



Falls City Oregon City Council Meeting

Monday, September 11, 2023 at 6:00 pm

Meeting Location

320 N Main St • Falls City, OR 97344

How to Attend and/or Participate

1. In Person: 320 N Main St. Falls City, OR 97344
2. Call-in: a. 1-253-215-8782 b. Meeting ID: 87874064319
You will be muted but may “raise your hand” to indicate you wish to comment.
3. Web Application: Zoom Webinar <https://us06web.zoom.us/j/87874064319>
You will be muted but may “raise your hand” to indicate you wish to comment during Public Comments.
4. Write-In: Using regular mail or email. a. info@fallscityoregon.gov; 299 Mill St. Falls City, OR 97344

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1. CALL TO ORDER & ROLL CALL

Mayor TJ Bailey, Council President Houghtaling, Councilor Nick Backus, Councilor Martha Jirovec, Councilor Tony Meier, Councilor Dennis Sickles, Councilor Lori Jean Sickles

2. PLEDGE OF ALLEGIANCE

3. ANNOUNCEMENTS, APPOINTMENTS, APPRECIATIONS, & PROCLAMATIONS

4. PUBLIC COMMENTS & LETTER COMMUNICATIONS

In order to encourage an environment of openness, courtesy and respect for differing points of view, please refrain from behavior that is disruptive to the meeting such as making loud noises, clapping, shouting, booing, or any other activity that disrupts the orderly conduct of the meeting. Abusive language will not be tolerated.

Please limit your commentary to 3 minutes or less.

5. CONSENT AGENDA

a. August 7, 2023 Minutes

Attachments:

- **Minutes** (2023.08.07_Council_Minutes.pdf)

6. REPORTS OR COMMENTS FROM MAYOR AND COUNCIL MEMBERS

a. Mayor's Report

b. Councilor Comments

c. Public Works Committee Report

Attachments:

- **August 24, 2023 Minutes** (2023.08.24_PW_Minutes.pdf)

7. REPORTS FROM CITY MANAGER & STAFF

a. Falls City Fire Report

Attachments:

- **August Report** (FD_August_Report.pdf)

b. Falls City Public Works Report

Attachments:

- **August Report** (PW_August_report.pdf)

c. City Manager's Report

Attachments:

- **Manager's Report** (2023.09.11_Monthly_Manager_s_Report.pdf)

8. RESOLUTIONS

a. Resolution 07-2023 - CDBG Designating Certifying Officer

Attachments:

- **Staff Report** (Resolution_07-2023_CDBG_Staff_Report.pdf)
- **Resolution 07-2023** (Resolution_07-2023_CDBG_Designating_Certifying_Officer.pdf)

b. Resolution 08-2023 Excessive Septic Tank Pumping

Attachments:

- **Staff Report** (9.11.2023a_SR_Excessive_Septic_Tank_Pumpings.pdf)
- **Resolution 08-2023** (9.11.2023a_SR_Excessive_Septic_Tank_Pumpings_Exhibit_A_Resolution_08-2023.pdf)

9. ORDINANCES

a. Ordinance 561-2023 - Dangerous Building

Attachments:

- **Staff Report** (9.11.2023_1_SR_Dangerous_Building_Ordinance.pdf)
- **Ordinance 561-2023** (9.11.2023_Exhibit_A_Dangerous_Building_Ordinance__561-2023.pdf)
- **Exhibit B** (9.11.2023_Exhibit_B_Dangerous_Building_Ordinance.pdf)
- **Exhibit C** (9.11.2023_Exhibit_C_Dangerous_Building_Ordinance_FC_Municipal_Code_90.45-90.99.pdf)

b. Ordinance 562-2023 No Parking On North Main Street

Attachments:

- **Staff Report** (9.11.2023b_SR_Main_Street_Parking.pdf)
- **Ordinance 562-2023** (9.11.2023b_SR_Main_Street_Parking_Ordinance_562-2023_North_Main.pdf)

10. GOOD OF THE ORDER

11. ADJOURN

Posted for Public at the City Hall Bulletin Board, Community Center, & Falls City Website

Contact: Jeremy Teal, City Recorder (jteal@fallscityoregon.gov 503.787.3631) | Agenda published on 09/07/2023 at 11:06 AM

FALLS CITY CITY COUNCIL		MONDAY, AUGUST 7, 2023
The Falls City City Council met in regular session on Monday, August 7, 2023 at 6:00 p.m. in the Community Center located at 320 N. Main Street		
Council Members Present: Council President Amy Houghtaling, Councilor Nick Backus, Councilor Martha Jirovec, Councilor Tony Meier, Councilor Dennis Sickles and Councilor Lori Jean Sickles		
Staff Present: City Manager AJ Foscoli, City Recorder Jeremy Teal		
AGENDA		ACTION
Announcements, Appointments, Appreciations & Proclamations	Everyone on the Council thanked all the volunteers and proclaimed PRIDE to be a huge success.	
Public Comment	<p>Mayor Bailey opened the Public Comments at 6:05 p.m.</p> <p>Tracy Young, 68 Prospect, noted she had personally experienced over the years the derogatory reputation associated with Falls City as a drug addicted city. She mentioned she was concerned about the distance the reputation of Falls City had traveled and the scourge that would be associated with it.</p> <p>Mayor Bailey and Councilor Meier noted they had never heard that about Falls City. Mayor Bailey noted that he had only heard great things about the city.</p> <p>Councilor D Sickles commented that it gave the citizens a opportunity to talk about the good things in Falls City. He mentioned that with all the events and the Bread Board and Boondocks, the City had a good reputation.</p> <p>Mayor Bailey closed the Public Comments at 6:14 p.m.</p>	
Consent Agenda a) July 10, 2023 Minutes	It was moved by Dennis to approve the Consent Agenda as presented. The motion was duly seconded by Councilor Meier and CARRIED with a vote of 6-0 with Councilors Backus, Jirovec, Meier, D Sickles, LJ Sickles and Council President Houghtaling voting YES.	
Reports or Comments from Mayor and Council Members		

<p>a) Mayor's Report</p> <p>b) Councilor Comments</p> <p>c) Park Board Report</p>	<p>Mayor Bailey noted he would be attending the Mayor's Conference on August 9-12 in Hood River. He mentioned the main objective for him at the conference was a round table to discuss sustaining code enforcement for small cities. He declared PRIDE a huge success. He noted it was amazing with a great turnout with guests and the vendors. He reported that the IFA meeting where Mr. Foscoli presented regarding the water project and secured \$2.3 million for water main line and water meter replacement.</p> <p>Councilor Backus mentioned he had a vehicle coming into town round his car doing 60 in front of the digital speed sign as he heard it was now a contest in town to get the fastest speed.</p> <p>Mayor Bailey noted he witnessed the same thing.</p> <p>Council President Houghtaling thanked Mayor Bailey for his work at PRIDE and noted he went above and beyond for the whole event.</p> <p>There were no comments.</p>
<p>Reports from City Manager & Staff</p> <p>a) Fire Report</p> <p>b) Public Works Reports</p> <p>c) City Manager's Report</p>	<p>Mayor Bailey stated there was still a burn ban in effect.</p> <p>There were no comments.</p> <p>Mr. Foscoli gave his report regarding the wastewater project, LCB, Code enforcement, towing, safe routes to school project, and excessive domestic sewer pumping.</p> <p>Mr. Foscoli reported he was waiting on Strider and he was working through Polk County with all the permits. He noted the work at the high school would be completed before Aug 3rd.</p> <p>Mr. Foscoli mentioned ODOT accepted the new \$700,000 proposal for the Safe Routes to School project.</p> <p>Mr. Teal reported there would be no more reports from sheriff as they have changed software.</p>

<p>d) Electric Vehicle Grant</p>	<p>Council President Houghtaling asked about the Community center faucets. Mr. Teal noted that a second faucet was on order, and both would be installed as soon as it arrived.</p> <p>Councilor Jirovec mentioned the garbage disposal was not working in the community center kitchen. Mr. Teal suggested getting rid of it entirely.</p> <p>Mr. Foscoli presented a Pacific Power grant for an electric car for public works. He noted a new local company in Eugene, Arcimoto, had emission free vehicles that would work for the needs of public works in Falls City. He noted a round trip to Dallas would be 40 cents. He asked the Council for \$10,000 to help with the purchase after the possible grant award.</p> <p>Mayor Bailey asked about the gator. Mr. Foscoli stated the gator was a good backup plan but it was diesel and could only be used for the summer months for meter reads. He mentioned the City purchased a cheap second gator with a shell and we would be trying to combine the 2 vehicles for a round the year vehicle.</p> <p>Mayor Bailey asked the life expectancy of the battery in the electric vehicle. Mr. Foscoli noted the warranty was 3 years or roughly 36,000 miles. He noted the battery for years 4-6 would be at 80% compacity.</p> <p>It was moved by Council President Houghtaling to direct the city manager apply for, receive and administer the Pacific Power Electric Mobility (EV) Grant with a \$10,000 match. The motion was duly seconded by Councilor LJ Sickles and CARRIED with a vote of 6-0 with Councilors Backus, Jirovec, Meier, D Sickles, LJ Sickles and Council President Houghtaling voting YES.</p>
<p>Ordinances ORDINANCE 561-2023 – Dangerous Buildings</p>	<p>Mr. Foscoli noted the continuing discussion regarding municipal code had holes and in the discussion with the City attorney was advised that instead of the whole process outlined again</p>

	<p>to just use the nuisance abatement process to quicken the process.</p> <p>Mayor Bailey noted the attached code to nuisance and attached to buildings were adding sections 90.35 & 90.36.</p> <p>Councilor Backus asked how the determination would be made. Mr. Foscoli noted staff or citizen complaints would identify the issues and bring them to the City Manager and he would take the necessary steps and bring to Council.</p> <p>Councilor D Sickles asked about having a hearing and hearing testimony. Mr. Foscoli stated a notice of abatement would be sent out to the building owner and a hearing would be brought to Council with testimony from property owner.</p> <p>Council President Houghtaling reviewed the process as deciding on abatement, and then try and work out with building owner, and then declare the property a dangerous building.</p> <p>Mr. Foscoli noted that if the building falls under the definition the property would need to address what was found and have a timeframe for repair. He mentioned it would be code complaint driven and neighbor complaints would be taken into consideration.</p> <p>Mayor Bailey asked if the abatement process could be added to the ordinance. Mr. Foscoli noted the process could be added to the ordinance, but it may reset the ordinance and force another first reading.</p> <p>Mayor Bailey declared Ordinance 561-2023 to have passed its first reading.</p>
<p>Good of the Order</p>	<p>Councilor Backus asked what was involved in the variance process. Councilor D Sickles noted the city was contracted with Polk County to do inspections.</p> <p>Mayor Bailey asked if there was any follow up. Council President Houghtaling asked if the planner looks. Mr. Foscoli noted there were site visits and final inspections.</p>

	<p>Councilor Backus asked if the process of the dangerous building could be added to the ordinance. Mr. Foscoli noted the process could be added, but depending on the lawyer's response the Council may have to do a second first reading.</p> <p>Council President Houghtaling noted she had forgotten the paperwork for the street closure for Back to School Bash. She mentioned she needed to close North Main from Dayton to the Boondocks on August 20th from 3-7 pm.</p> <p>It was moved by Councilor D Sickles to approve the street closure for the Back to School Bach on August 20 from 3-7 pm. The motion was duly seconded by Councilor LJ Sickles and carried with a vote of 6-0 with Councilors Backus, Jirovec, Meier, D Sickles, LJ Sickles and Council President Houghtaling voting YES.</p> <p>Councilor D Sickles mentioned that fall sports were starting up soon and he needed players for the teams.</p> <p>Councilor Jirovec reported that RDI had moved their visioning meetings to the last Saturday in September and October from 12-3 pm.</p>
Adjourn	There being no further business the meeting was adjourned at 7:07 p.m.
<p>Read and approved this ____ day of _____ 2023.</p> <p>Mayor: _____</p> <p>ATTEST:</p> <p>City Recorder: _____</p>	

City of Falls City
Public Works Committee Meeting
Thursday August 24, 2023 6:00PM
Meeting Location: 320 N. Main Street

Committee Members Present

Mike McConnell, Tony Meier, Tracy Young, Cliff Lauder, Gordon Hanson, Guy Mack. City Manager AJ Foscoli joined Committee via computer video link. Members absent Jeff Propp.

1) Call to Order

Chair McConnell called the meeting to order at 6:02 PM, took roll call.

2) Pledge of Allegiance

Chair McConnell led the Committee in the Pledge of Allegiance.

3) Motion to Adopt the entire Agenda

Member Meier moved and member Young seconded: **that we approve the entire agenda.** Motion carried 6-0-0. Ayes: Mike McConnell, Tony Meier, Tracy Young, Cliff Lauder, Gordon Hanson, Guy Mack.

4) Consent Agenda: Motion Action Approving Consent Agenda Items

Member Meier moved and member Mack seconded: **that we approve Consent Agenda Item, PWC Minutes March 30, 2023** (as per minutes provided). Motion carried 5-0-0. Ayes: Mike McConnell, Tony Meier, Tracy Young, Cliff Lauder, Guy Mack.

5) Public Comment - None

6) New Business

A. Meeting Rescheduling

Committee decided to move meeting date to the third Thursday of the month.

B. Fire Suppression Water from Lagoons

Chair McConnell informed the committee that he had talked with a property owner near the lagoons site that there wasn't a fire hydrant near them and wondering if one lagoon could be used for fire suppression. Chair McConnell contacted Oregon Department of Forestry about using a lagoon for helicopter dipping and was told it could be done without potential harm to the lagoon. City Manager Foscoli told the committee that PW Supervisor Jon Creekmore said that the fire trucks could not use the lagoon water because the trucks could be used to provide drinking water and that the lagoon water could contaminate the fire truck tanks. He also told the committee that there are concerns about using the lagoon water because of home owner insurance policies and fire fighter health safety. More information is needed before decision can be made.

7) Old Business

A. Excessive Septic Tank Pumping

After a general discussion the committee decided to use member Meier's' new billing/pumping Schedule C, including breaking the rate into at least two Line Items, Maintenance and Tank Pumping. Member Meier provided PWC with a chart showing the monthly rate needed to provide necessary funding to pump all tanks every 5 years. Member Meier moved and member Young seconded that: **The PWC recommends to Council that they accept the rate schedule for pumping, \$7.09/month (or an amount they consider adequate) from the current monthly rate to be set aside as a single Line Item to pay for Septic Tank Pumping with the remainder of the current monthly rate dedicated to another Line Item for Maintenance. If users' septic tanks require more pumping than the recommended once**

every 5 years, that the users will be responsible for the excess pumping fee. Motion carried 6-0-0 Ayes: Mike McConnell, Tony Meier, Tracy Young, Cliff Lauder, Gordon Hanson, Guy Mack.

B. Permit Parking on North Main Street

City Manager Foscoli informed the PWC that Polk County has hired an additional officer(s) and that if the City posted the No Parking signs that the Polk County Officers would start tagging the vehicles and have them towed. He also said the City could enhance the flashing speed sign with a camera so the County Officers could review the footage.

8) Correspondence, Comments and Ex-Officio Reports

City Manager, Foscoli informed PWC that he has contacted two individuals about finishing the Stairs. He's asked for multiple options and associated costs.

9) Committee Announcements

10) Adjourn

Member Mack moved and member Young seconded: **that we adjourn.** Motion carried 6-0-0 Ayes. Mike McConnell, Tony Meier, Tracy Young, Cliff Lauder, Gordon Hanson, Guy Mack. Meeting adjourned at 7:19..

_____ Public Works Committee Chair McConnell

Attested: _____ Public Works Committee Member

Call Volume for Falls City Volunteer Fire Dept. 2023 Calls (JANUARY-DECEMBER)

2023 MONTH	MEDICAL	PUBLIC ASSIST	MV A	STRUCTURE FIRE	GRASS BRUSH TREE FIRE	POWER LINE	SW CALLS FCFD RESPOND ON	SW ASSISTED FCFD CALLS	MO. TOTAL CALLS
JAN	6	1	0	0	0	1	0	0	8
FEB	6	0	1 SW	0	2	0	0	1 med 1 mva	9
MAR	7	0	0	2	0	0	0	1 fire	9
APR	11	0	0	4	0	0	0	2 fire	17
MAY	3	1 burn co	0	1 RV	0	0	1 car fire	0	6
JUNE	9	0	0	0	0	0	0	0	9
JULY	11	2	0	1 House 1 RV	5	0	1 grass fire	0	24
AUG	7	2	0	1 false alarms	3	0	0	0	13
SEPT									
OCT									
NOV									
DEC									
YR TOTALS To Date	60	6	1	10	10	1	2	5	95

Fire Department Report for August 2023 Council Meeting:

FD personnel cleaned and designed area in front of Community Center and FD for the Fire danger alert sign. The sign is now up! This will tell the community the risk levels of fires, that you see at other fire stations and forestry offices. The sign was a gift from the State Fire Marshall's office that Sharon applied for.

Work is still on going for the new Brush Truck. No date yet on completion.

Sharon is still working on the emergency evacuation signs, programs and classes for the community.

We will have at least 6 or more volunteers receive their State Fire Fighter 1 certifications this month. Lots of hard work and many, many hours of volunteer time!! :-)

Thank you for all your support and hard work for our community!
Prepared by Sharon Volk Greve, Assistant Chief, Falls City Fire and EMS Cell: (503) 871-5140u



Public Works Report August of 2023

Administration

Normal operations.

Water Division

On the 9th we replaced the water service at 130 Montgomery street. Due to multiple repairs and a new leak.

We had our water survey on the 28th. We are waiting for the report from Amy Bleekman at the OHA.

Sewer Division

Plugged sewer at 220 South Main Street on the 16th.

Streets Division

On the 14th C-More pipe came and cleaned out all of the catch basins.

Parks & Cemeteries Division

Normal operations.

Non-Sewer Wastewater Division (TMDL)

Jeremy and I attended a class in West Salem on the 31st.



City of Falls City
299 Mill Street
Falls City, OR 97344
Ph 503.787.3631

City Manager's Report September 11, 2023

Introduction

Though it has been more than 20 years since the 9/11 attacks, this date always evokes tragic memories of the heinous terrorist attacks on American soil. As we go about our day and perform our duties as civil servants and citizen volunteers, do take a moment to remember those we lost on that day and keep their memories alive.

As our summer is winding down, it feels like we managed to survive without any major conflagrations that endangered our small community (knock on wood!). The new Fire Level sign at the Fire Hall is showing a lower level of danger than we've had during our recent heat wave and that helps us to breathe a sigh of relief. Hopefully the rain will come soon to put those final fears to rest.

Wastewater Project – We have been meeting with Strider Construction on a biweekly basis to check on their progress building our new lagoon system. Though it seemed that it was taking them a long time to make any serious changes to the site, we are now able to see weekly, if not daily progress. The city's engineering firm is making sure that all of the federal requirements that apply to this project are properly followed, and they are confident that the timeline originally presented should still be valid (June 24 completion). As a point of note for the community, the work to be executed at the High School will take place during the Winter Holidays, as opposed to before school started, as originally reported. This was due to a change in staff allocation by Strider, and since the work at the High School is not contingent on the work at the lagoon site, this change will not affect the project's timeline. The High School Principal has been included in the biweekly meetings about the project, and is in support of the schedule change regarding the work portions on the school grounds.

Luckiamute Community Building – The dryer at the LCB has been repaired. We have also added another tenant who is looking to operate a client-facing business (pie fillings) out of the "fishbowl" room of the main space. This brings the number of permanent tenants to 4.

Code Enforcement & Municipal Court – No update.

Towing Services – No update.

Safe Routes to School Project – No update.

Note: If you have questions/concerns, please respond to me individually by email, phone, or in person. This way we avoid violating any public meetings laws with a "reply all" response, or multiple councilors discussing on the same thread.

EV Grant – The city of Falls City has re-applied for the Pacific Power E-Mobility Grant in the hopes of being awarded funds to purchase an electric vehicle for Public Works use. As part of this year’s application, a new vehicle that is even more useful for PW’s various duties and responsibilities has been identified and the city is hopeful that it will be successful in 2023. The city will find out if it has been successful in late November.

Homeless – Since earlier this year, we’ve had some challenges in town with homeless individuals in our public spaces and right of way. Though we have been working with Polk County’s Family & Community outreach and the Sheriff’s Office, our success in encouraging these individuals to find more permanent shelter has been hit & miss. Two individuals, who were spending nights at our lower park and foot bridge, have been assisted in finding alternative arrangements, however the individual on Fair Oaks has refused all the assistance that she has been offered and is in the process of increasing the volume of belongings in the right of way. The Sheriff’s Office, just this week, has warned her that she is trespassing and needs to remove all of her affects by Friday. We will look into alternatives to ensure that the right of way is free for access by all residents.

There is an ongoing countywide effort to find a temporary shelter location for homeless individuals, and the organizers have approached the city of Falls City in the hopes of identifying undeveloped public land that could help in their efforts. As the city owns 2.3 acres of undeveloped land on Sheldon Avenue, the City Council is in a position to consider a sale of this land to be used as a temporary shelter. A formal proposal has not been submitted, but if there’s interest from the council, a presentation from the organizers can be made at the October council meeting.

Sincerely,



Clerk's Report

Public Works

- **Speed test** have not gotten a confirmed date from County for the test
- **Rumble strips** are installed

STAFF REPORT

TO: HONORABLE MAYOR, AND CITY COUNCIL
FROM: CITY RECORDER, JEREMY TEAL
SUBJECT: DESIGNATED CERTIFYING OFFICER
DATE: 9/11/2023

SUMMARY

Council Approval Resolution 07-2023.

BACKGROUND

It is the recommendation that Jeremy Teal, the City Recorder of the City of Falls City, be designated as the Certifying Officer for the 2023 Community Development Block Housing Rehabilitation Grant application on behalf of the City.

PROPOSED MOTION

Recommend a motion to appoint City Recorder Jeremy Teal as the Designated Certifying Officer for the CDBG Housing Rehabilitation Grant.

RESOLUTION NO. 07-2023

A Resolution Designating the)
Certifying Officer for the City of)
Falls City for an Application for)
Community Development Block Grant)
Funding (2023) of the Polk Regional)
Collaborative)

WHEREAS, the City of Falls City has agreed to serve as the lead applicant for a 2023 Community Development Block Housing Rehabilitation Grant application, on behalf of the Polk Regional Collaborative, being comprised of the City of Independence, the City of Monmouth, the City of Dallas, the City of Falls City and Polk County, Oregon;

WHEREAS, the City of Falls City has agreed to work with Polk Community Development Corporation to carry out the rehabilitation program as a sub-grantee on behalf of the City of Monmouth and the Polk Regional Collaborative; and

WHEREAS, the City of Falls City has held the required public hearing on the grant proposal; and

WHEREAS, the City of Falls City is required to designate a Certifying Officer for the purpose of the grant;

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FALLS CITY, OREGON, AS FOLLOWS:

Section 1. That Jeremy Teal, the City Recorder of the City of Falls City, be, and he hereby is, designated as the Certifying Officer for the 2023 Community Development Block Housing Rehabilitation Grant application on behalf of the City.

Section 2. That the City Manager is hereby authorized and directed to execute such documents and do all such things as may be required for and in connection with the 2023 Community Development Block Housing Rehabilitation Grant.

Adopted _____, 2023 by the City Council and approved by and signed by the Mayor:

TJ Bailey, Mayor of Falls City

ATTEST:

AJ Foscoli, City Manager

STAFF REPORT

TO: HONORABLE MAYOR, AND CITY COUNCIL
FROM: CITY MANAGER, AJ FOSCOLI
SUBJECT: EXCESSIVE SEPTIC TANK PUMPING FEES
DATE: 9/11/2023

SUMMARY

The city is looking at enacting fees for excessive septic tank pumping, due to overuse.

BACKGROUND

The city of Falls City is statutorily required by DEQ to pump septic tanks within its STEP-system on a 5-year schedule. Industry standards suggest that under NORMAL USE, pumping does not have to be made except on a 6-7-year rotation. During my tenure in the city, there have been several instances where septic tank pumpings have had to be made at 2-3 times the frequency of even DEQ's strictest standards. These highly frequent pumpings are not only disruptive of Public Works' schedule, but are costly as well, impacting the wastewater budget negatively. Since it is not possible for the city to enact limitations on the amount of use of our wastewater system by individual residents, especially when that use is directly correlated to the number of people living in a household, the only recourse to recoup maintenance costs above and beyond normal use, the city would like to explore fees to property owners whose septic tanks need to be pumped at a higher frequency that DEQ requires. . The City Council has instructed the City Manager to collaborate with the Public Works Committee to explore what excessive pumping fees would look like and present that to the council for review. The current Sewer Monthly Rates have been added for additional consideration for excessive pumping fees that are commensurate with the use.

FINANCIAL IMPLICATIONS

If enacted, Excessive Septic Tank Pumping Fees would be imposed on any resident within the city's wastewater system that are in addition to the standard pumping frequency that DEQ requires every 5 years.

STAFF RECOMMENDATION

Staff recommends the City Council to support the proposed Resolution 08-2023 Excessive Septic Tank Pumpings

PROPOSED MOTION

Recommend a motion to support the proposed Resolution 08-2023 Excessive Septic Tank Pumpings

EXHIBIT

- Exhibit A – Pumping Frequency in Years
- Exhibit B – Septic Tank size List
- Exhibit C – Current Sewer Monthly Rates
- Exhibit D – Excessive Septic Tank Pumping Rate Schedule

Exhibit A

Household Size (Number of people)

Tank Size	1	2	3	4	5	6	7	8	9	10
500	5.8	2.6	1.5	1.0	.07	.04	.03	.01		
750	9.1	4.2	2.6	1.8	1.3	1.0	.07	.06	0.4	0.3
1,000	12.4	5.9	3.7	2.6	2.0	1.5	1.2	1.0	0.8	0.7
1,250		7.5	4.8	3.4	2.6	2.0	1.7	1.4	1.2	1.0
1,500		9.1	5.9	4.2	3.3	2.6	2.1	1.8	1.5	1.3
1,750			6.5	5.0	3.9	3.1	2.6	2.0	1.9	1.6

Exhibit B

Address	Tank Size	Pumpings	Cost	Total	Time Frame
381 Boundary	1000	2	\$ 470.00	\$ 940.00	2019-2020
672 Bryant	1000	2	\$ 540.00	\$ 1,080.00	2019-2022
171 Dayton	1000	2	\$ 620.00	\$ 1,240.00	2020-2022
234 Prospect	1500	2	\$ 465.00	\$ 930.00	2020-2021
476 Prospect	1000	2	\$ 395.00	\$ 790.00	2019-2020
26 S. Main	1000	2	\$ 545.00	\$ 1,090.00	2019-2020
167/169/171 Ellis	1250	5	\$ 500.00	\$ 2,500.00	2019-2023
405 Mitchell	3000	5	\$ 1,175.00	\$ 5,875.00	2019-2023
420/418a/418b N. Main	1250	5	\$ 483.00	\$ 2,415.00	2019-2023
281/285 N. Main	1250	5	\$ 535.00	\$ 2,675.00	2019-2023
86/98 N. Main	1250	5	\$ 500.00	\$ 2,500.00	2019-2023
111 N. Main	3000	5	\$ 1,175.00	\$ 5,875.00	2019-2023
177 Prospect	3000	5	\$ 1,175.00	\$ 5,875.00	2019-2023

Total Cost to the city (past 5 years): \$ 33,785.00

Exhibit C

Service Category	Flat Monthly Rate
Residential (RS1)	\$62.65
Commercial (CM1)	\$62.65
Apartments (APT) each unit	\$62.65
Elementary School (ELE)	\$382.98
Falls City High School (FHS)	\$382.98

Exhibit D

TANK SIZE	PUMPING COST	# OF HOOKUPS	MONTHS	PRICE PER MONTH	TOTAL
1000	\$ 425.00	1	60	\$ 7.09	\$ 425.40
1000	\$ 425.00	2	30	\$ 7.09	\$ 425.40
1000	\$ 425.00	3	20	\$ 7.09	\$ 425.40
1250	\$ 515.00	2	36	\$ 7.09	\$ 510.48
1250	\$ 515.00	3	24	\$ 7.09	\$ 510.48
1500	\$ 610.00	1	86	\$ 7.09	\$ 609.74
1500	\$ 610.00	2	43	\$ 7.09	\$ 609.74
3000	\$ 1,180.00	(SCHOOL)	12	\$ 98.34	\$ 1,180.00

RESOLUTION 8-2023

A RESOLUTION ADOPTING EXCESSIVE SEPTIC TANK PUMPING FEES ON SEPTEMBER 11, 2023

WHEREAS, the City Council of Falls City realizes the need to establish fair and equitable septic tank fees based on DEQ recommended pumping frequency; and

WHEREAS, the City of Falls City has not previously charged septic tank pumping fees for excessive pumpings; and

WHEREAS, the City of Falls City will be tracking future septic tank pumpings based on the schedule included in this resolution; and

NOW THEREFORE, THE CITY OF FALLS CITY RESOLVES AS FOLLOWS:

Section 1. The City of Falls City hereby adopts the following septic tank pumping fees. The referenced fees will go into effect on September 11, 2023.

TANK SIZE	PUMPING COST	# OF HOOKUPS	MONTHS	PRICE PER MONTH	TOTAL
1000	\$ 425.00	1	60	\$ 7.09	\$ 425.40
1000	\$ 425.00	2	30	\$ 7.09	\$ 425.40
1000	\$ 425.00	3	20	\$ 7.09	\$ 425.40
1250	\$ 515.00	2	36	\$ 7.09	\$ 510.48
1250	\$ 515.00	3	24	\$ 7.09	\$ 510.48
1500	\$ 610.00	1	86	\$ 7.09	\$ 609.74
1500	\$ 610.00	2	43	\$ 7.09	\$ 609.74
3000	\$ 1,180.00	(SCHOOL)	12	\$ 98.34	\$ 1,180.00

ADOPTED BY THE FALLS CITY COUNCIL ON THIS 11th DAY OF SEPTEMBER, 2023.

VOTE: AYE____ NAY____ ABSTAIN____ ABSENT____

TJ Bailey, Mayor

Date

ATTEST:

Jeremy Teal, City Recorder

Date

STAFF REPORT

TO: HONORABLE MAYOR, AND CITY COUNCIL
FROM: CITY MANAGER, AJ FOSCOLI
SUBJECT: DANGEROUS BUILDING ORDINANCE
DATE: 9/11/2023

SUMMARY

Council Approval of Dangerous Building definitions added to the Falls City Municipal Code's Nuisance Abatement.

BACKGROUND

The City Manager has brought up the issue of nuisance properties to the council's attention in the recent past. This action was precipitated by a conflagration that impacted not only the property in question, but multiple adjacent properties. The resulting conflagration debris was not dealt with in a timely manner and the Nuisance Abatement process was initiated to bring the property into compliance. Unfortunately, the damage from the conflagration was not limited to debris from an accessory structure, but to the main dwelling structure. Since Falls City Municipal Code does not spell out a mitigation process for dwellings that are "dangerous", with the assistance of our city attorney, a draft ordinance has been created to ensure that all buildings which can be defined as dangerous can be properly brought into compliance for the health and safety of all residents. Based on discussions with the City Attorney, the protocols in place spelled out in Falls City Municipal Code 90.45-90.99 (Abatement Process for Nuisances) give ample recourse to residents to mitigate their potential nuisances, upon notice of non-compliance under the Nuisance Abatement process.

FINANCIAL IMPLICATIONS

Standard daily fines in line with other non-compliance issues will apply. Violations of §§ 90.01 through 90.99 shall be punishable upon conviction by a fine not to exceed \$500 for a non-continuing violation and a fine of not more than \$1,000 for a continuing offense. Additional fines may be assessed at a rate not to exceed \$1,000 per day for each day an ordinance violation continues.

STAFF RECOMMENDATION

Staff recommends the approval of ORDINANCE #561-2023.

PROPOSED MOTION

Recommend a motion to approve ORDINANCE #561-2023.
Second Reading

EXHIBIT

- A- ORDINANCE #561-2023
- B- 90.35 Definition of Dangerous Building
- C- Falls City Municipal Code 90.45-90.99 (Abatement Process for Nuisances)

ORDINANCE #561-2023

AN ORDINANCE ADDING SECTIONS 90.35 AND 90.36 TO THE FALLS CITY MUNICIPAL CODE DEFINING DANGEROUS BUILDINGS, DECLARING THE SAME TO BE A NUISANCE, AND ALLOWING ENFORCEMENT UNDER THE CODE PROVISIONS RELATED TO ABATEMENT OF NUISANCES.

FINDINGS:

1. The Falls City City Council determined that the Falls City Municipal Code Ordinance does not provide sufficient specificity on the definition of a “Dangerous Building”.
2. The Falls City City Council directed staff to prepare draft amendments to the Falls City Municipal Code Ordinance to add a definition of a “Dangerous Building” to Municipal Code Section 90.45-90.99.
3. In order to protect the public health, safety, and welfare of the City of Falls City, the City Council finds and declare that dangerous buildings are a public nuisance and should be subject to abatement as provide in the municipal code.

NOW THEREFORE THE CITY OF FALLS CITY ORDAINS AS FOLLOWS:

Section 1: The City Council hereby adopts findings in support of this legislative amendment to the Falls City Municipal Code Ordinance, as set forth in the above recitals and attached as “Staff Report”

Section 2: The Falls City Municipal Code of Ordinances is hereby amended to add Sections 90.35 and 90.36 as set forth in the attached “Exhibit A” which is incorporated by reference.

Section 3: The provisions of Section 1 of this Ordinance shall be published as appropriate in the Falls City Code of Ordinances as soon as practicable.

Section 4: If any section or part of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, then it is expressly provided and it is the intention of the City Council in passing this Ordinance that its parts shall be severable and all other parts of this Ordinance shall not be affected thereby and they shall remain in full force and effect.

Section 5: This ordinance shall take effect 30 days after its adoption.

READ FIRST TIME by the Council of the City of Falls City this 7th day of August, 2023.

AYES: NAYES: ABSTAIN: ABSENT:

READ SECOND TIME AND ADOPTED by the Council of the City of Falls City this 11th day of September, 2023.

AYES: NAYES: ABSTAIN: ABSENT:

TJ Bailey, Mayor

Jeremy Teal, City Recorder

DANGEROUS BUILDINGS

90.35 Definition of Dangerous Building

The term “dangerous building” as used in this section, shall mean any of the following:

1. Any building or structure that is structurally unsafe or not provided with adequate egress, or that constitutes a fire hazard, or is otherwise dangerous to human life;
2. Any building or structure constituting a hazard to safety, health, or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage, or abandonment;
3. Parapet walls, cornices, spires, towers, tanks, statuary and other appendages or structural members that are supported by, attached to, or a part of a building and which are in deteriorated condition or otherwise unable to sustain the design loads which are specified by the pertinent code.
4. Whenever any door, aisle, passageway, stairway, or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
5. Whenever the walking surface of any aisle, passageway, stairway, or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
6. Whenever the stress in any materials, member, or portion thereof, due to all dead and live loads, is more than one- and one-half times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose, or location.
7. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose, or location.
8. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
9. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings.
10. Whenever any portion thereof has wracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
11. Whenever the building or structure, or any portion thereof, because of (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
12. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
13. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base.

Exhibit A to Ordinance #561-2023

14. Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.
15. Whenever the building or structure has been so damaged by fire, wind, earthquake, or flood, or has become so dilapidated or deteriorated as to become (i) an attractive nuisance to children; (ii) a harbor for vagrants, criminals, or immoral persons; or as to (iii) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
16. Whenever any building or structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code or Housing Code, or of any law or ordinance of this state or jurisdiction relating to the condition, location, or structure of buildings.
17. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent of the (i) strength, (ii) fire-resisting qualities or characteristics, or (iii) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.
18. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise is determined by the health officer to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
19. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the Fire Marshal or Building Official to be a fire hazard.
20. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or inequity jurisprudence.
21. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

90.36 Dangerous Buildings Declared a Nuisance

Every building found by the council to be a dangerous building is declared to be a public nuisance and may be abated by the procedures specified in sections 90.45 to 90.99 or by a suit for abatement brought by the city.

ABATEMENT OF NUISANCES

§ 90.45 ABATEMENT NOTICE.

(A) *Posting.* Upon determination by the Council that a nuisance, as described in this or any other chapter exists, the Council shall forthwith cause a notice to be posted on the premises where the nuisance exists, directing the owner or person in charge of the property to abate such nuisance.

(B) *Notice to owner.* At the time of posting, the Authorized Representative shall cause a copy of such notice to be forwarded by registered or certified mail, postage prepaid, to the owner and/or person in charge of the property at the last-known address of such owner or other person. At a minimum, the city shall utilize the records of the County Assessor and the City Utility Department to determine the last known address.

(C) *Notice, contents.* The notice to abate shall contain:

(1) A description of the real property, by street address or otherwise, on that such nuisance exists;

(2) A direction to abate the nuisance within ten days from the date of the notice;

(3) A description of the nuisance;

(4) A statement that unless such nuisance is removed the city may abate the nuisance and the cost of abatement shall be a lien against the property; and

(5) A statement that the owner or other person in charge of the property may protest the abatement by giving notice to the Authorized Representative within ten days from the date of the notice.

(D) *Certificate of mailing and posting.* Upon completion of the posting and mailing, the person posting and mailing the notice shall execute and file a certificate stating the date and place of such mailing and posting.

(E) *Sufficiency of posted notice.* An error in the name or address of the owner or person in charge of the property or the use of a name other than that of the owner as listed with the County Assessor's Office and the City Utility Department to the address of record shall not make the notice void and in such a case the posted notice shall be sufficient.

(Prior Code, § 90.01) (Ord. 06-512, passed 7-5-2006; Ord. 07-516, passed 7-2-2007; Ord. 08-519, passed 5-12-2008)

§ 90.46 ABATEMENT BY OWNER.

(A) Within ten days after the posting and mailing of the notice as provided in § 90.45, the owner or person in charge of the property shall remove the nuisance or show that no nuisance exists.

(B) The owner or person in charge protesting that no nuisance exists shall file with the City Recorder a written statement that shall specify the basis for so protesting.

(C) The statement shall be referred to the Council as a part of the Council's regular agenda at the next succeeding meeting. At the time set for consideration of the abatement, the owner or other person may appear and be heard by the Council and the Council shall thereupon determine whether or not a nuisance in fact exists and such determination shall be entered in the official minutes of the Council. Council determination shall be required only in those cases where a written statement has been filed as provided.

(D) If the Council determines that a nuisance does in fact exist, the owner or other person shall, within ten days after such Council determination, abate such nuisance.

(Prior Code, § 90.01) (Ord. 06-512, passed 7-5-2006; Ord. 07-516, passed 7-2-2007; Ord. 08-519, passed 5-12-2008)

§ 90.47 ABATEMENT BY CITY.

(A) If, within the time allowed, the owner or person in charge of the property has not abated the nuisance, the Council may cause the nuisance to be abated.

(B) The officer charged with abatement of such nuisance shall have the right at reasonable times to enter into or upon property to investigate or cause the removal of a nuisance.

(C) The Authorized Representative shall keep an accurate record of the expense incurred by the city in abating the nuisance, and shall include therein a charge of 20% of the expense for administrative overhead.

(Prior Code, § 90.01) (Ord. 06-512, passed 7-5-2006; Ord. 07-516, passed 7-2-2007; Ord. 08-519, passed 5-12-2008)

§ 90.48 ASSESSMENT OF COSTS.

(A) *Notice.* The Authorized Representative, by registered or certified mail, postage prepaid, shall forward to the owner or person in charge of the property a notice stating:

(1) The total cost of abatement including the administrative overhead;

(2) The cost as indicated will be assessed to, and become a lien against, the property unless paid 30 days from the date of the notice; and

(3) If the owner or person in charge of the property objects to the cost of the abatement as indicated, the objector may file a notice of objection with the Authorized Representative not more than ten days from the date of the notice.

(B) *Objections to assessment.* Upon the expiration of ten days after the date of the notice, the Council in the regular course of business shall hear and determine the objections to the costs to be assessed.

(C) *City liens.* If the costs of the abatement are not paid within 30 days from the date of the notice, an assessment of the costs, as stated or as determined by Council, shall be made by resolution and shall thereupon be entered in the docket of city liens and, upon such entry being made, shall constitute a lien upon the property from that the nuisance was removed or abated.

(D) *Lien enforcement.* The lien shall be enforced in the same manner as liens for street improvements are enforced, and shall bear interest at the rate allowed by law, or such lesser rate as the City Council may from time to time provide. Such interest shall commence to run from date of entry of the lien in the lien docket.

(E) *Assessment error.* An error in the name of the owner of the property as listed with the County Assessor's office and the city's Utility Department, shall not void the assessment, nor will a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property.

(F) *Recovery of public costs for on-site assessment and clean up of property declared public health nuisance.*

Page 27

(1) If, after service of notice of the declaration of public health nuisance, the property owner fails to arrange appropriate assessment and clean up, the Authorized Representative is authorized to

proceed in a prompt manner to initiate the on-site assessment and clean up.

(2) If the city is unable to locate the property owner within ten days of the declaration of public health nuisance, the city is authorized to proceed in a prompt manner to initiate the on-site assessment and clean up.

(3) The city may abate the nuisance by removing the hazardous structure or building, or otherwise, according to O.R.S. Chapter 105.

(4) If the city abates the public health nuisance, in addition to any other legal remedy, the city shall be entitled to recover all costs plus an additional 25% of the costs for administration. The city may recover costs by civil action against the person or persons who own the property.

(Prior Code, § 90.01) (Ord. 06-512, passed 7-5-2006; Ord. 07-516, passed 7-2-2007; Ord. 08-519, passed 5-12-2008)

§ 90.49 SUMMARY ABATEMENT.

(A) *General.* The procedures provided by this subchapter is not exclusive but is in addition to procedure provided by other ordinances. The Authorized Representative or such other persons as the City Council may designate, may proceed to abate a health or other nuisance that unmistakably exists and from that there is imminent threat or danger to human life or property.

(B) *Cost.* The cost of such summary abatement shall be assessed against the owner of the real property on that the nuisance exists shall be a lien against the real property and may be enforced and collected by the same procedures set forth in this subchapter for abatement.

(C) *Abatement notice of imminent threat.*

(1) Upon determination by the City Council that a nuisance resulting in an imminent threat to the public health, safety, or property of the residents of the city, as described in this or any other chapter of the city, exists, the Authorized Representative, or his or her designated representative, shall forthwith issue a citation to the property owner who, in the opinion of the Authorized Representative, are determined to be in violation of this chapter.

(2) At the time of issuing a citation as set forth above, the Authorized Representative shall contact the Mayor, and in his or her absence, the Council President, and discuss the issuance of any citation issued by the Authorized Agent, or the Council's designated representative, under this subchapter.

(3) The citation of nuisance resulting in an imminent threat to the public health, safety, or property of the residents of the city shall contain:

(a) Reference to the section of this chapter being violated and a description of the imminent threat;

(b) A description of the location upon that the violation occurred that may be a street address, a street name between intersecting streets, an approximate distance from a known point of reference, or otherwise, at or on that such imminent threat to the public health, safety, or property of the residents of the city exists;

(c) The month, day, year, and time of day of the citation;

(d) A direction to remove the imminent threat to the public health, safety, or property of the residents of the city within two hours from the time of issuance of the citation;

(e) A statement that unless such imminent threat to the public health, safety, or property of the residents of the city is removed within two hours after citation, the city will abate the nuisance and cost of abatement shall be a lien against the property;

(f) A statement that the person or person in charge may protest the citation and action by giving notice to the Authorized Representative within two hours from the time of citation; and

(g) An error in the name or address of the property owner, as listed with the County Assessor's office and the City Utility Department, shall not make the citation void, and in such a case, the citation shall be deemed sufficient.

(D) *Abatement by the owner of imminent threat.*

(1) Within two hours after citation, as provided in § 90.45(B), the property owner, as listed with the County Assessor's office and the City Utility Department, shall remove and abate the nuisance or protest that no nuisance exists.

(2) The property owner violating this chapter shall file with the Authorized Representative a written statement that shall specify the basis for contending that no nuisance exists.

(3) The statement shall be referred to the Authorized Representative during the first regular business day after receipt by the Authorized Representative, and the Authorized Representative shall advise the Mayor of such statement.

(4) (a) The Mayor shall refer the statement to the Council at a special Council meeting to be posted and held within three regular business days of filing of the statement with the Authorized Representative.

(b) At the time set for the consideration of the abatement, such person or person in charge may appear and be heard by the Council, and the Council shall, based upon the evidence presented, thereupon confirm whether a nuisance resulting in an imminent threat to the public health, safety, or property of the residents of the city in fact exists, and such confirmation shall be entered in the official minutes of the Council.

(5) Upon Council confirmation that a nuisance resulting in an imminent threat to the public health, safety, or property of the residents of the city in fact exist, the person or person in charge violating this chapter shall, within two hours after such Council confirmation or two hours after daylight of the next succeeding day, that ever is later, shall remove or abate such nuisance.

(E) *Abatement by the city of imminent threat.*

(1) If within the time fixed, as provided in this chapter, the property owner has not abated the nuisance resulting in an imminent threat to the public health, safety, or property of the residents of the city, the City Council shall cause the imminent threat, to be abated.

(2) The Authorized Representative shall maintain an accurate record of the expense incurred by the city in abating the imminent threat and shall include therein an overhead charge of 15% of the total cost for administration.

(3) The total cost, including the administrative overhead, shall thereupon be assessed to property of the person or person in charge as they may own in the city, whether or not said property shall be in the location of the violation of this chapter or not, in accordance with procedures set forth in § 90.48.

(4) If the person or person in charge does not own property in the city, the city shall file a civil action or suit to enforce the collection of the total cost, including the administrative overhead, as set forth in the resolution described in this section, in the appropriate court within the county.

(Prior Code, § 90.01) (Ord. 06-512, passed 7-5-2006; Ord. 07-516, passed 7-2-2007; Ord. 08-519, passed 5-12-2008)

§ 90.99 PENALTY.

(A) (1) Each day's violation of a provision of this chapter constitutes a separate offense.

(2) The abatement of a nuisance is not a penalty for violating this chapter but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate a nuisance.

(B) Violation of §§ 90.01 through 90.12 shall be punishable upon conviction by a fine not to exceed \$500 for a non-continuing violation and a fine of not more than \$1,000 for a continuing offense. Upon the Municipal Court Judge's judgment, "final judgment," or the issuance of a "default judgment" for failure to request a hearing regarding an ordinance violation, additional fines may be assessed at a rate not to exceed \$1,000 per day for each day an ordinance violation continues. Documentation of a continuing violation may consist of photographic and supplemental reports. The Municipal Court Judge shall have discretion to revise upward or downward to fines based on such factors as noncompliance, partial compliance, or acceptance of a court ordered compliance agreement. A continuing offense and subsequent proposed fine "notice of intent to assess a penalty and opportunity for a hearing" may also result from failure to comply with a city ordinance following the receipt of an official warning letter.

(1) The penalties imposed by this division (B) are not exclusive, and are in addition to any other remedies available under city ordinance or state statute.

(2) The abatement of a nuisance in accordance with the procedure set forth in § 90.46 within ten days after being cited for violation of this chapter, as set forth in § 90.45, shall not constitute a penalty for a violation of this chapter, but may, based upon the determination by the court of jurisdiction, be in addition to any penalty imposed for the violation of the chapter.

(3) The abatement of a nuisance resulting in an imminent threat to the public health, safety, or property of the residents of the city in accordance with the procedure set forth in § 90.01(C) within two hours after being cited for violation of this chapter, as set forth in § 90.01(B), shall not constitute a penalty for a violation of this chapter, but may, based upon the determination by the court of jurisdiction, be in addition to any penalty imposed for the violation of the chapter.

(4) A "notice of intent to assess a penalty and opportunity for a hearing" may be issued to violators of city ordinance in lieu of a citation. Violators/respondents will be given 21 days in which to request a hearing. The Municipal Court will hear all cases in a timely manner. A "final judgment" will be issued detailing the court's ruling and will be mailed to the violator/respondent. Should the violator/respondent fail to request a hearing within 21 days, a "final judgment" will be issued as a "default final judgment."

(5) All penalties/fines resulting from a "final judgment" or a "default final judgment" will be due and payable to the city, together with interest at 9% per annum.

(6) (a) In accordance with O.R.S. 221.359, whenever any person is convicted in the Municipal Court of any offense defined and made punishable by any city charter or ordinance, such person shall have the same right to appeal to the circuit court as pertains to justice courts.

(b) The appeal shall be taken and perfected in the manner provided by law for taking appeals from justice courts, except that in appeals taken under O.R.S. 221.359, 221.360, 221.380, and 221.390.

(c) Any notice of appeal shall be served upon the City Attorney (all appeals shall be filed within 30 days of the issuance of a "final judgment" or "default final judgment").

(7) If unpaid, civil penalties will be recorded by the City Recorder in the municipal lien docket and filed with the County Clerk's office as a lien against property ten days after the statutory period.

(8) All liens shall be enforced in the same manner as liens for street improvements.

(9) An error in the name of the owner or person in charge of the property shall not void the assessment, nor will a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property.

(Prior Code, § 90.01)

(C) Any person who violates any of the provisions of § 90.13 shall, upon conviction, be punished by a fine not to exceed \$100.

(Prior Code, § 93.99)

(D) (1) A violation of any provision of §§ 90.25 through 90.30 is a Class A infraction, punishable upon conviction by a fine of not more than \$500. Each and every day during that any provision of §§ 90.25 through 90.30 is violated shall constitute a separate offense.

(2) All subsequent violations of this chapter within 30 days after any conviction for a violation of §§ 90.25 through 90.30 is a Class A infraction, punishable upon conviction by a fine of not more than \$1,000. Each and every day during that any provision of §§ 90.25 through 90.30 is violated shall constitute a separate offense.

(3) The City Council, acting in the name of the city, may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with, or restrain by injunction the violation of, any provision of §§ 90.25 through 90.30.

(Ord. 285, passed 11-5-1962; Ord. 06-512, passed 7-5-2006; Ord. 07-516, passed 7-2-2007; Ord. 08-519, passed 5-12-2008; Ord. 556-2019, passed 2-14-2019)

STAFF REPORT

TO: HONORABLE MAYOR, AND CITY COUNCIL
FROM: CITY MANAGER, AJ FOSCOLI
SUBJECT: MAIN STREET ILLEGAL PARKING
DATE: 9/11/2023

SUMMARY

Mitigating illegal parking in the city's right-of-way.

BACKGROUND

The City Council has discussed on several occasions the proliferation of illegal parking in the city's right-of-way. This issue has been brought to the Public Works Committee for deliberation on how to best discourage illegal parking and the committee has helped to identify the north portion of North Main Street, between Ellis Street and the city limits as the first "No-Parking" zone. The city will rely on the Polk County Sheriff Office's Community Service Deputy to assist the city in identifying vehicles for tagging and towing. The protocol has been working in the past year when the Polk County Sheriff Office has been at full staffing.

As this is an ordinance, the issue will be reviewed and deliberated on at 2 City Council Meetings before it goes into effect.

FINANCIAL IMPLICATIONS

None.

STAFF RECOMMENDATION

Staff recommends the City Council to support the proposed Ordinance No. 562-2023

PROPOSED MOTION

Recommend a motion to support the proposed Ordinance No. 562-2023

EXHIBIT

A- ORDINANCE NO. 562-2023

ORDINANCE NO. 562-2023

AN ORDINANCE ESTABLISHING A NO PARKING ZONE ON NORTH MAIN STREET; ADDING TO THE PARKING PROHIBITED SCHEDULE IN FALLS CITY CODE CHAPTER 72; SECTION 1; AND DECLARING AN EMERGENCY

The City of Falls City does ordain as follows:

Section 1. That parking of motor vehicles be, and it hereby is, prohibited on North Main Street beginning at the Falls City Entrance sign west of the terminus of the sidewalk at the east side of the intersection with Ellis Street, on the North side of North Main Street.

Section 2. That the Parking Prohibited Schedule in Falls City Code Chapter 72 be, and it hereby is, adding as set forth in Section 1.

Section 3. That the City Manager, or his designee, shall post such signage and street markings as may be necessary and appropriate to implement this ordinance and provide appropriate parking controls.

Section 4. This ordinance being necessary for the peace, health and safety of the people of Falls City, an emergency is hereby declared and this Ordinance shall take effect upon final passage by the Council.

Read for the first time _____, 2023

Read for the second time _____, 2023

Adopted by the Falls City Council _____, 2023

Approved:

TJ Bailey , Mayor

Attest:

Jeremy Teal, City Recorder