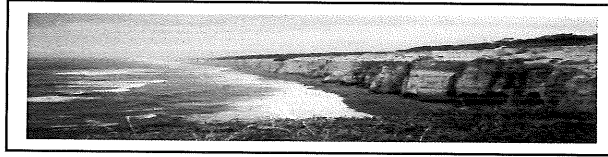


**Carleton Law Offices  
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**Frederick J. Carleton**  
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September 4, 2019

William H. Sherlock  
Hutchinson Cox Attorneys  
P.O. Box 10886  
Eugene, OR 97440  
[lsherlock@eugenelaw.com](mailto:lsherlock@eugenelaw.com)

**Re: 19CV28149 – Rob Taylor vs. City of Bandon**

Dear Mr. Sherlock,

Enclosed please find Defendant's Answer in the above-referenced matter.

Very truly yours,

Frederick J. Carleton

Enc.

Cc: file

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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF COOS

|                                     |   |  |
|-------------------------------------|---|--|
| ROB TAYLOR,                         | ) | Case No.: 19CV28149                        |
| Plaintiff,                          | ) |  |
| v.                                  | ) | ANSWER TO COMPLAINT FOR                    |
|                                     | ) | DECLARATORY RELIEF                         |
|                                     | ) |  |
| CITY OF BANDON, an Oregon Municipal | ) | Claim not subject to Mandatory Arbitration |
| Corporation,                        | ) |  |
| Defendant.                          | ) | ORS 21.259 (Fee Exemption)                 |
|                                     | ) |  |
|                                     | ) |  |

Defendant, CITY OF BANDON, in Answer to Plaintiff's complaint alleges:

1.

Defendant admits Paragraphs 2, 3, and 7; and admits as to Paragraph 4 that the City Council (and the Mayor) are the governing body of the City of Bandon.

2.

Defendant admits the City Charter of the City of Bandon contains sections 46, 47, 48, and 49 as set out in Paragraphs 5 and 6.

3.

Defendant denies Paragraphs 9 through 15.

1 **BY WAY OF FURTHER ANSWER, DEFENDANT ALLEGES THE FOLLOWING**  
2 **AFFIRMATIVE DEFENSES:**

3  
4 **FIRST AFFIRMATIVE DEFENSE**

5 4.

6 Defendant alleges that, pursuant to ORCP, 21 A (4); Plaintiff does not have the legal  
7 capacity to sue.

8 **SECOND AFFIRMATIVE DEFENSE**

9 5.

10 Further pursuant to ORCP, 21 A (6), Defendant alleges that the Plaintiff asserting this  
11 claim is not the real party in interest in this matter.

12 **THIRD AFFIRMATIVE DEFENSE**

13 6.

14 Further pursuant to ORCP 21 A (8), Plaintiff fails to state the ultimate facts sufficient to  
15 constitute a claim.

16 **FOURTH AFFIRMATIVE DEFENSE**

17 7.

18 The City of Bandon operates enterprise operations commonly known by and referred to  
19 as utilities; which in this proceeding include the water plant and wastewater plant. These utility  
20 operations are governed in part by state law, which requires among its statutes the operation of  
21 these enterprises in a manner that requires rates to be such that revenues cover or are sufficient to  
22 provide for the operation or maintenance of the utility; and notwithstanding the voter-passed  
23 charter provisions set out in Plaintiff's Complaint, state law preempts the City provisions.

24 **FOR FURTHER ANSWER AND AS A COUNTERCLAIM, DEFENDANT**  
25 **ALLEGES AS FOLLOWS:**

26 Defendant reincorporates the above paragraphs.

27 8.

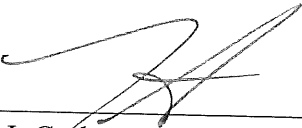
28 The City of Bandon operates utilities including a water plant and system, and a  
29 wastewater plant and system.  
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9.  
Notwithstanding the voter-passed charter amendments (Sections 46, 47 and 48); these amendments were unconstitutional as infringement on administrative matters and not proper matters for an initiative, as it relates to the establishment of rates; and therefore should be so declared.

10.  
WHEREFORE, Defendant prays for a judgment against Plaintiff; dismissing Plaintiff's Complaint, granting Defendant relief in conformation with this Answer, and awarding Defendant their costs and disbursements.

Dated this 4 day of September, 2019

  
\_\_\_\_\_  
Frederick J. Carleton, OSB#771356

**ATTORNEY FOR DEFENDANT:**  
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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF COOS


|                                     |   |                        |
|-------------------------------------|---|------------------------|
| ROB TAYLOR,                         | ) | Case No.: 19CV28149    |
| Plaintiff,                          | ) |                        |
| v.                                  | ) | CERTIFICATE OF SERVICE |
|                                     | ) |                        |
| CITY OF BANDON, an Oregon Municipal | ) |                        |
| Corporation,                        | ) |                        |
| Defendant.                          | ) |                        |

I HEREBY CERTIFY that I served the foregoing ANSWER TO COMPLAINT FOR DECLARATORY RELIEF on:

WILLIAM H. SHERLOCK  
Hutchinson Cox Attorneys  
P.O. Box 10886  
Eugene, OR 97440  
[lsherlock@eugenelaw.com](mailto:lsherlock@eugenelaw.com)  
*Attorney for Plaintiff*

By mailing to him at his above address a certified true copy, and upon filing via email to the above address this 4 day of September, 2019

Dated: September 4, 2019.

  
 Frederick J. Carleton, OSB#771356  
 Carleton Law Office  
 P.O. Box 38, Bandon, OR 97411  
 (541)347-2468, Fax: (541)347-6198  
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