

Proposed Ordinance No. \_\_\_\_

BEFORE THE CITY COUNCIL OF CORVALLIS, OREGON AN ORDINANCE CONCERNING THE PROTECTION OF THE HEALTH, SAFETY, AND WELFARE OF RESIDENTS AND ECOSYSTEMS OF CORVALLIS, OREGON, RECOGNITION OF DUTIES UNDER THE OREGON CONSTITUTION AND THE PUBLIC TRUST DOCTRINE AND THE RIGHT OF THE PEOPLE AND OUR POSTERITY TO A LIVABLE FUTURE, CREATION OF A CLIMATE RECOVERY PLAN, AND THE ADDITION OF A "CLIMATE AND FUTURE GENERATIONS" CHAPTER TO THE CORVALLIS CODE.

THE CITY COUNCIL OF THE CITY OF CORVALLIS FINDS AS FOLLOWS:

- A. The atmosphere is a crucial natural resource protected under the Public Trust Doctrine.
- B. All governments, including municipal, have a duty under the Public Trust Doctrine to young people and future generations to protect the atmosphere and take science-based action on climate change.
- C. The people's right to sustain the public trust resources for themselves and future generations is a natural right retained by the people under Article I, Section I of the Oregon Constitution, which states in part that "all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness."
- D. Climate change is caused by anthropogenic activities, primarily from the burning of fossil fuels.
- E. Mean global temperature is increasing as a result of increased atmospheric concentrations of greenhouse gases, primarily carbon dioxide (CO<sub>2</sub>), emitted from human activities.
- F. The decade from 2000 to 2010 was the warmest on record; and if trends continue 2016 will join 2015 and 2014 in being the hottest years on record.
- G. CO<sub>2</sub> levels in the atmosphere have surpassed 400 parts per million (ppm) for the first time in 800,000 years and are averaging around 400 ppm in the year 2016.
- H. Scientists predict that by 2100 average global temperatures will be 2 to 11.5 degrees Fahrenheit higher than they are now depending on the rate of emissions.
- I. Emissions of greenhouse gases and especially CO<sub>2</sub> are already causing large-scale problems including ocean acidification, ocean warming, and warming of the Earth's surface, which lead to rising seas, more frequent and severe weather events, such as storms, heavy rainfall and flooding, heat waves and drought, intense and destructive wildfires, disrupted ecosystems and agriculture, more disease, famine, and conflict and human loss of life. One of the world's leading climate scientists, Dr. James Hansen, stated in 2008: "If humanity wishes to preserve a planet similar to that on which civilization developed and to which life on Earth is adapted . . . CO<sub>2</sub> will need to be reduced. . . to at most 350 ppm." The scientific prescription for achieving a global atmospheric concentration of 350 ppm by the end of the century requires a 6% annual reduction of carbon dioxide emissions globally until 2050, if emission reductions begin immediately, in addition to substantial reforestation. If emission reductions are delayed until 2020, the required rate of annual reduction will increase to 15% per year, which may not be feasible. Thus, urgent and substantial reductions in CO<sub>2</sub> emissions are critical.
- J. Scientists have concluded that we risk losing one-fourth of the planet's species by mid-century due to climate change.
- K. The world's land-based ice is rapidly melting, threatening water supplies in many regions and raising sea levels; Arctic summer sea ice extent has decreased to about half of what it was

several decades ago, and reached a record low in 2012, and in 2015 it reached the fourth lowest. This decrease in sea-ice thickness and volume is severely jeopardizing ice-dependent animals.

- L. Global sea level is rising 60 percent faster than projected by the Intergovernmental Panel on Climate Change and sea level could rise by several meters in the next 50 years, which would make coastal cities dysfunctional and threaten millions of Americans with severe flooding.
- M. Climate change has led, and will continue to lead, to increasingly severe, extreme, and unpredictable weather events. Extreme weather events, most notably heat waves and precipitation extremes, are striking with increased frequency, with deadly consequences for people and wildlife; in the United States in 2011 alone, a record 14 weather and climate disasters occurred; in 2014, there were 8 weather and climate disasters, including droughts, heat waves, and floods, that cost at least \$1 billion each in damages and caused the loss of human lives.
- N. Environmental regulations often produce long-term economic benefits that far exceed the short-term cost of regulation.
- O. Climate change is affecting food security by reducing the growth and yields of important crops. Crops are also adversely impacted by extreme weather events.
- P. Droughts, floods, and changes in snowpack are altering water supplies; as of August, 2015, according to the weekly U.S. Drought Monitor, about 30.4 percent of the contiguous U.S. was classified as experiencing moderate to exceptional drought; in 2012, the U.S. Department of Agriculture designated more than half (50.3 percent) of all U.S. counties disaster areas, mainly due to drought, and some have experienced little relief since 2012.
- Q. The health and welfare of the citizens of Corvallis is threatened by these climatic changes and ocean acidification.
- R. Climate change threatens the stability of Corvallis's water supply by shifting the timing of peak runoff in the Cascade Mountains and by decreasing average annual snowpack, which provides water for local agriculture, industry, and residential use. By mid-century, the Cascade snowpack is predicted to be 50% of present levels.
- S. As temperatures continue to increase, so will pollen counts and poor air quality, leading to increases in allergies, asthma, and other respiratory illnesses in the Willamette Valley.
- T. Local governments, in conjunction with the government of Oregon and the federal government, have a fiduciary responsibility to address the aforementioned climatic changes.
- U. A regular comprehensive audit and accounting of carbon dioxide and other greenhouse gas emissions is necessary to guide appropriate mitigation and adaptation measures against future climatic changes.
- V. Local governments must do all they can to implement science-based climate recovery plans to do their share to reduce carbon pollution and address climate change for the sake of our children and future generations.

The City of Corvallis ordains as follows:

## **Chapter 10: Climate and Future Generations**

### **Section 1 – Findings and Declaration of Purpose**

This Ordinance shall be known and may be cited as the "Climate Recovery Ordinance of Corvallis."

The City Council provides community leadership, develops official policies to guide Corvallis and its municipal government, and is the city's decision-making body. Given this charge, the City Council acknowledges that it has a duty to protect vital public resources and do its share to address climate change and ocean acidification in order to protect present and future generations from irreparable harm. Given this charge, the City Council of Corvallis recognizes that the State of Oregon and the United States are failing to adequately protect vital public resources and address climate change and ocean acidification and are, thus, failing to protect current and future generations from irreparable harm.

The City Council recognizes its duty to take further action to respond to the threats posed by climate change and to protect vital public resources by reducing its greenhouse gas emissions. Greenhouse gas emission reductions must be based on the prescriptions for action offered by the best available science if governments are to meet their fiduciary duties to the public to avoid substantial impairment of essential natural resources.

The City Council of Corvallis recognizes that local lawmakers have the ability to address portions of the current climate crisis, but acknowledges that there are some limitations on what local governments can achieve if states and the federal government fail to act in a supportive and collaborative manner.

The City of Corvallis must ensure that residents, especially those affected by climate change such as communities of color and working families, receive full support in adapting to climate extremes and other deleterious impacts. The City must also ensure that these communities benefit from mitigation efforts—such as opportunities for economic growth and well-being that arise from transitioning to a clean energy economy. The City understands that to address climate change, cities must address its root causes—from which systematic environmental racism cannot be separated.

The City of Corvallis will take all necessary actions to meet our city's goal to reduce community-wide greenhouse gas emissions by at least 31 percent below 2012 levels by 2020 and at least 85% below 2012 levels by 2050. We hereby commit to those goals and pledge to make mandatory greenhouse gas emission reductions. Additionally, we pledge to implement a comprehensive climate recovery plan by May 1, 2017, due to the climate emergency. Finally, from that point forward we pledge to reevaluate the city's greenhouse gas emission reduction strategy, as well as other climate change mitigation and adaptation proposals, within a framework guided by the public trust doctrine, Oregon's Constitution, and the best available science.

## **Section 2 – Definitions**

- (a) "Adaptation" is the adjustment or preparation of human systems to new natural systems or a changing environment which moderates harm to both human and natural systems and identifies beneficial opportunities.
- (b) "Best Climate Science" means:
  - a. the most current scientific knowledge and understanding from qualified climate system scientists on safe levels of CO<sub>2</sub> and other greenhouse gases and their near-term and long-term impacts; and
  - b. the most current scientific knowledge and understanding from qualified climate system scientists as to the greenhouse gas emissions reductions required to stabilize the climate system and preserve a habitable and safe climate system for future generations.

- (c) “Carbon Budget” means the total amount of CO<sub>2</sub> emissions that can be released over a specific time frame while ensuring a return to the maximum safe limit of 350 ppm of CO<sub>2</sub> by 2100, or a lower level as may be determined by the best climate science.
- (d) “Carbon dioxide equivalent” is a metric measure used to compare the emissions from various greenhouse gases based upon their global warming potential (GWP).
- (e) A “comprehensive climate recovery plan” is a plan that is informed by the best available science and is designed to reduce GHG emissions and initiate substantial reforestation to return the atmosphere to a substantially unimpaired state, i.e., levels of carbon dioxide not exceeding 350 ppm.
- (f) “Crucial/vital natural resources” include, but are not limited to, the atmosphere, wildlife, forests, soils, and bodies of water including, but not limited to glaciers, mountain snowpack, rivers, lakes, estuaries, and the Pacific Ocean.
- (g) “Greenhouse Gas” or “GHG” means any gas that has contributed to anthropogenic global warming, including but not limited to carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.
- (h) “Irreparable harm” is harm that cannot be reversed or repaired by human action in a time frame relevant to human civilization.
- (i) “Local” means the geophysical area within the City of Corvallis’s jurisdiction including any GHG emissions, forests, or soils over which it can exercise control or regulation.
- (j) “Mitigation” is human intervention to reduce the human impact on the climate system primarily by reducing GHG emissions.
- (k) “Ocean acidification” is the increased concentrations of carbon dioxide in sea water causing an increase in acidity (i.e., a reduction in ocean pH), which adversely affects marine organisms.
- (l) The “Public Trust Doctrine” is a legal doctrine that requires sovereign governments to manage and protect crucial natural resources, such as air and water, for the common benefit of their citizens. The Public Trust Doctrine embodies the human rights principles of intergenerational justice and the right to a healthy environment.
- (m) “Substantial impairment” of a natural resource occurs when the functionality of that resource for use by current and/or future generations of citizens has been compromised permanently or long-term.

### Section 3 – Statement of Law

- (a) **Natural Resources Held in Trust:** All vital natural resources are held in trust for present and future generations. The trustees are all sovereign governments, including the Corvallis City Council and its agents. The beneficiaries are current and future residents of Corvallis.
- (b) **Right to a Sustainable Community:** The residents of Corvallis have a right to a sustainable community, and government decisions that may have an impact on crucial natural resources must be made in accordance with the city’s obligations under the Public Trust Doctrine and Oregon Constitution.
- (c) **Substantive Duties:** Trustees of the Public Trust Doctrine have the affirmative duty, with vigilance and due care to: protect all crucial natural resources, including the atmosphere; restore damaged resources; prevent waste; gain maximum beneficial value from trust assets (not simply economic value); and seek damages from entities that substantially impair trust resources or threaten the rights of Corvallis residents to a sustainable community and future.

- (d) **Procedural Duties:** Trustees of the Public Trust Doctrine have the affirmative duty to provide an accounting to citizens and of prudent management employing a precautionary approach to any relevant action.
- (e) **Modifications:** At such time that state and/or federal climate recovery plans are adequately developed and begin to be implemented according to the best available science, the City shall review and modify this ordinance to the extent necessary to remedy inconsistent policies. A minimum of two public hearings shall be held to discuss modifications before this ordinance is amended. In the event of any inconsistent policies, the stricter policy, favoring the greatest amount of GHG reductions, shall prevail.
- (f) **Scientific disputes:** Should disputes arise over the best available science used in the development of a climate recovery plan, they shall be admitted to scientific mediation by a mediator appointed by the city council.

#### **Section 4 – Emission Reductions**

The City of Corvallis commits to protect the health, safety, and welfare of residents and ecosystems by achieving the following:

- a) Reducing total greenhouse gas emissions from the Corvallis community and the municipal government, including consumption emissions, by a minimum of 31% below 2012 levels by 2020 and by a minimum of 85% below 2012 levels by 2050;
  - 1. GHG emission reductions shall be gauged using the carbon dioxide equivalent (CO<sub>2</sub>e) standard; and
- b) Establish interim benchmarks for minimum levels of emission reductions for at least the years 2030 and 2040 to guide progress toward the 2050 reduction goal;
- c) By the year 2020, all city-owned facilities and city operations shall be carbon neutral, either by reducing greenhouse gas emissions to zero, or, if necessary, by funding of verifiable local greenhouse gas reduction projects and programs or the purchase of verifiable carbon offsets for any remaining greenhouse gas emissions;
- d) By the year 2030, reducing fossil-fuel consumption (measured in utility and fuel purchases) from the Corvallis community, including all businesses, individuals, and others working in the city collectively, by 50% compared to 2012 usage
- e) Preparing a numerical or “carbon budget,” taking into account both in-boundary and consumption emissions, for Corvallis to do its share in achieving 350 ppm of CO<sub>2</sub> in the atmosphere by the year 2100.

#### **Section 5 – Climate Recovery Plan**

By May 1, 2017, implement a Comprehensive Climate Recovery Plan for Corvallis (“Plan”), based on the best available science, in order to achieve the emissions reductions outlined in Section 4, which, at a minimum, would address:

- a. The forest and soil carbon sequestration measures needed to meet the scientific prescription established in Hansen, et al., *Climate Change and Intergenerational Justice: Rapid Reduction of Carbon Emissions Required to Protect Young People, Future Generations and Nature*, Public Library of Science ONE (Dec. 2013), to return atmospheric levels of CO<sub>2</sub> to 350 parts per million (ppm) by 2100;
- b. A statement of local CO<sub>2</sub> emission levels in 2012 and what those levels should be in

2050;

- c. An updated carbon accounting for Corvallis that accounts for changes since 2012;
- d. A statement of annual CO<sub>2</sub> emission reductions necessary to achieve the 2050 target;
- e. An annual carbon budget for Corvallis consistent with the necessary annual emission reductions and the carbon budget through 2050;
- f. Mechanisms for meeting the carbon budget and emission reductions by sector;
- g. An explanation of additional support needed by the City of Corvallis from the state or federal governments to implement the Plan and achieve the reductions;
- h. Additional laws or funds needed by the City of Corvallis to implement the Plan and achieve the reductions;
- i. An analysis of the economic benefits of the Plan, taking into account the real value of natural resources and ecological services;
- j. A statement of the annual costs and savings to the City of Corvallis to implement the Plan;
- k. A statement as to the annual percentage of CO<sub>2</sub> emission reductions that is achievable without the additional support, laws, or funds identified in sub-sections (g) and (h) above; and
- l. The Plan shall recommend necessary amendments to the Climate Recovery Ordinance to adjust the reduction requirements as necessary to assure that Corvallis is reducing its greenhouse gas emissions in a manner that is consistent with the best climate science, taking into account the State's equitable responsibility for staying within the global 350 ppm carbon budget.

#### **Section 6 – Enforcement**

- (a) The fiduciary duty of the trustees of the Public Trust shall be tied to the health of trust assets, as determined by the best available science.
- (b) The citizens of Corvallis have a right to publicly comment on the Climate Recovery Plan and appropriate venues shall be provided for their engagement.
- (c) Should the trustees violate Section 4, the citizens of Corvallis shall have access to a court of competent jurisdiction.

#### **Section 7 – Effective Date**

This Ordinance shall be effective ten (10) days after the date of its enactment.

#### **Section 8 – Severability**

The provisions of this Ordinance are severable. If any court of competent jurisdiction decides that any section, clause, sentence, part, or provision of this Ordinance is illegal, invalid, or unconstitutional, such decision shall not affect, impair, or invalidate any of the remaining sections, clauses, sentences, parts, or provisions of the Ordinance. The City Council of Corvallis hereby declares that in the event of such a decision, and the determination that the court's ruling is legitimate, it would have enacted this Ordinance even without the section, clause, sentence, part, or provision that the court decides is illegal, invalid, or unconstitutional.

#### **Section 9 – Repealer**

All inconsistent provisions of prior Ordinances adopted by the City of Corvallis are hereby repealed, but only to the extent necessary to remedy the inconsistency.

ENACTED AND ORDAINED this \_\_\_\_ day of \_\_\_\_\_, 2015, by the City of Corvallis, in Benton County, Oregon.

Passed by the City Council this  
\_\_\_\_ day of \_\_\_\_\_, 2015.  
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Approved by the City Manager this  
\_\_\_\_ day of \_\_\_\_\_, 2015.  
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