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.

WHEREAS, the atmosphere is a crucial natural resource protected under the Public Trust Doctrine; and

WHEREAS, 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; and

WHEREAS, in U.S. District Judge Ann Aiken's decision and order of Nov. 8, 2016 in the *Juliana v U.S.*, federal case, she offered the following judgement: "I have no doubt that the right to a climate system capable of sustaining human life is fundamental to a free and ordered society"; and

WHEREAS, climate change is caused by anthropogenic activities, primarily from the burning of fossil fuels

WHEREAS, CO_2 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; and

WHEREAS, emissions of greenhouse gases and especially CO_2 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; and

WHEREAS, leading climate scientists agree that if humanity is to preserve the conditions to which life on Earth is adapted, global atmospheric CO_2 concentration must be reduced to 350 ppm by the end of the century; and

WHEREAS the scientific prescription, to date, for achieving a global atmospheric CO2 concentration of 350 ppm by the end of the century is an 8% annual reduction of CO_2 emissions globally until 2050, if emission reductions begin immediately, in addition to substantial reforestation, or, if emission reductions are delayed until 2020, the required rate of annual reduction would increase to 15% per year, which may not be feasible. Thus, urgent and substantial reductions in CO_2 emissions are critical; and

WHEREAS, local governments, in conjunction with the government of Oregon and the federal government, have a fiduciary responsibility to address the aforementioned climatic changes by implementing science-based climate recovery plans to do their share to reduce greenhouse gas emissions and address climate change for the sake of our children and future generations; and

WHEREAS, a regular comprehensive audit and accounting of CO_2 and other greenhouse gas emissions is

necessary to guide appropriate mitigation and adaptation measures against future climatic changes; therefore,

THE CITY OF CORVALLIS ORDAINS AS FOLLOWS:

Section __ Climate and Future Generations

The Municipal code shall be amended with the addition of a chapter, entitled "Climate and Future Generations", containing the following text:

It is the policy of the City to protect vital public resources and do its share to address climate change in order to protect present and future generations from irreparable harm.

The City recognizes its duty to take 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 the City is to meet its fiduciary duties to the public to avoid substantial impairment of essential natural resources.

The City of Corvallis will ensure that all residents, including historically underrepresented populations, such as communities of color, receive the same level of support in adapting to climate extremes and other deleterious climate impacts. In climate adaptation and mitigation endeavors, the City will consciously apply the equity principles laid out in Municipal Code, Chapter 1.23 - CIVIL RIGHTS/the City Charter Chapter 2, Section 4: Responsibility to all people.

The City will take all necessary actions to meet our city's goal to reduce community-wide greenhouse gas emissions by at least 47 percent below 2012 levels by 2025, 68 percent below 2012 levels by 2035, and at least 85 percent below 2012 levels by 2050.

The City will adopt an official comprehensive Climate Recovery Plan by July 1, 2017, based on the existing Climate Action Plan and including specific strategies as outlined in Section __ and the emissions reductions prescribed in Section __. This plan will be subject to the same annual review criteria as the City's Emergency Operations Plan.

The City will establish a Sustainability Advisory board, as described in Section __.

Section__ – Climate Recovery Plan

The Corvallis Comprehensive Climate Recovery Plan ("Plan") will be based on the best available science, in order to achieve the emissions reductions outlined in Section __, At minimum, it will 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_2 to 350 parts per million (ppm) by 2100;
b. A statement of local CO_2 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_2 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_2 emission reductions that is achievable without the additional support, laws, or funds identified in subsections (g) and (h) above; and
l. A provision for regular reevaluation of the City's GHG reduction strategy, as well as

Section __ – 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[1] from the Corvallis community and the municipal government, including consumption emissions, by a minimum of 47% below 2012 levels by 2025 by a minimum of 68% below 2012 levels by 2035, and by a minimum of 85% below 2012 levels by 2050; and,
b) By the year 2025, 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;
c) 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
d) 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 CO_2 in the atmosphere by the year 2100.

Section__ – Sustainability Advisory Board

A Sustainability Advisory Board is hereby created.

The Advisory Board will consist of ___ members, appointed by ___. In appointing members of this board, __ shall strive to select individuals representing a diverse range of backgrounds, ages, and cultural affiliations, and with a demonstrated interest in and knowledge of sustainable business practices, sustainable building and design, energy conservation or alternative energy sources, and sustainable economic development, in accordance with Section 1.16.030 herein.

The Advisory Board exists to act as a policy advisory body to the council and city manager in the development or initiation of programs or actions that will help with the implementation of the Climate

[1] GHG emission reductions shall be gauged using the carbon dioxide equivalent (CO2e) standard

Recovery Plan. This work includes:

a. Make recommendations to the council and city manager for programs or actions designed to implement the recommendations contained in the Climate Action Plan as accepted by the city council on December 12, 2016;
b. Create and present an annual work plan to the city council; meeting annually with the council to secure approval of the plan;
c. Provide a forum for addressing public concerns related to Climate Action Plan policies and practices;
d. Work on Climate Action Plan projects as directed by the council and city manager;
e. Provide input on Climate Action Plan policies and practices that reflect community values; and
f. Assist the city council and city manager in balancing community priorities and resources by advising them on sustainability issues.

Section ___ – Interpretations and Definitions

(b) "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.
(c) "Best Climate Science" means:
    a. the most current scientific knowledge and understanding from qualified climate system scientists on safe levels of CO_2 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.
(d) "Carbon Budget" means the total amount of CO_2 emissions that can be released over a specific time frame while ensuring a return to the maximum safe atmospheric limit of 350 ppm CO_2 by the year 2100, or a lower level as may be determined by the best climate science.
(e) "Carbon dioxide equivalent" or "CO_2e" is a metric measure used to compare the emissions from various greenhouse gases based upon their global warming potential (GWP).
(f) Climate Change means the negative impacts of GHG-related global climatological change, including surface warming, ocean warming, and ocean acidification.
(g) 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 CO_2 not exceeding 350 ppm.
(h) "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.
(i) "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.
(j) "Irreparable harm" is harm that cannot be reversed or repaired by human action in a time frame relevant to human civilization.
(k) "Local" means the geophysical area within the City of Corvallis' jurisdiction including any GHG

emissions, forests, or soils over which it can exercise control or regulation.

(l) "Mitigation" is human intervention to reduce the human impact on the climate system primarily by reducing GHG emissions.

(m) "Ocean acidification" is the increased concentrations of CO_2 in seawater causing an increase in acidity (i.e., a reduction in ocean pH), which adversely affects marine organisms.

(n) 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.

(o) "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 for the long-term.

Section ___ – 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 __ – Accountability

The fiduciary duty of the City government, as trustees of the Public Trust shall be tied to the health of trust assets, as determined by the best available science.

The citizens of Corvallis have a right to publicly comment on the Climate Recovery Plan and appropriate

venues shall be provided for their engagement.

Should the trustees violate Section 4, the citizens of Corvallis shall have the right to request a review and a proposed policy change if community and internal targets are not met.

ENACTED AND ORDAINED this ____ day of _____, 2017, by the City of Corvallis, in Benton County, Oregon.

Passed by the City Council this

____ day of _____, 2017.

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Approved by the City Manager this

_____ day of _____, 2017.

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