Reclamation by owner.
- 2.25.030 Sale at public auction.
- 2.25.040 Sale at public auction – Certificate of sale.
- 2.25.050 Dangerous or perishable property.
- 2.25.060 Reclamation after sale at public auction.
- 2.25.070 Applicability.

2.25.010 Personal property in city custody.

Whenever any personal property other than motor vehicles is taken into custody by any department by reason of seizure, abandonment or for any other reason, the personal property shall be turned over to and held by the police department at the expense and risk of the owner or person lawfully entitled to possession thereof. [Ord. 424 § 1, 1980.]

2.25.020 Reclamation by owner.

Within 60 days after such property is taken into possession, except when confiscated or held as evidence, the owner or person lawfully entitled to possession may reclaim the same upon application to the police department, submission of satisfactory proof of ownership or right to possession, and payment of charges and expenses, if any, incurred in the storage, preservation, and custody of the property as determined by the chief of police. [Ord. 424 § 2, 1980.]

2.25.030 Sale at public auction.

A. At any time after said 60-day period, the chief of police may sell at public auction any unclaimed property and any property which has been confiscated and not ordered destroyed, except such property held as evidence in any legal or court proceeding. Notice of such sale shall be given once by publication in a newspaper of general circulation in the city of Philomath at least 10 days before the date of sale, giving the time and place of sale and generally describing the property to be sold.

B. All sales of such property shall be for cash to the highest and best bidder; provided, however,

that any person appearing at or prior to such sale and proving ownership or right to possession thereto shall be entitled to reclaim the property upon the payment of the charges and expenses incurred by the city in the storage, preservation, and custody of the property and a proportionate share of the costs of advertising the same for sale.

C. If no bids are entered for the property or if the highest bid entered is less than the costs incurred by the city, the chief of police may enter a bid on behalf of the city in an amount equal to such costs, and the property shall become the property of the city as compensation for the costs incurred. If the property is of no use or value to the city, it shall be disposed of in such manner as the city administrator directs.

D. In lieu of a sale of the property under the foregoing provisions of this chapter, the chief of police, with the approval of the city administrator, may transfer any portion of the unclaimed property to the city for use by the city or other governmental agencies, or by destruction, after the same notice as set forth in this section.

E. The proceeds of a sale shall be first applied to payment of the cost of the sale and the expense incurred in the preservation, storage and custody of the property, and the balance, if any, shall be credited to the general fund of the city.

F. Said sales shall be without the right of redemption. [Ord. 424 § 3, 1980.]

2.25.040 Sale at public auction – Certificate of sale.

At the time of the payment of the purchase price, the chief of police shall execute a certificate of sale in duplicate, the original to be delivered to the purchaser and a copy to be kept with the police department case file relating to such property. The certificate shall contain the date of sale, the consideration paid, a brief description of the property and a stipulation that the city does not warrant the condition or title of such property other than the return of the purchase price in case the title is for any reason invalid. The certificate of sale shall be in substantially the following form:

CERTIFICATE OF SALE

This is to certify that under the provisions of Ordinance No. ____ and pursuant to

due notice of time and place of sale, I did on the ____ day of _____, 20____, sell at public auction to

_____ for the sum of \$_____ cash, he being the highest and best bidder, and that being the highest and best sum bid therefor, the following described property to-wit:

and in consideration of the payment of the said sum of \$_____, receipt whereof is hereby acknowledged, I have this day delivered to said purchaser the foregoing property. Dated this ____ day of _____, 20 ____.

Chief of Police
[Ord. 424 § 4, 1980.]

2.25.050 Dangerous or perishable property.

Any property coming into the possession of the chief of police which he determines to be dangerous or perishable may be disposed of immediately, without notice, in such manner as he determines to be in the public interest. The chief of police shall cause contraband or illegal drugs and/or substances to be destroyed at the direction of the court after such property has been provided to the court as evidence and is no longer required by the procedure at the court. Any unclaimed contraband, illegal drugs and/or substances shall be destroyed at the direction of the chief of police and certification of destruction shall be placed in the case file relating to such found or unclaimed property. [Ord. 424 § 5, 1980.]

2.25.060 Reclamation after sale at public auction.

If the property is sold as provided herein and if within six months after the sale, the owner of the property, including money, files with the city administrator a claim for the property, and proves his right to the property, the city administrator shall direct that the money or the amount received for the property, less expenses of the sale, shall be paid to the owner from the city treasury. The city

administrator shall not approve any claim filed more than six months after the sale.

If the property is transferred to the city, or other governmental agency, in lieu of sale, it may be claimed by the lawful owner thereof at any time within six months from the transfer to the governmental agency. The chief of police in disposing of property in the manner provided herein shall not be liable to the owner thereof. [Ord. 424 § 6, 1980.]

2.25.070 Applicability.

This chapter shall apply to all personal property, except motor vehicles, now or hereafter in custody of the city. [Ord. 424 § 7, 1980.]

Chapter 2.30

PLANNING COMMISSION

Sections:

- 2.30.010 Purpose.
- 2.30.020 Members – Terms.
- 2.30.030 Qualifications.
- 2.30.040 Vacancies.
- 2.30.050 Officers – Meetings.
- 2.30.060 Duties and powers.
- 2.30.070 Zoning.
- 2.30.080 Public facilities.
- 2.30.090 Building and improvements.
- 2.30.100 Recommendations in writing.
- 2.30.110 Expenditures.
- 2.30.120 Conflict of interest.
- 2.30.130 Hearings.

2.30.010 Purpose.

The purpose of this chapter is to define terms, duties of and the method of appointing members of the planning commission. [Ord. 547 § 1, 1987.]

2.30.020 Members – Terms.

There shall be a planning commission known as the city of Philomath planning commission, which shall consist of seven members, each of whom shall be appointed by the city council. Commissioners in office at the time the ordinance codified in this chapter takes effect shall continue in office until the end of the terms for which they were appointed. Commissioners appointed after the ordinance codified in this chapter takes effect shall serve a term of four years, unless they are filling the remaining unexpired term of a vacant position. In addition, the Philomath city council may appoint one of its members to serve as an ex-officio non-voting representative to the planning commission. No member of the council may serve as a voting member of the planning commission. [Ord. 547 § 2, 1987.]

2.30.030 Qualifications.

To be eligible for appointment to and continued service on the planning commission, a person at the time of appointment and throughout his or her term of service must be a qualified elector within the meaning of the State Constitution and reside in the city of Philomath. Notwithstanding the provisions

of this section, the council may appoint two members to the commission who are qualified electors and reside within the urban growth boundary of the city of Philomath, but do not reside in the city; provided, that the other five commission seats are filled by city residents. Any commissioner may be removed from the commission by a majority vote of the city council. [Ord. 547 § 3, 1987.]

2.30.040 Vacancies.

Vacant positions on the commission shall be filled by appointment by a majority vote of the members of the council. The appointee's term of office begins immediately on appointment and continues throughout the unexpired term of the predecessor. During the temporary disability of a commissioner or during a commissioner's temporary absence from the city for any cause, the commission position may be filled pro tem in the manner provided for filling vacancies on the commission. Any commissioner may be reappointed for an additional four-year term by the city council, but no commissioner shall serve more than two consecutive full terms. [Ord. 547 § 4, 1987.]

2.30.050 Officers – Meetings.

The city planning commission at its first meeting of the year shall elect by ballot a chairman and vice-chairman who shall be members appointed by the city council and who shall hold office at the pleasure of the planning commission. A majority of the incumbent members of the commission shall constitute a quorum. The commission may make and alter rules and regulations for its government and procedure consistent with laws of this state and city charter and ordinances. It shall meet at least monthly unless there is no scheduled business to bring before the commission. The city council shall assign to the commission an office or headquarters in which to hold its meetings, transact its business and keep its records. Special meetings may be called at any time by the president and three members by written notice served upon each member of the commission at least 24 hours before the time specified for the proposed meeting. Emergency meetings may be held upon such notice as is appropriate to the circumstances, but the minutes for such a meeting shall describe the emergency justifying less than 24 hours' notice. [Ord. 547 § 5, 1987.]

2.30.060 Duties and powers.

The planning commission shall have the authority which is now or may hereafter be assigned to it by charter, ordinances, or resolutions of the city of Philomath and ORS 227.090, and other applicable state laws. [Ord. 547 § 6, 1987.]

2.30.070 Zoning.

Copies of all proposed ordinances for the establishment of the boundaries of any zone or district or amendments thereto, and of all proposed ordinances regulating or limiting the use, height, area, bulk and construction of buildings, to be submitted to the council shall, before the same are presented to the council, be first submitted to the city planning commission for recommendation or action in accordance with the requirements of the city zoning ordinance. [Ord. 547 § 7, 1987.]

2.30.080 Public facilities.

Before final action shall be taken by the council, or any department of the city, on the location or design of any public building, bridge, statue, park, parkway boulevard, playground or public ground, the same shall be submitted to the city planning commission for consideration and report; and provided further, that unless the city council definitely names a longer period for the return of a report specified herein, the approval of the city planning commission shall be deemed to have been given at the end of 30 days after receipt of the same in writing by its secretary, unless the city planning commission shall submit a report thereon prior to that time. [Ord. 547 § 8, 1987.]

2.30.090 Building and improvements.

Any person, copartnership, corporation or public authority having charge of the construction, placing or designing of buildings or other structures and improvements, may call upon the city planning commission for a report thereon. The city planning commission may make recommendations to any person, copartnership, corporation, or public authority with reference to the location of buildings, structures or works to be erected, constructed or altered by or for such person, copartnership, corporation or public authority; provided however, such recommendation shall not have the force or effect of a law or ordinance, except when so pre-

scribed by the laws of the state of Oregon or by city ordinance. [Ord. 547 § 9, 1987.]

2.30.100 Recommendations in writing.

All recommendations made to the council by the commission shall be in writing. [Ord. 547 § 10, 1987.]

2.30.110 Expenditures.

The city planning commission shall have no authority to make any expenditures on behalf of the city, or to obligate the city for the payment of sums of money. [Ord. 547 § 11, 1987.]

2.30.120 Conflict of interest.

A member of a planning commission shall not participate in any commission proceeding or action in which any of the following has a direct or substantial financial interest: the member or the spouse, brother, sister, child, parent, father-in-law, mother-in-law of the member; any business in which the member is then serving or has served within the previous two years; or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the meeting of the commission where the action is being taken. [Ord. 547 § 12, 1987.]

2.30.130 Hearings.

Hearings before the planning commission shall be conducted in accordance with applicable procedures adopted by city ordinance. [Ord. 547 § 13, 1987.]

Chapter 2.35

URBAN RENEWAL AGENCY

Sections:

- 2.35.010 Declaration of blight.
- 2.35.020 Agency title.
- 2.35.030 Membership.
- 2.35.040 Powers.
- 2.35.050 Limitations.
- 2.35.060 Advisory commission.
- 2.35.070 Savings clause.

2.35.010 Declaration of blight.

Pursuant to ORS 457.035, the Philomath city council declares that blighted areas now exist in the city and that there is currently a need for an urban renewal agency to function in the city of Philomath. [Ord. 583 § 1, 1990.]

2.35.020 Agency title.

The urban renewal agency created by this chapter shall be known as the Philomath urban renewal agency. [Ord. 583 § 2, 1990.]

2.35.030 Membership.

The Philomath urban renewal agency shall be comprised of members of the Philomath city council as it lawfully exists from time to time. Any change in membership of the Philomath city council shall automatically, and without need for further legislative action, constitute an identical change in the membership of the Philomath urban renewal agency. [Ord. 583 § 3, 1990.]

2.35.040 Powers.

Subject to the limitations imposed by PMC 2.35.050, the Philomath urban renewal agency shall have authority to exercise all power available to the agency under ORS Chapter 457, including, but not limited to, the power of eminent domain. The powers conferred to this agency by ORS Chapter 457 are in addition and supplemental to the powers conferred by any other law. [Ord. 583 § 4, 1990.]

2.35.050 Limitations.

Any act of the Philomath urban renewal agency shall be considered the act of the urban renewal agency only and shall not be considered an act of

the Philomath city council, even though membership of both are identical.

The Philomath urban renewal agency shall not exercise any power, which, by charter, requires voter approval. [Ord. 583 § 5, 1990.]

2.35.060 Advisory commission.

The Philomath urban renewal advisory commission is hereby established. The commission shall be comprised of five members appointed by the Philomath city council. The purpose of the commission is to assist in implementation of the urban renewal plan, to make recommendations to the Philomath urban renewal agency and to help inform Philomath's citizens of the plan's content and activities. [Ord. 583 § 6, 1990.]

2.35.070 Savings clause.

If any section or portion of this chapter is determined to be unconstitutional or otherwise unlawful, the remaining sections and portions of this chapter shall be severable and shall remain in effect. [Ord. 583 § 7, 1990.]

Chapter 2.40

TREE ADVISORY BOARD

Sections:

- 2.40.010 Establishment.
- 2.40.020 Composition.
- 2.40.030 Terms – Vacancies of citizen membership.
- 2.40.040 Duties.
- 2.40.050 Scope of permit requirements.
- 2.40.060 Prohibited acts.
- 2.40.070 Public nuisance definition.
- 2.40.080 Notice required.
- 2.40.090 Violation and penalty.

2.40.010 Establishment.

The Philomath tree advisory board is hereby established. [Ord. 618 § 1, 1993.]

2.40.020 Composition.

The tree advisory board shall be composed of the city's public works committee and at least one but not more than four citizen members. [Ord. 738 § 1, 2006; Ord. 667 § 1, 1998; Ord. 618 § 2, 1993.]

2.40.030 Terms – Vacancies of citizen membership.

The terms of the citizen members shall be for three years, expiring on December 31st. Initial appointments shall expire on December 31, 2001. Any vacancy shall be filled by appointment by the mayor, with the confirmation by the council, for the unexpired portion of the term. [Ord. 667 § 2, 1998; Ord. 618 § 2.1, 1993.]

2.40.040 Duties.

Within a reasonable time after the establishment, the tree advisory board shall meet and adopt rules of procedure for regular and special meetings.

The tree advisory board shall decide or make recommendations as appropriate to the city council regarding any matter pertaining to the tree ordinance and its enforcement. These items include, but are not limited to:

- A. Amendments to the tree ordinance and other ordinances referencing trees and landscaping;
- B. Policies concerning the selection, planting, care and removal of trees, shrubs and other plants;

C. Funding for the purchase, planting and care of trees;

D. Development of policies and procedures;

E. Establishment of educational and informational programs; and

F. The issuance of permits as required by this chapter.

The tree advisory board shall hear all disputes which arise between the city and any person over the interpretation or enforcement of the arboricultural specifications manual, the urban forest plan and the interpretation of this chapter. The decision of the tree board shall be recommended to the city council for approval.

The tree advisory board shall develop, and every five years update, an arboricultural specifications manual. This manual shall contain regulations and standards for the planting, maintenance, and removal of trees, shrubs and other plants on city-owned or controlled property.

The tree advisory board shall develop, and every five years update, an urban forestry plan. The plan shall include specific projects which will meet goals defined in the plan. [Ord. 738 § 1, 2006; Ord. 618 § 3, 1993.]

2.40.050 Scope of permit requirements.

A. No person, except a city employee, member of the tree advisory board, contractor hired by the city, or the electrical utility and their authorized agents, shall perform any of the following without first obtaining a permit from the city. Permits shall be issued at no cost.

1. Plant or remove trees on city-owned property or on the rights-of-way; or

2. Dig a tunnel or trench on city-owned or controlled property.

B. Prior to issuing a permit, the city shall ensure that the action proposed conforms with the urban forestry plan and the arboricultural specifications manual. If the city finds that the work performed under the permit is not in conformance with the conditions of the permit, the city may:

1. Nullify the permit;

2. Issue a written work order that the applicant cease and desist all work for which the permit was issued;

3. Impose penalties as defined in this chapter; and

4. Charge to the applicant the cost of steps taken to correct damage done. [Ord. 618 § 4, 1993.]

2.40.060 Prohibited acts.

No person shall damage, cut, tap, carve or transplant any tree, shrub or other plant located on city property. This does not prohibit routine care and pruning.

No person shall attach any rope, wire, nail, sign, poster or other object to any tree, shrub, or plant located on city-owned property, except when authorized by the city.

No person shall top any tree on city-owned property without first obtaining a permit. [Ord. 618 § 5, 1993.]

2.40.070 Public nuisance definition.

As defined in PMC 9.15.070. [Ord. 618 § 6, 1993.]

2.40.080 Notice required.

Written notice shall be personally provided or sent by registered mail to the property owner.

A. The notice shall describe the kind of tree, shrub, or other plant, its location on the property, and the reason for declaring it a nuisance.

B. The notice shall include suggested actions that may be taken to abate the nuisance.

C. The notice shall require the elimination of the nuisance no less than 30 days after the notice is delivered.

The city may have the nuisance abated after 30 days and file the cost of abatement as a lien against the property. [Ord. 618 § 7, 1993.]

2.40.090 Violation and penalty.

Any person who violates any provision of this chapter or who fails to comply with any notice issued pursuant to the provisions of this chapter, upon being found guilty of violations in the municipal court, shall be subject to a fine for each separate offense not to exceed \$500.00 or three times the appraised value of the tree, whichever is greater. Each day during which any violation of the provisions of this chapter shall occur or continue shall be a separate offense.

If, as the result of the violation of any provision of this chapter, the injury, mutilation or death of a tree, shrub, or other plant located on city-owned or

controlled property is caused, the cost of repair or replacement of such plant shall be borne by the party in violation.

The appraised value of trees shall be determined using methods described in the latest revision of "Valuation of Trees, Shrubs, and Other Plants," as published by the International Society of Arboriculture. [Ord. 618 § 8, 1993.]

Chapter 2.45

TRANSPORTATION AND TRAFFIC SAFETY COMMISSION

Sections:

- 2.45.010 Established – Membership.
- 2.45.020 Term – Vacancies.
- 2.45.030 Quorum – Rules and regulations.
- 2.45.040 Powers and duties.
- 2.45.050 Reports.

2.45.010 Established – Membership.

There is established a transportation and traffic safety commission which shall consist of seven voting members and nonvoting ex-officio members including the city manager, public works director, chief of police, city attorney, fire chief, and representatives from the Oregon Department of Transportation, and Benton County. The voting members shall consist of two members from the city council and five other persons, not more than two of whom may be nonresidents of the city but within the Philomath school district boundary, who shall be appointed by the mayor with confirmation by the city council. The community response team shall appoint one member as liaison to this commission.

The chair, vice-chair, and secretary shall be elected by the commission members. [Ord. 658 § 1, 1997.]

2.45.020 Term – Vacancies.

The term of the voting members shall be for two years, with three terms expiring on December 31st of one year and four expiring on December 31st of the next year. Any vacancy shall be filled by appointment by the mayor with the confirmation by the council for the unexpired portion of the term. [Ord. 658 § 2, 1997.]

2.45.030 Quorum – Rules and regulations.

Four voting members of the commission shall constitute a quorum. The commission may make rules and regulations for its government and procedure, consistent with the laws of the state and the city charter and ordinances, and shall meet monthly by the chair. [Ord. 658 § 3, 1997.]

2.45.040 Powers and duties.

The powers and duties of the transportation and traffic safety commission shall be as follows:

A. To act in an advisory capacity to the Philomath city council in the development and implementation of transportation improvements affecting the city.

B. To review, develop and/or advise the Philomath city council regarding traffic safety issues of the city.

C. To review and recommend projects for funding.

D. To assist in the development, update, and implementation of the city's transportation plan.

E. To serve as a liaison between the city and the Oregon Department of Transportation, Oregon Transportation Commission, and Oregon Traffic Safety Commission in development and implementing the Oregon Transportation Plan.

F. To promote public acceptance and knowledge on traffic and transportation programs of the city.

G. To act as an advocate of the city's position regarding implementation of the Oregon Transportation Plan.

H. To serve as liaison between the city and local governments in the coordination of local transportation plans. [Ord. 658 § 4, 1997.]

2.45.050 Reports.

The commission shall submit copies of its minutes to the city council and shall, in January of each year, make and file an annual report of its activities with the city council and such other reports as from time to time may be requested of them by the mayor and city council. [Ord. 658 § 5, 1997.]

Chapter 2.50**HISTORIC RESOURCES COMMISSION**

Sections:

2.50.010 Purpose.

2.50.020 Membership.

2.50.030 Powers and duties of the commission.

2.50.010 Purpose.

The city of Philomath recognizes that certain significant historic resources located within its boundaries contribute to the unique character of the community and merit preservation. This chapter establishes an historic resources commission, a program for the identification of historic resources, developing a program to educate the public about historic preservation, and encouraging owners of eligible historic resources to place their properties on the Philomath register of historic resources and, if appropriate, the National Register of Historic Places. [Ord. 681 § 1, 1999.]

2.50.020 Membership.

A. The mayor and the city council shall appoint up to five historic resource commissioners with a demonstrated positive interest, knowledge, or competence in historic preservation to carry out the provisions of this chapter. A majority of the commissioners shall reside within the corporate boundaries of the city of Philomath. Commissioners shall serve without compensation.

B. Initial appointments to the commission shall be for terms of one, two and three years. Subsequent terms of appointment shall be for three years, or in the case of a replacement, for the remainder of the unexpired term. Commissioners shall be eligible for reappointment.

C. A simple majority of the seated commissioners shall constitute a quorum to conduct official business.

D. A chair, vice-chair, and secretary shall be elected annually by and from the seated membership. Officers are eligible for reelection.

E. The commission shall meet at least twice a year, or as required to conduct business in a timely fashion. Notice of the meetings shall be in accordance with applicable state law. Minutes, applications, staff reports, findings, and recommendations of the commission shall be maintained as public

records in accordance with applicable state law.
[Ord. 681 § 2, 1999.]

2.50.030 Powers and duties of the commission.

A. The commission may adopt and amend by-laws, subject to the city council approval and consistent with the intent of this chapter, to regulate its internal operations.

B. The commission may undertake to inform the citizens of, and visitors to the city of Philomath, the community's history and prehistory; promote research into its history and prehistory; collect and make available materials on the preservation of historic resources; document historic resources prior to their major alteration, demolition, or removal and archive that documentation; assist the owners of historic resources in identifying sources of funding for the preservation of their properties; and develop self-guided walking tours highlighting Philomath's historic resources.

C. The commission shall periodically identify and evaluate the historic resources of the city and maintain an inventory of historic resources that shall be included in the comprehensive plan database. At such time as surveys are being conducted, owners of the subject properties shall be notified and invited to provide comment and input.

D. The commission may make a recommendation to the planning commission regarding all demolition permits and building permits for exterior alteration of structures listed in the inventory of historic resources. The planning commission shall consider such recommendations as a part of their public review process.

E. The commission shall advise and make policy recommendations to the city council on matters relating to historic preservation, and shall make an annual report, in writing, to the city council on its activities during the preceding 12 months, and its projected activities for the following 12 months.
[Ord. 681 § 3, 1999.]

Chapter 2.55

PARK ADVISORY BOARD

Sections:

- 2.55.010 Establishment.
- 2.55.020 Composition.
- 2.55.030 Duties.

2.55.010 Establishment.

The Philomath park advisory board is hereby established. [Ord. 723 § 1, 2004.]

2.55.020 Composition.

The park advisory board shall be composed of a minimum of five and maximum of seven citizen members.

A. Terms. Initial appointments are for two positions for one year, two positions for two years, and the remaining positions are for three years; thereafter the terms of all members shall be for three years, expiring on December 31st. No member shall serve more than three consecutive terms.

B. Vacancies. All vacancies shall be filled by appointment by the mayor, with confirmation by the council.

C. Eligibility. Any citizen residing within the city or urban growth boundary is eligible to serve on this committee. Two positions may be filled from outside the urban growth boundary but within Benton County. [Ord. 723 § 2, 2004.]

2.55.030 Duties.

A. Officers. Upon appointment by the council, members shall meet to establish a chairperson and vice-chair/secretary for the advisory board.

B. Process. The chair shall receive matters referred from the public works committee. The chair shall report the board's findings or recommendations to the public works committee. The public works committee shall use those findings or recommendations as the committee sees fit.

C. Meetings. The park advisory board shall meet only as necessary to provide assistance to the public works committee.

D. Examples of Duties. The park advisory board shall advise the public works committee regarding any matter pertaining to city parks as referred by the public works committee. These items include, but are not limited to:

1. Amendments to city ordinances referencing general park activities.
2. General policies concerning the selection, care and removal of park assets.
3. Funding for the purchase and development of city parks. [Ord. 723 § 3, 2004.]