



City Hall – Council Chambers
206 N. Main Street
Toledo, Oregon 97391
6:00 p.m.

TOLEDO CITY COUNCIL
Regular Meeting – also via Zoom Meeting Platform
July 20, 2022

Virtual Meeting: The City Council will hold the meeting for the City Council and staff in person as well as through the Zoom video meeting platform. The public is encouraged to attend the meeting electronically. Visit the meetings page on the city website for details including meeting login information.

Public Comments: The City Council may take limited verbal comments during the meeting. Written comments may be submitted by email to lisa.figueroa@cityoftoledo.org 3:00 p.m. the day of the meeting to be included in the record. Comments received will be shared with the City Council and included in the record.

1. **Call to Order, Pledge of Allegiance and roll call**
2. **Proclamations/Presentations**
Presentation – Retirement gift presented to Public Works Lead Teresa Hill
Presentation – Municipal Court report
3. **Visitors/Public Comment**
(The public comment period provides the public with an opportunity to address the City Council regarding items not on the agenda. Please limit your comments to three (3) minutes).
4. **Consent Agenda**
Minutes from the regular meeting held June 15, 2022
5. **Discussion Items**
 - Review 2023 Legislative priorities
6. **Decision Items**
 - Authorize Expenditure of approximately \$110,000 to replace two existing roof systems on City Library
 - Resolution No. 1502, a resolution reimbursing the Toledo Chamber of Commerce for electricity payments made for the City of Toledo signs at the East and West Highway 20 junctions, and providing direction to City Staff
 - Resolution No. 1503, a resolution of the Toledo City Council accepting and receiving grant funds from the Oregon State Fire Marshall for wildfire response
 - Resolution No. 1504, a resolution satisfying the condition in Resolution 1480 requiring a structural engineering report at 160 N. Main St. Toledo, OR 97391
 - Presenting a Settlement Agreement to the Toledo Cemetery Association

Comments submitted in advance are preferable. Comments may be submitted by e-mail at lisa.figueroa@cityoftoledo.org. The meeting is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting by calling city offices at (541) 336-2247.

Page 1

- Ordinance No. 1402, an Ordinance adopting a ban on Psilocybin Service Centers, Psilocybin Product Manufacturers, and the Manufacture of Psilocybin Products
- Resolution No. 1505, a Resolution referring to the voters of Toledo a measure proposing a temporary prohibition on Psilocybin-Related Businesses and adopting a ballot title and explanatory statement
- Consideration to develop a liability code in the City of Toledo

7. Reports and Comments

- Committee updates

8. Adjournment

Comments submitted in advance are preferable. Comments may be submitted by e-mail at lisa.figueroa@cityoftoledo.org. The meeting is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting by calling city offices at (541) 336-2247.

Page 2

**TOLEDO CITY COUNCIL
REGULAR MEETING**

June 15, 2022

6:15 p.m.

1. CALL TO ORDER

Mayor Rod Cross called the meeting to order at 6:15 p.m. also via Zoom in Toledo, Oregon.

Present	Absent	
X		Mayor Rod Cross
X		Council President Betty Kamikawa
	X	Councilor Jackie Kauffman
X		Councilor Rob Duprau
X		Councilor Todd Michels
X		Councilor Wade Carey
X		Councilor Tracy Mix

Staff present: City Manager (CM) Judy Richter, City Recorder (CR) Lisa Figueroa, Police Chief (PC) Michael Pace, Public Works Director (PWD) Bill Zuspan, Fire Chief (FC) Larry Robeson, City Attorney (CA) Mike Adams

2. VISITORS/PUBLIC COMMENT

Erik Ericson, addressed the City Council on behalf of the Library Board and invited them to the a Stars and Stripes celebration between the Toledo Public Library and the Greater Toledo Pool and Recreation District.

Mayor Cross moved the Resolution discussion in regards to offshore wind energy to this time at the agenda for the sake of the presenter.

Resolution in regards to offshore wind energy

Heather Mann, Director of the Midwater Trawlers Cooperative provided a presentation to the Council. She reported on the coalition that has been monitoring progress on Offshore Renewable Wind Energy. She said the coalition is not against offshore energy development, but they have concerns in regards to potential environmental and oceanic impacts and are circulating a resolution for cities to consider. Following the presentation the Council considered the resolution and asked staff for a number to adopt the resolution.

Motion – It was moved and seconded (Mix/Michels) to adopt Resolution No. 1499, a resolution of the Toledo City Council authorizing the City of Toledo to send the Bureau of Ocean Energy Management and the Oregon Department of Energy a letter with recommendations regarding offshore wind energy and the motion carried unanimously.

1 **3. PUBLIC HEARING**

2 **Resolution No. 1494; a resolution adopting a Supplemental Budget for the Fiscal Year 2021-2022 and**
3 **making appropriations**

4
5 **Resolution No. 1495; a resolution declaring the City of Toledo's election to receive state revenues**

6
7 **Resolution No. 1496, a resolution of the Toledo City Council adopting the budget, appropriating**
8 **funds, and levying taxes for the Fiscal Year 2022-2023**

9
10 Mayor Cross opened the public hearing at 7:02 p.m.

11 CM Richter provided the council report Resolution No. 1494, 1495 and 1496. She noted for the
12 record the budget spreadsheets had a bad formula and the streets budget was affected. Following
13 her report, Mayor Cross opened the floor to receive public comments. After hearing none, Mayor
14 Cross closed the public hearing at 7:07 p.m.

15
16 **Motion** – It was moved and seconded (Kamikawa/Mix) to change the Streets Budget to reflect
17 correction to Budget line 011-110-620520 for new amount of \$1,969,181 and the motion carried
18 unanimously.

19
20 **Motion** – It was moved and seconded (Kamikawa/Michels) to approve Resolution No. 1494, a
21 resolution of the Toledo City Council adopting a Supplemental Budget for the Fiscal Year 2021-
22 2022 and making appropriations and the motion carried unanimously.

23
24 **Motion** – It was moved and seconded (Kamikawa/Mix) to adopt Resolution No. 1495, a
25 Resolution of the Toledo City Council declaring the City's Election to receive State Shared
26 Revenues for fiscal 2022-2023 and the motion carried unanimously.

27
28 **Motion** – It was moved and seconded (Kamikawa/Michels) to adopt Resolution No. 1496 adopting
29 the Budget, appropriating funds and levying taxes for the Fiscal Year 2022-2023; with the new
30 corrected budget total of \$28,596,654 and the motion carried unanimously.

31
32 **4. CONSENT AGENDA**

33 **Minutes from the work session held May 25, 2022**

34 **Reappointment of Library Board members**

35
36 **Motion** – It was moved and seconded (Kamikawa/Mix) to approve the consent agenda as
37 presented and the motion carried unanimously.

38
39 **5. DISCUSSION**

40 **Annual consideration of the Street Lighting Utility Fee**

41
42 CM Richter summarized the council report and noted the proposed increase does not cover the
43 City's costs. The Council discussed why the fee was implemented and whether the City should
44 charge fees per category, for example a residential, commercial or industrial fees, etc. They
45 debated about what is a 'fair' fee and how much the fee should increase. CM Richter noted Central
46 Lincoln PUD will propose a rate increase of 5% effective July 1. After further discussion, the
47 consensus of the Council agreed to an incremental increase each year until they get caught up on

1 the expenses. CM Richter indicated she would bring back a resolution for adoption at a future
2 meeting.

3
4 **Proposed fee changes to the Master Fee Schedule**

5 CR Figueroa summarized the council report and reviewed the proposed changes in the Master Fee
6 Schedule included in the packet. She noted staff is seeking direction in regards to the fee for use
7 of a 'private event' on Memorial Field and clarified 'private events' are not defined in the
8 Municipal Code. She noted staff is recommending a \$25 per day fee for the use of barricades and
9 cones because there is still an expense to the City for staff to deliver and pick them up. The Council
10 discussed several options and after discussion, suggested private events be charged \$75; they also
11 recommended to increase the returned check fee to \$35. CR Figueroa said she would bring back
12 the resolution with the additional changes for adoption.

13
14 The Council recessed at 8:00 p.m. and reconvened the meeting at 8:05 p.m.

15
16 **6. DECISION ITEMS**

17 **Resolution No. 1497, a resolution transferring between budget lines for fiscal 2021-2022 for**
18 **employee bonuses**

19 CM Richter reviewed the council report and there were no questions from the Council.

20
21 **Motion** – It was moved and seconded (Carey/Mix) to approve Resolution No. 1497, a resolution
22 approving the transfer of funds between budget lines for the Fiscal Year 2021-2022 and the motion
23 carried unanimously.

24
25 **Resolution No. 1498, Resolution No 1498, a resolution repealing Resolution No. 1484 and**
26 **transferring funds between budget lines**

27 CM Richter presented the council report.

28
29 **Motion** – It was moved and seconded (Kamikawa/Michels) to approve Resolution No. 1498, a
30 resolution of the Toledo City Council repealing Resolution No. 1484 and transferring funds
31 between budget lines for Fiscal Year 2021-2022 and the motion carried unanimously.

32
33 **Approve funding of up to \$44,000 in funding for Cured In Place Pipe liner install**

34 PWD Zuspan provided the council report and there were no questions from the Council.

35
36 **Motion** – It was moved and seconded (Carey/Mix) to approve funding of up to \$44,000 for Sewer
37 main liner install and the motion carried unanimously.

38
39 **Outdoor event application – Street closure request (City of Toledo/ART Toledo) and**
40 **Consume Alcohol in public places permit application**

41 CR Figueroa presented the council report and noted the request for both permit applications would
42 apply to all of the Art Toledo events.

43
44 **Motion** – It was moved and seconded (Mix/Michels) to approve the street closure request for Art,
45 Oysters & Brew as presented and the motion carried unanimously.

1 **Motion** – It was moved and seconded (Mix/Michels) to approve the permit application to consume
2 alcohol in public places for Timbers Restaurant and the motion carried unanimously.

3
4 **7. REPORTS AND COMMENTS**

5 CP Kamikawa noted the grant application has been submitted for the SREUS project. She said she
6 is looking for topics of discussion for upcoming Transportation Committee meetings.

7
8 Mayor Cross reported the Cascades West Council of Governments will start a Strategic Plan
9 discussion and he will participate in that discussion. He said he would like to see them consolidate
10 with the Community Services Consortium to provide a central location for services to the public.

11
12 PC Pace provided a department report to the Council and said the National Night Out committee
13 has met to prepare for the event in August. He said a map is being developed to record drug
14 overdoses, which will allow organizations to identify areas they need to focus on.

15
16 PWD Zuspan said the crew placed new bumpers at the parking lot on Graham and Main Street. He
17 listed current department projects.

18
19 CR Figueroa said the window to file for Council candidacy is currently open and candidates can
20 file by fee or by signature petition. She announced on July 20 between 4:30 – 5:30 before the
21 Council meeting there will be a small going away for Public Works Lead Teresa Hill, who is
22 retiring from the City.

23
24 CA Adams provided a list of projects to the Council he was working on including access to a
25 road/easement near the Elks Lodge parking lot and mural contracts.

26
27 CM Richter commented on the Emergency Preparedness tabletop exercise the management staff
28 attended this week with Lincoln County and said it was impressive. She said the City received four
29 applications from RARE students and will conduct interviews next week. She announced City Hall
30 will be closed for the upcoming holiday.

31
32 Councilor Mix updated the Council on the meeting she attended with staff at Arcadia Park for the
33 configuration of the restrooms. She said it was interesting to hear about the history of the locale
34 and PWD Zuspan's suggestions.

35
36 CP Kamikawa said she attended a housing meeting from the Department of Land Conservation
37 Development. She said they are holding regional forums and asking questions in regards to
38 housing. She said the drinking water protection plan meeting was a good meeting but not well
39 attended.

40
41 Mayor Cross reported the City of Toledo and the City of Siletz will enter into a contract for Code
42 enforcement services. He said he hopes it will lead to other partnerships in the future with the City
43 of Siletz. He said he has attended several zoom meetings in regards to housing and identifying
44 developers that will work in this area.

1 **8. ADJOURNMENT**

2 The meeting adjourned at 8:45 p.m.

3
4 Approve:

Attest:

5
6
7
8 _____
Mayor Rod Cross

City Recorder Lisa Figueroa

DRAFT

Lisa Figueroa

Subject: FW: REMINDER: League of Oregon Cities - 2023 Legislative Priorities Ballot
Attachments: 2023 Legislative Priorities Ballot v.2.pdf

From: LOC [<mailto:loc@orcities.org>]
Sent: Friday, July 8, 2022 11:06 AM
Subject: REMINDER: League of Oregon Cities - 2023 Legislative Priorities Ballot

Good morning,

This is a friendly reminder to please complete the League of Oregon Cities - 2023 Legislative Priorities Ballot if you have not already done so. **The deadline for submitting your city's vote is 5:00 p.m. on August 5, 2022.**

Each even-numbered year the League of Oregon Cities (LOC) appoints members to serve on 7 policy committees. These policy committees are the foundation of the LOC's policy development process. Composed of city officials, these committees are charged with analyzing policy and technical issues and recommending positions and strategies for the LOC. For the past three months, these 7 policy committees have been working to identify and propose specific actions as part of the LOC's effort to develop a pro-active legislative agenda for the 2023 session. Each committee provided a list of recommended policy positions and actions for the LOC to take in the coming legislative cycle. This year, all 7 committees identified between 3 to 5 legislative policy priorities to advance to the full membership and LOC Board of Directors. A detailed explanation of the process, as well as the recommended policy priorities are attached herein.

Each city is being asked to review the recommendations from the 7 policy committees and provide input to the LOC Board of Directors as it prepares to adopt the LOC's 2023 legislative agenda. After your city has had an opportunity to review the proposals, please complete the electronic ballot indicating the top 5 issues that your city would like to see the LOC focus on during the 2023 legislative session.

Each city is permitted one vote. As such, each city must designate a person to enter the vote electronically on the below link. For those cities without electronic options for voting, paper ballots may be requested from LOC's Legislative Director Jim McCauley at jmccauley@orcities.org.

All questions about the process, the policy recommendations, or completing the ballot are to be directed to Jim McCauley, Legislative Director, with questions at jmccauley@orcities.org.

The deadline for submitting your city's vote is 5:00 p.m. on August 5, 2022.

Link to ballot: https://orcities.co1.qualtrics.com/jfe/form/SV_bKiK63THwxwOCUK

Your city's participation and input will assist the Board in creating a focused set of specific legislative targets that reflect the issues of greatest importance to cities. Thank you for your involvement, and thanks to those among you who gave many hours of time and expertise in developing these proposals.

Kind Regards,



LOC Staff

503-588-6550

1201 Court St. NE, Suite 200, Salem, OR 97301-4194

www.orcities.org





2023 Legislative Priorities Ballot

Issued on June 10, 2022

Ballots due by 5:00 p.m. on August 5, 2022

TABLE OF CONTENTS

1. Background.....	1
2. Ballot and Voting Process.....	1
3. Link to Electronic Ballot.....	1
4. Community Development Policy Committee Recommendations.....	2
A. Full Funding and Alignment for State Land Use Initiatives.....	2
B. Local Funding to Address Homelessness.....	2
C. Infrastructure Funding to Support Needed Housing.....	2
D. Economic Development Incentives.....	2
E. Community Resiliency and Wildfire Planning.....	3
5. General Government Policy Committee Recommendations.....	3
A. Protecting Public Employees and Officials.....	3
B. Return to Work.....	3
C. Attorney Client Privilege.....	4
D. Address Measure 110 Shortcomings.....	4
6. Energy and Environment Policy Committee Recommendations.....	4
A. Building Decarbonization, Efficiency and Modernization.....	4
B. Continue Investments in Renewable Energy.....	4
C. Investment in Community Climate Planning Resources.....	5
D. Adequate Funding for State Climate Initiatives.....	5
7. Finance and Taxation Policy Committee Recommendations.....	5
A. Property Tax Reform.....	5
B. Lodging Tax Flexibility.....	6
C. Economic Development Incentives.....	6
D. Marijuana Taxes.....	6
E. Alcohol Revenues.....	7
8. Telecommunications, Broadband Policy Committee Recommendations.....	7
A. Digital Equity and Inclusion.....	7
B. Resilient, Futureproof Broadband Infrastructure and Planning Investment.....	8
C. Incentives for Broadband Affordability, Adoption and Consumer Protections.....	8
D. Cybersecurity and Privacy.....	9
9. Transportation Policy Committee Recommendations.....	9
A. Transportation Safety Enhancement.....	9
B. Road User Fee – Vehicle Miles Traveled Structure.....	10
C. New Mobility Services	10
D. Funding for Recovery of Abandoned Recreational Vehicles.....	10
10. Water and Wastewater Policy Committee Recommendations.....	10
A. Water Utility Rate and Fund Assistance.....	10
B. Place-Based, Water Resource Planning.....	11
C. Infrastructure Financing and Resilience.....	11

2023 Legislative Priorities Ballot – League of Oregon Cities

Background: Each even-numbered year the LOC appoints members to serve on 7 policy committees. These policy committees are the foundation of the LOC's policy development process. Composed of city officials, these committees are charged with analyzing policy and technical issues and recommending positions and strategies for the LOC. Each committee provides a list of recommended policy positions and actions for the LOC to take in the coming two year legislative cycle. This year, all 7 committees identified between 3 to 5 legislative policy priorities to advance to the full membership and LOC Board of Directors.

Ballot/Voting Process: Each city is being asked to review the recommendations from the 7 policy committees and provide input to the LOC Board of Directors as it prepares to adopt the LOC's 2023 legislative agenda. After your city has had an opportunity to review the proposals, please complete the electronic ballot indicating the top 5 issues that your city would like to see the LOC focus on during the 2023 legislative session.

Each city is permitted one vote. As such, each city must designate a person to enter the vote electronically on the below link. For those cities without electronic options for voting, paper ballots may be requested from LOC's Legislative Director Jim McCauley at jmccauley@orcities.org.

Important Deadlines: The deadline for submitting your city's vote is **5:00 p.m. on August 5, 2022.**

Ballots were emailed to the CAO of each city. If your city didn't receive the ballot, please email Jim McCauley at jmccauley@orcities.org.

Brought to you by the Community Development Policy Committee

Full Funding and Alignment for State Land Use Initiatives

Legislative Recommendation: *The LOC will support legislation to streamline and fully fund local implementation of any recently adopted or proposed state land use planning requirements, including administrative rulemaking.*

Background: Recent legislation and executive orders have made significant changes to the state's land use planning process, including increasing burdens for local government. While the LOC shares the state's policy goals, these updates have resulted in extensive, continuous, and sometimes conflicting rulemaking efforts that are not supported by adequate state funding. Cities simply do not have the staff capacity or resources needed to implement current requirements. Existing planning updates should be streamlined to enable simpler, less costly implementation and any new proposals should be aligned with existing requirements.

Local Funding to Address Homelessness

Legislative Recommendation: *The LOC will seek funding to support coordinated, local responses to addressing homelessness.*

Background: The LOC recognizes that to end homelessness, a statewide and community-based coordination approach to delivering services, housing, and programs is needed. Addressing homelessness will look different and involve different service provider partners from one city to the next, but one thing is consistent, addressing the crisis requires significant financial resources. While cities across Oregon have developed programs, expanded service efforts, built regional partnerships, and have significantly invested both their local General Fund and federal CARES Act and American Rescue Plan Act dollars into programs to address the homelessness crisis in their respective communities, the crisis continues. The homelessness crisis exceeds each city's individual capacity – necessitating the need for meaningful fiscal support from the State of Oregon.

Infrastructure Funding to Support Needed Housing

Legislative Concept: *The LOC will support state funding for infrastructure needed to support needed housing.*

Background: As Oregon works to overcome its historic housing supply deficit, development costs continue to rise. Cities have limited tools to address the rising costs of infrastructure necessary to support the impact of new housing development. A statewide fund to address infrastructure costs and improve housing affordability is needed.

Economic Development Incentives (co-sponsor with Tax and Finance Committee)

Legislative Recommendation: *The LOC will support legislation to preserve and strengthen discretionary local economic development incentives including the Enterprise Zone (EZ), Long Term Rural Enterprise Zone (LTREZ) and Strategic Investment Program (SIP).*

Background: The EZ and LTREZ programs provide local governments the option to offer a temporary full exemption from property taxes for qualified new property of a business (3 to 5 years for the standard EZ and 7 to 15 years for the rural EZ). The SIP program allows local governments to offer a 15-year

partial exemption on the value of new property that exceeds a certain investment threshold (\$25 million to \$100 million depending on location and total project value). Recent studies by Business Oregon confirmed what city economic development professionals knew; these incentive programs are crucial for Oregon to remain competitive nationally and show massive benefits to Oregon in terms of jobs, enhanced economic activity, and tax revenues. The EZ and LTREZ programs will sunset in 2025 without action by the legislature, and “gain share” provisions of the SIP program transferring a portion of income taxes resulting from qualified projects to local governments will sunset in 2026. The LOC will advocate for sunset extensions and for changes that will improve the programs, and advocate against any changes that will reduce local control or devalue the incentives.

Community Resiliency and Wildfire Planning

Legislative Recommendation: *The LOC will support investments for climate and wildfire resiliency planning, as well as infrastructure upgrades, to fill existing gaps and assist cities in planning for extreme weather events and wildfire.*

Background: Oregon communities are increasingly looking for help planning for climate change impacts, including infrastructure upgrades, to handle extreme weather events. Cities of all sizes, especially small to mid-sized cities, need technical assistance and additional capacity to better plan for and recover from climate events and wildfire. Investments in infrastructure upgrades, repairs, and resiliency will help rebuild communities, better ensure equity and access to critical services, protect public health and the environment, improve community resiliency, and promote economic recovery.

Brought to you by the General Government Policy Committee

Protecting Public Employees and Officials

Legislative Recommendation: *The LOC will introduce legislation to protect the personal contact information of public employees and increase criminal sanctions when public officials and employees are subject to criminal activity connected to their service.*

Background: Cities have seen an increase in harassments, threats and property damage in recent years. Over 80 percent of city leaders who participated in a National League of Cities [report](#) on public civility indicated they had personally experienced harassing or harmful behavior because of their role as a public official. Additionally, an ambiguity in the phrasing in a statute intended to protect the private information of public employees may require an employer to release home addresses, personal emails and contact information.

Return to Work

Legislative Recommendation: *Eliminate the sunset on the ability of retirees to return to work.*

Background: PERS covered retirees are currently allowed to return to work without suffering a tax or pension penalty until 2024. Allowing retirees to return to work allows employers to fill critical vacancies while not paying pension and other costs in times of both fiscal hardships and workforce scarcity. The sunset was established as part of a compromise PERS reform package passed in 2017 but has been successful for retirees and employers.

Attorney Client Privilege

Legislative Recommendation: *Ensure that privileged communications between public bodies and officials and their legal counsel remain confidential indefinitely.*

Background: A recent court ruling limited public sector attorney client privilege to 25 years, which is identical to the lifespan of other public records exemptions. The LOC believes that public officials should have the same right to unimpeded legal counsel as all other attorney clients.

Address Measure 110 Shortcomings

Legislative Recommendation: *Restore criminal justice incentives for seeking treatment for addiction while ensuring a path for expungement for successfully completing a treatment program.*

Background: Oregon voters passed Measure 110 in 2020 which eliminated criminal sanctions for simple possession for most narcotic drugs and replaced them with a waivable \$100 ticket. A citation cannot be issued if a person seeks treatment by calling a treatment referral service. The measure also re-dedicated local marijuana revenue to harm reductions services. Those funds are now pooled and distributed by an oversight and accountability committee. Oregon's overdose deaths continue to increase and funds that should have been distributed in January of 2021 are still not delivered. Additionally, problems related to drug abuse such as property crime have increased.

Brought to you by the Energy and Environment Policy Committee

Building Decarbonization, Efficiency, and Modernization

Legislative Recommendation: *The LOC will support legislation to protect against and rollback preemptions to allow local governments to reduce greenhouse gas emissions from new and existing buildings while ensuring reliability and affordability. Some initiatives may include a local option Reach Code, statewide home energy scoring or financial incentives like [CPACE](#).*

Background: Homes and commercial buildings need a lot of power. In fact, they consume nearly half of all the energy used in Oregon according to the Oregon Department of Energy 2020 Biennial Energy Report. Existing buildings need to be retrofitted and modernized to become more resilient and efficient. New buildings can be built with energy efficiency and energy capacity in mind, so they last longer for years to come, reduce the energy burden on occupants, and are built to a standard that is futureproof for carbon reducing technologies like electric vehicles

Continue Investments in Renewable Energy

Legislative Recommendation: *The LOC will work to identify barriers and potential solutions to local energy generation and will pursue funding assistance for feasibility studies and project implementation. The LOC will support legislation to study and invest in viable, preferably locally generated, options and to divest the Oregon Treasury from fossil fuels.*

Background: Renewable energy sources can be used to produce electricity with fewer environmental impacts. Local energy generation projects can better position cities to pursue and achieve local climate action goals, address capacity constraints of existing electric transmission lines, and can help cities respond to individual businesses that may be seeking green energy options. The types of local energy generation projects discussed by the committee include, but are not limited to, small-scale hydropower, in-conduit hydropower, methane capture, biomass and solar. Such projects are not intended to conflict

with existing low-carbon power purchase agreements but can position cities to pursue local climate action goals and supplement energy needs through renewable generation.

Investment in Community Climate Planning Resources

Legislative Recommendation: *The LOC will support investments that bring climate services (for mitigation and adaptation) together and work to fill the existing gaps to help communities get the high-quality climate assistance they need quickly and effectively.*

Background: Oregon communities are increasingly looking for help planning for climate change impacts and implementing programs to reduce greenhouse gases. Interest in climate services has continued as communities experience increasing disruptions caused or made worse by climate change. Oregon's small to mid-sized communities and rural communities are particularly in need of both technical assistance and additional capacity to address climate impacts and do their part to reduce greenhouse gas emissions. While some climate resources exist in Oregon, those programs are dispersed throughout state government, the nonprofit world, and academic institutions. Because of this current structure, it is not clear for communities what they should do once they decide to act on climate change.

Adequate Funding for State Climate Initiatives

Legislative Recommendation: *The LOC will support legislation to streamline processes and fully fund local implementation of climate mandates (like [Climate Friendly and Equity Communities](#) rules) from the state. Furthermore, the LOC will support legislation that allows the state to adequately maintain and staff programs that impact a city's ability to reduce greenhouse gas emissions.*

Background: On March 10, 2020, Governor Kate Brown signed [Executive Order 20-04](#) directing state agencies to take action to reduce and regulate greenhouse gas emissions. Additionally, the state has legislatively passed many greenhouse gas reduction measures. This has led to some unfunded mandates on cities as well as a significant workload for agency staff.

Brought to you by the Finance and Taxation Policy Committee

Property Tax Reform

Legislative Recommendation: *The LOC will advocate for constitutional and statutory reforms to the property tax system to enhance local choice, equity, fairness, and adequacy.*

Background: The property tax system is broken and in need of repair due to constitutional provisions in Measures 5 and 50 that were adopted by voters in the 1990s. The current system is inequitable to property owners and jurisdictions alike, is often inadequate to allow jurisdictions to provide critical services, removes meaningful local choice, and is incomprehensible to most taxpayers. Local governments and schools rely heavily on property tax revenues to pay for services and capital expenses. With federal pandemic aid to cities coming to an end and inflation looming, cities are concerned that their top revenue source will not allow residents to adequately fund the services that they demand. Therefore, the LOC will take a leadership role in pursuing efforts to draft and advocate for both comprehensive and incremental property tax reform option packages, including forming coalitions with other interested parties. The LOC will remain flexible to support all legislation that improves the system, but will, in the short term, focus on incremental changes that will allow for a foundation on which to build for broader revisions going forward. The LOC's overall focus will be on a property tax package that includes, but may not be limited to these elements:

- In the short term, advocating for a system that restores local choice and allows voters to adopt tax levies and establish tax rates outside of current limits and not subject to compression. This may also include advocating for a local option levy that has passed three or more times to become permanent (requires constitutional referral).
- Also in the short term, advocating for statutory changes to extend statewide a 2017 Multnomah County pilot that created an option that new property has a taxable value determined based on the city average of maximum assessed value to market value as opposed to countywide average.
- Over the longer term, to achieve equity, advocating for a system that has taxpayers' relative share tied to the value of their property, rather than the complex and increasingly arbitrary valuation system based on assessed value from Measure 50 (requires constitutional referral).
- Also over the longer term, to enhance fairness and adequacy, advocating for various statutory changes, some of which would adjust the impact of the above changes. For example, as a part of comprehensive reform the LOC will support targeted tax relief for lower income residents to make sure reform does not price vulnerable residents out of their homes.

Lodging Tax Flexibility

Legislative Recommendation: *The LOC will advocate for legislation to enhance flexibility in how cities may use transient lodging tax revenues. The goal is to help cities better serve visitors and improve local conditions that support the tourism industry.*

Background: The Legislature created the state lodging tax in 2003, and with it a new requirement that 70% of net revenues from new or increased local lodging taxes must be used for “tourism promotion” or “tourism related facilities.” Cities acknowledge and appreciate the economic development benefits that tourism brings to their local economies, but often struggle to support the industry in areas like public safety, infrastructure, workforce housing, and homeless services. Enhanced flexibility and clarification of allowed use of funds will benefit both visitors and business owners alike.

Economic Development Incentives (co-sponsor with the Community Development Committee)

Legislative Recommendation: *The LOC will support legislation to preserve and strengthen discretionary local economic development incentives including the Enterprise Zone (EZ), Long Term Rural Enterprise Zone (LTREZ) and Strategic Investment Program (SIP).*

Background: The EZ and LTREZ programs provide local governments the option to offer a temporary full exemption from property taxes for qualified new property of a business (3 to 5 years for the standard EZ and 7 to 15 years for the rural EZ). The SIP program allows local governments to offer a 15-year partial exemption on the value of new property that exceeds a certain investment threshold (\$25 million to \$100 million depending on location and total project value). Recent studies by Business Oregon confirmed what city economic development professionals know; these incentive programs are crucial for Oregon to remain competitive nationally and show massive benefits to Oregon in terms of jobs, enhanced economic activity, and tax revenues. The EZ and LTREZ programs will sunset in 2025 without action by the legislature, and “gain share” provisions of the SIP program transferring a portion of income taxes resulting from qualified projects to local governments will sunset in 2026. The LOC will advocate for sunset extensions and for changes that will improve the programs, and advocate against any changes that will reduce local control or devalue the incentives.

Marijuana Taxes

Legislative Recommendation: *The LOC will continue to advocate for increased revenues from marijuana taxes. This may include proposals to restore state marijuana tax losses related to Measure 110 (2020) distribution changes, and to increase the current 3% cap on local marijuana taxes so local voters may choose a rate that reflects the needs of their community.*

Background: Recreational marijuana retailers are required to charge a state-imposed retail sales tax of 17 percent for all recreational marijuana sold. Until the end of 2020 cities received 10% of the net revenue from the state tax but Measure 110 changed the distribution formula and will reduce city distributions by an estimated 73% for the 2021-23 biennium. Cities may also impose a local retail sales tax of up to 3%, subject to voter approval. Tax rates for recreational marijuana vary widely across the states, but the total Oregon tax burden is 20-25% percent below other West Coast states. Unbiased academic studies indicate Oregon could increase marijuana taxes without pushing significant business to the illicit market. If the Legislature is not willing to allow increased taxes it should restore city revenues by other means back to what was agreed to when recreation marijuana was legalized.

Alcohol Revenues

Legislative Recommendation: *The LOC will advocate for enhanced revenues from the sale of alcohol to mitigate the impact of recent legislative changes that will otherwise reduce this crucial revenue source.*

Background: Oregon's beer tax has not been increased since 1978 and is \$2.60 per barrel which equates to about 8.4 cents per gallon or less than 5 cents on a six-pack. Oregon has the lowest beer tax in the country, and to get to the middle of the states Oregon would need a more than 10-fold increase. Oregon's wine tax is 67 cents per gallon and 77 cents per gallon on dessert wines, this is the second lowest tax nationwide, and the first 2 cents of the tax goes to the wine board. Oregon is a control state and is the sole importer and distributor of liquor, which accounts for about 94% of total alcohol revenues. The Oregon Liquor and Cannabis Commission (OLCC) sets retail prices at about 105% of their cost and net revenues are distributed based on a formula. Cities are preempted from imposing alcohol taxes. In exchange, cities receive approximately 34% of the state alcohol revenues after the state takes 50% of beer and wine taxes off the top prior to this distribution. Recent legislative changes will reduce city revenues; the legislature approved a more generous compensation formula for liquor store owners in 2021 and approved a 148% cost increase for a planned OLCC warehouse in 2022. Both changes will reduce distributions to cities. Cities have significant public safety costs related to alcohol consumption and taxes on alcohol do not cover their fair share of these costs. There are numerous ways to address the issue: increasing taxes on beer or wine (possibly through a local sales tax option), increasing the markup on liquor, or increasing the per bottle surcharge currently in place at liquor stores and dedicating the funds to paying for the planned OLCC warehouse.

Brought to you by the Telecommunications, Broadband Policy Committee

Digital Equity and Inclusion

Legislative Recommendation: *The LOC will advocate for legislation and policies that help all individuals and communities have the information technology capacity needed for full participation in our society, democracy, and economy.*

Background: Connectivity is crucial to modern life. It is being relied on more for how people do business, learn, and receive important services like healthcare. As technology evolved the digital divide has become more complex and nuanced. Now, discussion of the digital divide is framed in terms of whether a population has access to hardware, to the Internet, to viable connection speeds and to the skills they need to effectively use it.

Resilient, Futureproof Broadband Infrastructure and Planning Investment

Legislative Recommendation: *The LOC will support legislation that will ensure broadband systems are built resiliently and futureproofed while also advocating for resources to help cities with broadband planning and technical assistance through direct grants and staff resources at the state level. The LOC will support legislation that addresses issues with the inconsistency of regulations applied to traditional and nontraditional telecommunications service as more entities move to a network based approach instead of what services are being provided. LOC will oppose any preemptions on local rights-of-ways, and municipalities right to own poles and become broadband service providers.*

Background:

Broadband Planning and Technical Assistance

Most state and federal broadband infrastructure funding sources require that communities have a broadband strategic plan in place to qualify for funds. Unfortunately, many cities do not have the resources or staff capacity to complete comprehensive broadband strategic plans.

Resilient and Long-Term Systems

As broadband is continually being made a priority on the state and federal level, we must think strategically about how to build resilient long-term networks that will serve Oregonians now and into the future. Ways to ensure broadband is resilient may include investing in robust middle mile connections, ensuring redundancy and multiple providers in all areas, and undergrounding fiber instead of hanging it on poles.

Optional Local Incentives to Increase Broadband Deployment

All levels of government have identified broadband as a priority. However, there continue to be proposed mandates on local governments to deploy broadband services more quickly. Cities have a duty to manage rights-of-ways (ROW) on behalf of the public and need flexibility to adequately manage the ROW. Instead of mandates the state should focus its efforts on allowing cities the option to adopt incentives that could help streamline broadband deployment.

Regulatory Consistency Amidst Convergence

Historically, the standards and oversight policies for a specific technology were established independently and were not developed with merging or interoperability in mind. For example, telephony (when providing voice), cable TV (when providing video), and mobile cellular technologies each follow their respective standards, and these services were regulated by policies specific to each type.

Incentives for Broadband Affordability, Adoption and Consumer Protections

Legislative Recommendation: *The LOC will seek additional state support and funding for increased broadband adoption and affordability and will advocate for consumer protections for those accessing the internet, internet enabled devices and broadband service.*

Background: Broadband infrastructure is being funded at a historic level. For that infrastructure to be adequately utilized affordability and adoption initiatives must receive investment. Initiatives that would help could include studying barriers to adoptions and affordability; ensuring adequate competition in providers; investing in more data centers statewide so service is cheaper for regions outside of the I-5 corridor as it is simply more expensive per megabit to provide; and ensuring providers are widely advertising programs meant for those with limited means.

Additionally, problems with internet providers are among the most common consumer complaints in Oregon. Complaints often involve paying more than expected, difficult cancellation policies and poor service. Consumers are at risk of being advertised or offered services that are not actually being delivered. For example, 25/3 is the current definition of broadband. Currently, providers are allowed to advertise

speeds as “up to” 25/3 or a certain speed. There is no one enforcing whether or not providers actually hit their advertised speeds. Providers should be accountable for making sure consumers have the appropriate equipment for the services they are paying for.

Cybersecurity & Privacy

Legislative Recommendation: *The LOC will support legislation that addresses privacy and cybersecurity for all that use technology, including but not limited to: funding for local government cybersecurity initiatives, statewide resources for cyber professionals, regulations of data privacy, or standards for software/hardware developers to meet to make their products more secure.*

Background: Society is becoming more technologically reliant than ever before and that will only increase. With this increase of technology there is an increased risk for cybercrimes. Therefore, cybersecurity and privacy systems must be taken seriously. Cybersecurity encompasses everything that pertains to protecting sensitive data, protected health information, personal information, intellectual property, data, and governmental and industry information systems from theft and damage attempted by criminals and adversaries.

Cybersecurity risk is increasing, not only because of global connectivity but also because of the reliance on cloud services to store sensitive data and personal information. Widespread poor configuration of cloud services paired with increasingly sophisticated cyber criminals means the risk that governments, businesses, organizations, and consumers suffer from a successful cyberattack or data breach is on the rise.

Brought to you by the Transportation Policy Committee

Transportation Safety Enhancement

Legislative Recommendation: *The LOC supports legislation that improves the overall safety of the transportation network in communities. The LOC will achieve this outcome by expanding authority for establishing fixed photo radar to all cities, increasing flexibility for local speed setting authority, and increased investment in the “safe routes to schools” and expansion of the “great streets” programs.*

Background: The City of Portland has demonstrated improved safety outcomes in neighborhoods with the addition of fixed photo radar along high-crash corridors. LOC’s efforts to expand the use of fixed photo radar to additional cities failed during the 2021 Session. ([HB 2019](#)) - High Crash Corridor for City of Unity) and ([HB 2530](#)) -Extending Fixed Photo Radar) were supported by the LOC, but lacked sufficient support from legislators to advance.

During the 2019 Session the LOC supported [SB 558](#), which would authorize a city to designate speed for a highway under the city’s jurisdiction that is five miles per hour lower than statutory speed when the highway is in a residential district and not an arterial highway. During the 2021 Session passage of [HB 3055](#) (Sect 81 (5)(g)) extended speed setting authority to highways within the jurisdictional boundaries of cities and Multnomah & Clackamas counties.

Road User Fee – Vehicle Miles Traveled (VMT) Structure

Legislative Recommendation: *The LOC will support replacement of Oregon’s Gas Tax with a road impact fee structure that will capture added revenue from cities with local gas tax structure. The pricing structure should also maintain a weight-mile tax structure to make sure that there is an impact element of the fees paid for transportation infrastructure.*

Background: The LOC has historically advocated for a fee structure that more closely matches road usage. Gas tax revenues are a declining source of revenue due to enhanced mileage in new vehicles and the increase of electric vehicles on roads.

New Mobility Services

Legislative Recommendation: *The LOC supports the entry and utilization of a variety of new mobility services that support a safe, sustainable, and equitable multimodal transportation system, while preserving local government's authority to regulate services and ensure public and consumer safety in communities.*

Background: The expansion of mobility services presents local governments with opportunities and challenges. Mobility services include Uber, Lyft, scooters, E-bikes, and food service delivery such as DoorDash, and UberEATS. Many cities across the country have initiated efforts to add regulatory oversight of these services to provide a base level of safety to consumers. Companies such as Uber and Lyft have tried to de-regulate their business model in states specifically introducing legislation that would pre-empt local governments to regulate and establish steps that protect their respective communities. The LOC has supported efforts during the 2019 session such as [HB 3379](#) and opposed efforts that pre-empted local governments such as HB 3023.

Funding for Recovery of Abandoned Recreational Vehicles

Legislative Recommendation: *The LOC supports the formation of a recovery fund that cities could access for disposing of abandoned Recreational Vehicles (RV).*

Background: With the ongoing houseless and affordable housing crisis cities have experienced an increase in dumping of vehicles and RVs in neighborhoods, streets and the right-of-way. The costs associated with towing, recovery, and determining ownership has presented significant costs in some communities. Several cities are allocating hundreds of thousands of dollars to recover abandoned vehicles from streets, parks, private property, and other locations. Tow companies have expressed an interest in a recovery fund as well, since the companies must deal with storage and disposal of the vehicles, which presents several challenges.

Brought to you by the Water and Wastewater Policy Committee

Water Utility Rate and Fund Assistance

Legislative Recommendation: *The LOC will collaborate with members of the bipartisan work group to continue the proposed legislative purpose of the Low-Income Household Water Assistance (LIHWA) program.*

Background: The LOC was successful during the 2021 legislative session in advocating for the development of a new water utility funding assistance program for ratepayers experiencing ongoing or recent economic hardships. The LOC worked with a bipartisan work group to pass legislation that formed the Low-Income Household Water Assistance (LIHWA) program which received federal funding for the

initial implementation through the Consolidated Appropriations Act of 2021 and the American Rescue Plan Act (ARPA) of 2021. The program was incredibly successful, but the federal funding that was allocated to the State of Oregon was already exhausted in some counties in the Spring of 2022.

The bipartisan workgroup's intent was to make this program a permanent program, with initial pilot funding provided by the federal government.

Place-Based, Water Resource Planning (Program Support)

Legislative Recommendation: *The LOC will advocate for the funding needed to complete existing place-based planning efforts across the state and identify funding to continue the program for communities that require this support.*

Background: Oregon's water supply management issues have become exceedingly complex. Lack of adequate water supply and storage capacity to meet existing and future needs is an ongoing concern for many cities in Oregon and is a shared concern for other types of water users including agricultural, environmental, and industrial. The Legislature created a place-based planning pilot program in Oregon administered through the Oregon Water Resources Department that provides a framework and funding for local stakeholders to collaborate and develop solutions to address water needs within a watershed, basin, or groundwater area. The LOC Water & Wastewater Policy Committee recognized that while this funding is limited to specific geographic areas, they also recognized the importance of successfully completing these pilot efforts and conducting a detailed cost/benefit analysis. It is a critical step to demonstrate the benefits of this type of planning. If these local planning efforts prove to be successful, there will likely be future efforts to secure additional funding for other place-based planning projects across the state in 2022.

Infrastructure Financing and Resilience

Legislative Recommendation: *The LOC will advocate for an increase in the state's investment in key infrastructure funding sources, including, but not limited to, the Special Public Works Fund (SPWF), Brownfield Redevelopment Fund, Regionally Significant Industrial Site loan program, and set asides through the SPWF for seismic resilience planning and related infrastructure improvements to make Oregon water and wastewater systems more resilient.*

Background: A key issue that most cities are facing is how to fund infrastructure improvements (both to maintain current and to build new). Increasing state resources in programs that provide access to lower rate loans and grants will assist cities in investing in vital infrastructure. An LOC survey of cities in 2016 identified a need of \$7.6 billion dollars over the next 20 years to cover water and wastewater infrastructure projects for the 120 cities who responded. This shows a significant reinvestment in the Special Public Works Fund (SPWF) is needed to help meet the needs of local governments.

**CITY OF TOLEDO
REQUEST FOR COUNCIL ACTION**

	Meeting Date:	Agenda Topic:
	July 20, 2022	Authorize Expenditure of approximately \$110,000 to replace two existing roof systems on City Library
Council Goal:	Agenda Type:	
Maintain and improve public infrastructure and facilities	Decision Items	
Prepared by:	Reviewed by:	Approved by:
Public Works Director B. Zuspan	City Manager Judy Richter	City Manager Judy Richter

Recommendation:

Motion to authorize an expenditure of \$110,000 to replace the Library Roof system and authorize the City Manager to negotiate the contract.

Background:

After several leaks in the past several years, Contractors suggested an overlay of the roofing system due to aging existing materials.

Fiscal Impact:	Fiscal Year:	GL Number:
\$110,000	2022-2023	035-000-405-385 = \$ 75k 035-350-621-900= \$ 35k (Bal)

Attachment:

1. Bids quote form & contract, only one contractor responded to requests

- ROOFING
- SIDING
- CONSTRUCTION

stutzmanandkropf.com



CONTRACTORS INC.

1954 Rye Street SE • Albany, OR 97322

(541) 928-6535
(541) 752-1961
FAX (541) 928-9588
CCB# 96278

Estimator: Kurt Gates

Date: May 25, 2022

Customer: City of Toledo- Jeff	Job Address: 173 Northwest 7th Street
	Corvallis, OR 97330
	Fax:
Mobil #: Day#: (541) 961-7712 Eve#:	Email: pwsuper@cityoftoledo.org

Scope of Work

Reroof Composition Roof on Library

- Tear Off & Dispose of 1 layer of Composition
- Inspect for Dry-Rot Conditions and Clean Roof Deck and Gutters Free of Debris
- Install ASTM Rated Synthetic 15# Roofing Felt Underlayment
- Install Ice & Water Membrane on all Valleys, Penetrations, and Chimneys
- Install New Hip and Ridge Material and Install Ridge Vent at the peak
- Install New Stainless Steel Rake Flashings on Gables and Drip metal
- Install New Roof with Stainless Steel Fasteners
- Reinstall existing Stainless Steel Vents, they are in great Condition
- Install New Plumbing Vent Pipe Flashings
- Paint Penetrations Whenever Possible to Match Color of Shingles
- Re-flash All Existing Base Flashing(s) for Chimney, Skylights, Step Shingles, and Wall(s) As Needed
- Install Selection of Composition Shingles Listed Below
- Final Cleanup
- Boli Wages
- 5 Star Workmanship Warranty this is a 25yr Commercial Warranty

*Kurt
541-936-0588
CWD*

Special Notes

The 30yr Flat Roof Will be hard to get, as stock has been depleted, the 20yr flat roof at this time is easier to get and I do believe will last as long as at least 25yrs, there is drain issues on the roof, the drain pipe goes all the way around the east side of the building with limited slope and it could back up due to the slope of the drain pipe, more outlets would be better but is out of the scope of this quote.

****All Dry-Rot Repair or Structural Improvements Will Be Billed As Time (\$75 Per Man Hour) and Material (with 45% Handling Fee)****

Includes: Rafters, Soffit Panels, Fascia Boards, T&G Decking, Ventilation Enhancements

****Additional 1/2" Plywood Will Be Billed At Market Value, Handling, Markup & Time Per Sheet for Roof Deck/Field Replacement****

****A fuel surcharge will be assessed based on the date of installation. Surcharge will be based on a range depending on the distance from our office location in Albany, OR. The greater the distance from the home office to your location, the greater the surcharge will be. Per Vehicle Cost/ Per Day- Range (\$15-\$40)****

****Not Included: Touch Up Trim Paint on Gables, Fascia, Chimneys, Fascia Plywood, Gutters, Back Pans, Satellite Dish Alignment, New Skylights Unless Specified In Contract, Etc...****

****All repairs not specifically noted are charged as time and materials (plus 45% on material handling.) If possible, we will notify you before we do those repairs.****

Product Choices	Price	Acceptance
Estimate May 19, 2022		Accept _____ Decline _____
Certainteed Northgate SBS Modified 130mph Wind Warranty	\$45,335.00	Accept _____ Decline _____
Certainteed and 115mil 20yr Material warranty Flat Combined	\$108,920.00	Accept ☒ Decline _____
Certainteed and 135mil 25yr Material Warranty Flat Combined	\$116,720.00	Accept _____ Decline _____
Recommended Options	Price	Acceptance
1 : 20yr NDL Warranty on 115mil Fleeceback		

ADD	\$ 6,500.00	Accept _____ Decline _____
2 : 30yr NDL Warranty on 135mil Fleeceback	ADD \$ 8,500.00	Accept _____ Decline _____
3	\$	Accept _____ Decline _____
4	\$	Accept _____ Decline _____
Shingle Color:		Total Price

Dear Valued Customer,

We at Stutzman and Kropf Contractors Inc. would like to take a few moments to explain our different roof systems and warranties that we offer to our customers and what you can expect from Stutzman and Kropf Contractors Inc. Although roofing projects vary in some degree, Stutzman and Kropf Contractors Inc. performs the following procedures on most residential roof applications which exceed the roofing standards set by the budding codes and manufactures.

- Tear off all existing materials and dispose of all debris and prepare roof deck which may include installation of plywood. Please note: Roof decks without plywood may void part or all of manufactures wind and labor warranty.
- Install ASTM felt, Shingles, Hip and Ridge, Ice and water shield around chimney and skylights.
- Install roofing accessories, which may include brown drip metal and/or rake metal if needed.
- New pipe jacks, gray, brown or black metal roof vents, painted flashings around the base of chimneys and skylights.
- Extensive cleanup, which includes cleaning out gutters and raking of flower beds and use of magnet for picking up nails. Sweeping concrete driveways and sidewalks with the utmost care taken to minimize damage to shrubbery and flower beds.
- We will check your gas ventilation ducts to your furnace and hot water heater to make sure they are properly attached after the roof is completed (If you are home when the roofing crew is done).
- As a convenience to our customers and employees, we usually tow our portable restroom to the job site each day.
- In most cases, we will complete your job in one day and includes a written workmanship warranty in addition to the manufactures warranty that will be mailed to you after the job is **paid in full**.
- Because we need to access your roof from the driveway, any vehicles that you may need during the day need to be out of the garage and driveway before we arrive. We recommend that you have your cars out of the garage and driveway during the roofing process, as we want to eliminate the possibility of any damage occurring.

****Ventilation & Design Considerations****

- We are not design engineers, all condensation or ventilation considerations is the owners responsibility to choose the best course of action prior to or before installation begins.
- All single ply membrane re-roof systems and new require a recommended level of R19 insulation value to reduce risk of condensation and sweating.
- Vaulted ceilings ventilation is recommended to pull off all plywood and ensure proper cavity spacing for ventilation exists. Owners are responsible to understand this consideration to do this before installation process or assume risk of potential ventilation failures.
- All new skylight installations include work above the roof deck only. Any interior finish work is responsibility of homeowner unless specified in contract.

Initial Acknowledgment: 

The following are some suggestions for you as a home owner to be prepared for us when we arrive to roof your home.

- You may want to remove any pictures or other valuables from your walls that could vibrate off your walls and shelves. Although this is not normally a problem, items could fall and be damaged. Stutzman and Kropf Contractors Inc. will not responsible for losses of this kind.
- Stutzman and Kropf Contractors Inc. will reinstall satellite dishes and antennas, however it is the responsibility of the customer to schedule and pay for any adjustments needed after the roof is completed.
- We recommend that you check any light fixture globes before and after the roof is completed to make sure they are not loose. Smoke detectors should also be checked that they are working properly at this time.
- You may want to cover stored items in your attic to protect them from dust and debris.
- Shake and wood shingle removals leave small debris and particles in attic spaces. We will do our best to minimize debris in attic space, but not accountable to remove it from attic space or clean insulation.

Contractors:

Terms are net 10th of the month on work completed in the previous month.

Late charges of 4% of balance not paid by the 15th will be added to total.

By signing the Contract, I acknowledge that I have received and read the sheet which contains the consumer notices required by the State of Oregon. I acknowledge and accept the terms and conditions of payment options of the contract. We at Stutzman and Kropf are dedicated to giving you top quality service, materials and workmanship. Please feel free to contact us if you have any questions about your new roof or the installation process. Thank you for considering Stutzman and Kropf Contractors Inc. for roofing needs. **To move forward, we need the signed and initialed contracts mailed, emailed, or faxed**

direct to our office. Upon receipt of your signed contract, we will call you to schedule your upcoming project. All projects are done in the order that they are received by our office.

Cards

Visa, MasterCard, credit cards, & Debit cards are gladly accepted; however 4% will be added to the total invoice at the time of payment. All other payment arrangements must be made and approved by Stutzman and Kropf Contractors Inc. before the job is started.

Initial Acknowledgment: 

Payment Terms: Due upon job completion

- Payment is due in full when Job is completed, unless otherwise specified in contract/proposal.
- Late charges of 4% of balance may be added if not paid within 5 days of completion.
- See front of contract for down payment instructions (if required)
- We prefer Bank, Business and Personal checks. (Non Sufficient Fund Fee For Returned Checks \$30.00)
- Multi day projects or projects over \$17,000 will require a 30% down payment on the day the job begins.
- By signing the Contract, I acknowledge that I have received and read the green sheet which contains the consumer notices required by the State of Oregon.
- I acknowledge and accept the terms and conditions of payment options of the contract.

Initial Acknowledgment: 

Estimator Signature: Kurt Gates

Estimate expires 30 days past the proposal date

Customer Signature:


Judy M Richter City
Mgr

Date:

7/14/2022

**CITY OF TOLEDO
REQUEST FOR COUNCIL ACTION**

	Meeting Date:	Agenda Topic:
	July 20, 2022	Resolution No. 1502, a resolution reimbursing the Toledo Chamber of Commerce for electricity payments made for the City of Toledo signs at the East and West Highway 20 junctions, and providing direction to city staff
Council Goal:	Agenda Type:	
Not Applicable	Decision Items	
Prepared by:	Reviewed by:	Approved by:
City Attorney M. Adams	City Manager Judy Richter	City Manager Judy Richter

Recommendation:

Motion to approve Resolution No. 1502, a resolution of the Toledo City Council reimbursing the Toledo Chamber of Commerce for electricity payments made for the City of Toledo signs at the East and West Highway 20 junctions, and providing direction to City Staff.

Background:

The City of Toledo accepted a donation of the East Highway 20 Junction sign from the Toledo Hometown Project Committee on July 7, 1999. The City also received a grant from the Oregon Tourism Commission, which supplemented the funds raised by the Toledo Hometown Committee to construct the sign at the West Highway 20 junction on March 15, 2000.

The City of Toledo obtained permits issued by the Oregon Department of Transportation (ODOT) that allowed the City of Toledo signs to be located at the East and West Highway 20 junctions and placed in ODOT's right-of-way. The Chamber of Commerce, pursuant to comments provided in the City's work session on June 22, 2022, has paid \$3,348.38 for the electricity for both signs for a number of years above what it has been reimbursed. At that meeting, the Chamber requested that the City Council not only reimburse the Chamber, but also transfer the utility account into the City's name, to ensure the City is paying for the electricity, or alternatively, transfer ownership of the signs to the Chamber.

Fiscal Impact:	Fiscal Year:	GL Number:
Unknown	2022-2023	N/A

Attachments

1. Resolution No. 1502

**CITY OF TOLEDO
RESOLUTION NO. 1502**

A RESOLUTION OF THE TOLEDO CITY COUNCIL REIMBURSING THE TOLEDO CHAMBER OF COMMERCE FOR ELECTRICITY PAYMENTS MADE FOR THE CITY OF TOLEDO SIGNS AT THE EAST AND WEST HIGHWAY 20 JUNCTIONS, AND PROVIDING DIRECTION TO CITY STAFF

WHEREAS, The City of Toledo accepted a donation of the East Highway 20 Junction sign from the Toledo Hometown Project Committee on July 7, 1999; and

WHEREAS, The City received a grant, from the Oregon Tourism Commission, to supplement the funds raised by the Toledo Hometown Committee, to construct the sign at the West Highway 20 junction on March 15, 2000; and

WHEREAS, The City of Toledo has permits issued by the Oregon Department of Transportation (ODOT) that allow the City of Toledo signs, located at the East and West Highway 20 junctions, to be placed in ODOT's right-of-way; and

WHEREAS, The Toledo Chamber of Commerce, pursuant to evidence provided during the City's work session on June 22, 2022, has paid \$3,348.38 for the electricity for both signs for a number of years above what it has been reimbursed; and

WHEREAS, The Toledo City Council does not wish to convey the signs to the Chamber of Commerce as requested.

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

- Section 1. That the City Council will reimburse the Chamber of Commerce in the amount of \$3,348.38 for payments for electricity, for both signs, above what it has been reimbursed.
- Section 2. Direct City Staff to open an account and ensure the City starts to pay for the electricity for the signs at both the East and West Highway 20 junctions; and
- Section 3. That this Resolution shall be effective immediately upon passage by the Toledo City Council.

That this resolution is hereby adopted by the Toledo City Council on this 20th day of July, 2022.

APPROVED

ATTEST

Mayor Rod Cross

City Recorder Lisa Figueroa

CITY OF TOLEDO
REQUEST FOR COUNCIL ACTION

	Meeting Date:	Agenda Topic:
	July 20, 2022	Resolution No. 1503, a resolution of the Toledo City Council accepting and receiving grant funds from the Oregon State Fire Marshall for wildfire response
Council Goal:	Agenda Type:	
Improve Emergency Preparedness	Decision Items	
Prepared by:	Reviewed by:	Approved by:
City Manager J. Richter	City Manager Judy Richter	City Manager Judy Richter

Recommendation:

Motion to approve Resolution No 1503, A resolution of the Toledo City Council accepting and receiving grant funds from the Oregon State Fire Marshall for wildfire response.

Background:

Senate Bill 762 appropriated funds for the Oregon State Fire Marshal to issue grants for local departments to request funding to support additional firefighters and to cover overtime costs for existing paid firefighters for the 2022 Wildfire season. The City of Toledo was invited to apply for one of the \$30,000 grants and was awarded the grant. The grant requires the City to accept and receive funds by resolution of the City Council.

Fiscal Impact:	Fiscal Year:	GL Number:
\$30,000	2022-2023	001-000-402700

Attachment:

1. Resolution No. 1503

**CITY OF TOLEDO
RESOLUTION NO. 1503**

A RESOLUTION OF THE TOLEDO CITY COUNCIL ACCEPTING AND RECEIVING GRANT FUNDS FROM THE OREGON STATE FIRE MARSHALL FOR WILDFIRE RESPONSE

WHEREAS, Senate Bill 762 appropriated funds for the Oregon Office of State Fire Marshal to issue grants for local departments to request funding to support additional firefighters and to cover overtime costs for existing firefighters for the 2022 Wildfire Season; and

WHEREAS, The City of Toledo fire department was invited to apply for a \$30,000 grant; and

WHEREAS, the \$30,000 grant application was accepted and the City must acknowledge accepting the grant funds by resolution of the City Council.

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

- Section 1. To accept and receive the grant funds as provided after applying for a grant for \$30,000 for additional firefighter availability during times of high risk of wildfires.
- Section 2. To schedule additional resources with the proceeds of the grant to respond to wildfire risk and activity.
- Section 3. That this Resolution shall be effective immediately upon passage by the Toledo City Council.

That this resolution is hereby adopted by the Toledo City Council on this 20th day of July, 2022.

APPROVED

ATTEST

Mayor Rod Cross

City Recorder Lisa Figueroa

**CITY OF TOLEDO
REQUEST FOR COUNCIL ACTION**

	Meeting Date:	Agenda Topic:
	July 20, 2022	Resolution No. 1504, a resolution satisfying the condition in Resolution 1480 requiring a structural engineering report at 160 N. Main St. Toledo, OR 97391
Council Goal:	Agenda Type:	
Not Applicable	Decision Items	
Prepared by:	Reviewed by:	Approved by:
City Attorney M. Adams	City Manager Judy Richter	City Manager Judy Richter

Recommendation:

I make a motion to adopt Resolution No. 1504, a resolution satisfying the condition imposed by the Toledo City Council in Resolution No. 1480 requiring a structural engineering report for the Yaquina Bay Hotel at 160 N. Main St. Toledo, OR 97391.

Background: Pursuant to TMC 15.12.060, on January 26, 2021, notice was sent to the owner of the property at 160 N. Main St. Toledo, OR 97391, notifying the owner of the findings and orders made by the Toledo City Council at the hearing. Resolution No. 1480, Section 3, included: “That as a condition of allowing the building to reopen to the public, a structural engineering report that details the structural stability of the building must be submitted to the City. The property owner will incur the costs of all inspections and engineering reports.” Mr. Fig, attorney for the property owner, forwarded the attached letter from a structural engineer that details the structural stability of the building. It is addressed to the prospective buyer.

The City Attorney recommends approval of the resolution, by the attached letter. Short of hiring a structural engineer to evaluate what was submitted, I do not see another option available to the City Council.

Fiscal Impact:	Fiscal Year:	GL Number:
Unknown	2022-2023	N/A

Attachments

1. Resolution No. 1480
2. Resolution No. 1504

**CITY OF TOLEDO
RESOLUTION NO. 1480**

A RESOLUTION OF THE TOLEDO CITY COUNCIL DETERMINING A DANGEROUS CONDITION EXISTS AT 160 N. MAIN ST. TOLEDO, OR 97391 AND ORDERS AN ABATEMENT OF THE PROPERTY

WHEREAS, The Fire Chief determined that the building located at 160 N. Main Street meets the definition for “dangerous building” Toledo Municipal Code (TMC) 15.12.010 (1), (2), (4), and (5) that the building is in “want of proper repairs or by reason of age and dilapidated condition” and “by reason of poorly installed electrical wiring or equipment is especially liable to fire and which is so situated or occupied as to endanger any other building or property or human life”; and the building contains and abundance of “combustible or explosive material, rubbish, rags, waste, oils, gasoline or inflammable substance especially liable to cause fire or danger to the safety of such building, premises or to human life”; and the building is being “kept or maintained in a filthy and unsanitary condition, especially liable to cause the spread of contagious or infectious disease”; and is “in such weak or weakened condition, or dilapidated or deteriorated condition, as to endanger any person or property by reason of probability of partial or entire collapse.”; and

WHEREAS, The Fire Chief determined that there are multiple violations of the Oregon Fire Code (OFC), which is enforceable locally pursuant to adoption by TMC 8.20.

WHEREAS, City staff presented a report to the Council on January 26, 2022 of the condition of the property in a duly noticed a Public Hearing held on January 26, 2022; and

WHEREAS, The City Council determined that there is substantial evidence to support the findings that the violations of the OFC and dangerous building code present imminently dangerous conditions at 160 N. Main St., declared the building to be public nuisance, and ordered an abatement of the dangerous condition located at 160 N. Main St. Toledo, OR 97391 by property Owner, Paw Prints, Inc. and Dustin Johnston.

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

- Section 1. The City Council declares that that the building located at 160 N. Main St. Toledo, OR 97391 (Yaquina Bay Hotel) is a dangerous building pursuant to TMC 15.12 (1), (2), (3), and (4) and in violation of 26 separate violations of the Oregon Fire Code, which is enforceable locally pursuant to TMC 8.20. (Hereunto attached as Exhibit A).
- Section 2. That the building shall be evacuated of all occupants and abated by City staff at 08:00 a.m. January 31, 2022.
- Section 3. That as a condition of allowing the building to reopen to the public, a structural engineering report that details the structural stability of the building must be submitted to the City. The property owner will incur the costs of all inspections and engineering reports.
- Section 4. Each violation of TMC 8.20 and TMC 15.12 constitute a Class A infraction punishable by a fine of \$1,000 per code violation and will be deemed as a continuing violation pursuant to TMC 1.20.150. This remedy is not intended to be exclusive, and the City of Toledo may pursue any other remedy available to it by law.

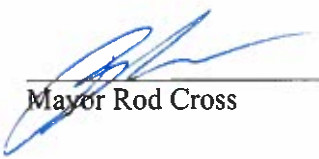
Section 5. The total cost of any abatement work performed by the City, including an administrative cost of twenty (20) percent if the city performs the work, shall be assessed against the property on which the building is situated.

Section 6. That this Resolution shall be effective immediately upon passage by the Toledo City Council.

That this resolution is hereby adopted by the Toledo City Council on this 26th day of January, 2022.

APPROVED

ATTEST



Mayor Rod Cross

City Recorder Lisa Figueroa



Inspection Report
Toledo Fire Department
285 NE Burgess Road
Toledo, OR 97391
Phone: 541-336-3311 Ext. 5202

Facility: Yaquina Bay Hotel/Hotel Alma c/o Paw Prints Inc.		Date: 1/14/2022
Address: 160 N. Main Street, Toledo, Oregon		Inspector: Captain Greg Musil & Community Service Officer Ron Bush
Type of Occupancy: R-1/A-3		
The following items are in violation of Oregon Fire Code adopted by City of Toledo Municipal Code (TMC) Chapter 8.20 and constitute a Class A infraction per TMC.		Page 1 of 2

The City of Toledo is authorized to enforce laws and rules pertaining to fire and life safety in accordance with Oregon Revised Statutes, Chapters 476, 479, and 480. Failure to correct the following fire safety violations may result in legal action as defined under ORS 479.170.	Re-Inspection Date Passed
1. Multiple block exits doors on the first floor area which consisted of a previous restaurant and commercial kitchen. Exits doors blocked normally exit to an exterior courtyard on the NE side of the building. Doors shall be made operable from the inside without obstructions. (OFC 1010.1.9 & OFC 1028.5)	
2. Hallways leading to exit doors on first floor area previously occupied by the restaurant and commercial blocked by obstructions including and not limited to refrigerator/drink cooler units, construction materials, and trash. Remove all obstructions from hallways and exit ways. (OFC 1022.1)	
3. Missing/damaged electrical plates and covers multiple locations throughout the first floor. (OFC 604.6). Repair with permits from Lincoln County Building Division.	
4. Exposed wiring installed without electrical permits in multiple locations on the first floor. (OFC 604.1) Make corrections with permits from Lincoln County Building Division.	
5. Electrical cord being fed from electrical panel in backroom on south end of first floor going across the room unprotected and going into a wall which comes out on the other side. (OFC 604.1 and NEC 400.12) Make corrections with permits from Lincoln County Building Division.	
6. Holes in fire sheetrock separation between the first floor and the second floor which allows for fire spread between floors. (OFC 703.1) Make corrections with permits from Lincoln County Building Division.	
7. Construction demolishing and remodeling without permits on the first floor. (OFC 110.1 Unlawful acts). (OFC 110.2 Where an occupant creates, or allows to be created, hazardous conditions in violation of this code). Obtain construction permits from Lincoln County Building Division.	
8. Fire alarm system altered. Smoke detection device dangling from ceiling by a wire. Multiple trouble signals noted on floors 2 & 3 on fire alarm system per Ace Alarms service reported dated 1/5/2022. (OFC 907). Repair fire alarm system per NFPA 72.	
9. Cigarette butts noted on floors 1, 2 & 3 throughout the building. (OFC 304.1). Discontinue unsafe disposal of smoking materials.	
10. Fire extinguishers with expired inspection dates in multiple locations throughout the building. (OFC 906.2). Service extinguishers by a licensed contractor.	



Inspection Report
Toledo Fire Department
285 NE Burgess Road
Toledo, OR 97391
Phone: 541-336-3311 Ext. 5202

Facility: Yaquina Bay Hotel/Hotel Alma c/o Paw Prints Inc.		Date: 1/14/2022
Address: 160 N. Main Street, Toledo, Oregon		Inspector: Captain Greg Musil & Community Service Officer Ron Bush
Type of Occupancy: R-1/A-3		
The following items are in violation of Oregon Fire Code adopted by City of Toledo Municipal Code (TMC) Chapter 8.20 and constitute a Class A infraction per TMC.		Page 2 of 2

The City of Toledo is authorized to enforce laws and rules pertaining to fire and life safety in accordance with Oregon Revised Statutes, Chapters 476, 479, and 480. Failure to correct the following fire safety violations may result in legal action as defined under ORS 479.170.	Re-Inspection Date Passed
11. Atrium common area on 2 nd floor adjacent to east exterior corridor has walls lined with cedar wood shingles from 2 nd floor to 3 rd floor ceiling and does not meet the allowable fire performance and smoke development requirements of OFC Chapter 8. Remove cedar shingles or treat with an approved fire-retardant coating per OFC 803.4.	
12. Dishwasher located in common kitchen on 2 nd floor is currently being powered by an extension cord. Extension cords shall not substitute for permanent wiring. Dishwasher shall be plugged directly into an approved electrical receptor or hardwired per the NEC. OFC 604.1 & 604.5.	
13. Residential cooking range is in use in the 2 nd floor common kitchen which is not allow in commercial areas of a commercial building. Discontinue use of residential grade cooking range and/or replace with an approved commercial grade cooking range. OFC 604.7.	
14. Repair panic hardware device on front door of lobby so latching force shall not exceed 15 pounds. OFC 1010.1.10.1.	
15. Remove lawn mower being stored under 2 nd floor exterior stairs. OFC 1011.7.3.	
16. In order to accommodate long-term occupants, you will need to apply for a change of building occupancy from Lincoln County Building Division.	

Oregon State Fire Marshal Inspection Record rev. 2019

Complaint In-Service License

Tenant Name YAGUINA Hotel Occupancy _____ Date _____
 Major Property Name _____ Fire District _____
 Address _____ zip _____ Suite Number _____
 Contact Name JAMES Phone _____ Title _____ Email _____
 Name DUSTIN Phone _____ Title _____ Email _____

Code Reference OUTSIDE GROUNDS

1. OFC 503.4 Provide and maintain access roads clear for fire apparatus access
2. OFC 505.1 Provide and maintain approved premise identification/Directory of complex/Street Building/Suite Number on front and back doors
3. OFC 507.5.5 Provide minimum 3 feet clear space around fire hydrants
4. ORS 811.550 (16) Provide red curbs 10 feet each side of front of hydrant (20 feet total) to prevent parking and obstructing fire hydrant
5. OFC 507.5.3 Service and maintain private fire hydrants annually and per the NFPA 25
6. OFC 509.2 Provide access to hydrants, F.D.C control valves, fire protection equipment and maintain clear of obstructions/debris
7. OFC 912.2.2 Provide FDC sign with 6" lettering where FDC is not visible to approaching fire apparatus
8. OFC 901.6 Provide approved identification sign for outside alarm device "Sprinkler Fire Alarm-When Bell Rings Call Fire Department or Police" NFPA 13. A.8.17.1
9. OFC 509.1 Provide identification for fire protection equipment rooms in approved manner
10. ☒ OFC 1028.5 Provide occupant accessible egress from the building at least 50 feet on the same property or direct unobstructed access to the public way

CEDAR IN AREA
COMMON w/ STORAGE & SMOKING

Code Reference GENERAL MAINTENANCE/ELECTRICAL

11. ☒ OFC 703.1 Repair holes in walls/ceilings/draft stop partitions/occupancy/area separation to maintain fire resistive rating
12. OFC 906.1 Provide minimum rated _____ fire extinguisher(s) within _____ feet travel distance from any location Per NFPA 10
13. OFC 906.9 Mount fire extinguisher(s) tops no higher than 5 feet (40 lbs or less) and no higher than 3.5 feet (over 40 lbs) and 906.9.3 no less than 4" base
14. OFC 906.1(2) Provide Class K fire extinguisher within 30 feet of cooking appliance involving solid fuels, vegetable or animal fats
15. ☒ OFC 906.2 Service and tag extinguisher(s) annually by a qualified company Per NFPA 10 - 7.2 and 7.3
16. ☒ OFC 906.6 Remove obstructions from and do not block fire extinguishers or firefighting equipment 901.4.6.1
17. OFC 315.3.1 Lower and maintain top of storage at horizontal level 18" below sprinkler heads 24" below ceilings in non-sprinkler building
18. OFC 3201.1 Comply with Chapter 32 high-piled combustible storage, maintain storage below 12 feet unless otherwise approved, tires 6 feet
19. OFC 315.3.3 Remove combustible storage from boiler, mechanical, or electrical room(s) OFC 315.3.4 attics 1 HR. rate & OFC 1011.7.3(4) under stairway(s) 1 HR.
20. ☒ OFC 304.1 Remove trash, waste, litter or debris as needed. Provide proper waste container
21. OFC 304.3.3 Maintain dumpsters and containers 1.5 cubic yards or more 5 feet or more from building, combustible walls, openings, or roof eave lines (exceptions).
22. OFC 315.3 Maintain storage of combustible materials in buildings to be orderly
23. OFC 305.1 Maintain clearance in approved manner from ignition sources, luminaires, heaters, flame producing device and combustible materials
24. OFC 310.3 Post NO SMOKING signs
25. ☒ OFC 604.6 Replace missing/damaged electrical cover plates/panels
26. ☒ OFC 604.1 Remove and discontinue use of electrical wiring, devices, appliances and other equipment which are modified or damaged.
- 2017 NEC 400.12 Ext. cords through walls, doors, where subject to physical damage
27. ☒ OFC 604.5 Remove non-approved electrical extension cords(to be used only for temporary portable appliances less than 90 days)/OFC (604.4 multiplexors)
28. OFC 604.4.2 Provide re-locatable power tap directly connected to a permanently installed receptacle. Do not plug power tap into another power tap
29. OFC 604.3 Provide and maintain min. 30" width, 36" depth, 78" height clear access to and around electrical control panels (604.3.1 Labeling)
30. ☒ OFC 604.7 Electrical appliances and fixtures shall be tested and listed for use 904.13 Domestic Cooking Systems
31. OFC 610.1 Clear and maintain clothes dryers lint trap clean

ROOF LEAKS

ALL ACCESSIBLE AREAS

BIG BOTS INTERIOR/EXT. ON FLOOR

EXT. CORDS W/IN DO NOT ID CORR. KIT.
ELEC. THROUGH WALLS NOT PERMITTED
ADDED ELEC NO PE

Kitchen

→ KITCHEN

NO HOOD
RESIDENTIAL STOVE

Bowling of SOUTH side Bldg
July 15, 2022
City Council Packet

Code Reference **FIRE EQUIPMENT AND SYSTEMS RECORDS and RADIO COVERAGE**

32. ☒ OFC 901.6.3 Provide records for fire protection Systems on site at all times by a qualified company for Fire Alarm, Fire Monitoring, Fire Sprinkler, AFES
33. ☒ OFC 901.6.3 Provide **at least monthly** smoke alarm (or more frequent depending on MFR specifications) logs on site **2016 NFPA 72 14.4.5**
34. OFC 510 Test and Provide approved emergency responder radio coverage and notify the system owner of any failure

FIRE ALARM/FIRE MONITORING 2016 NFPA 72

35. ☒ OFC 907 Provide and maintain approved fire alarm coverage/system **- Altered**
36. ☒ OFC 907.10 Replace Smoke alarms every 10 years or sooner depending on manufacture specifications
37. OFC 901.6 Provide identification on fire alarm strobes/horn strobes/bells "FIRE" per 2016 NFPA 72 section 18.3.3.2
38. OFC 907.6.6 Provide approved monitored supervision of fire sprinkler/fire alarm system per NFPA 72
39. ☒ OFC 907.4.2 Maintain manual pull station readily accessible/visible/labeled **- Missing?**
40. ☒ OFC 907.8 Test and tag monitoring fire alarm radio Semiannually AND fire alarm panel annually by qualified company/technician NFPA 72.14.3.1
41. ☒ OFC 901.6 PROVIDE a fire alarm documentation cabinet per NFPA 72 section 7.7.1.6 and 7.7.2
42. OFC 901.6 **Annunciator panel** The visible annunciation of the location of operated initiating devices shall not be canceled by the means used to deactivate alarm notification appliances NFPA 72 section 10.17.1.1.2. Also see 10.14.10, 10.13.7

FIRE SPRINKLER SYSTEM 2016 NFPA 13 / 2017 NFPA 25

43. OFC 903.2 Provide and maintain approved sprinkler coverage/system
44. OFC 901.6 A local waterflow alarm shall be provided on every sprinkler system having more than 20 sprinklers NFPA 13 8.17.1.1
45. OFC 901.6 Test and tag sprinkler system by qualified company/technician quarterly and annually per NFPA 25 Table 5.1.1.2
46. OFC 901.6 Indicating control valves shall be sealed, locked, or electronically supervised in the open position NFPA 13-8.17.1.4.2
47. OFC 509.2 Remove obstructions from access to and around fire equipment, Fire Alarm device 907.6.5
48. OFC 901.6 Remove and do not hang any other object that the sprinkler system itself off of sprinkler system NFPA 25, 5.2.2.2
49. OFC 901.6 Replace damaged, corroded or painted sprinkler heads NFPA 13, 6.2.6.2.2
50. OFC 901.6 Provide Escutcheons where missing on sprinkler system NFPA 13, 6.2.7
51. OFC 901.6 Replace ordinary heads with intermediate dry pendant heads in coolers and freezers per NFPA 13 section 8.3.2.5(10)
52. OFC 901.6 Provide spare sprinklers (6), sprinkler wrench on site riser room NFPA 13, 6.2.9
53. OFC 901.6 Provide a list of the sprinklers installed in the property posted in the sprinkler cabinet NFPA 13 6.2.9.7 & 25 section 5.4.1.5.6 (since 2007)
54. OFC 901.6 Provide the NFPA 25 Water-Based Fire Protections Systems manual on site NFPA 13, 25.4
55. OFC 901.6 Provide protection of piping against freezing and maintain at or above 40 degrees Fahrenheit NFPA 13, 8.16.4.1
56. OFC 901.6 Provide hydraulic metal/rigid plastic nameplate secured to the riser with chain or equivalent with information about the system per NFPA 13- 25.5
57. OFC 901.6 Provide General Information Sign secured to the riser with chain or equivalent with information about the system per NFPA 13- 25.6
58. OFC 901.6 Mechanical water-flow devices including but not limited to, water motor gongs, shall be inspected and tested quarterly NFPA 25, 5.3.2.1
59. OFC 901.6 Test and tag Rack Hoses and fire valve systems by qualified company/technician on annual basis NFPA 25, 6.2.1
60. OFC 901.6 Test and log testing Fire Pumps by qualified technician diesel (weekly), electric (monthly) NFPA 25, 8.3.1

HOOD/SPRAY BOOTH EQUIPMENT AFES

61. OFC 904.12 Inspect/service/repair/maintain and tag hood and duct systems by qualified company/technician Semi-annually 904.5, 2017 NFPA 11.3.1/17A-7.3.3 kitchen hoods
62. OFC 904.6 Inspect/service/repair/maintain and tag spray booths/dipping/powder coating booths/systems 2017 NFPA 17 11.3.1 semi annually / 17A 7.3.3.7 tag
63. OFC 607.3.3 Clean hood, duct and grease filters over cooking appliances at required intervals as Table 607.3.3.1 or more often as needed
64. OFC 607.3.3.2 Clean and maintain grease removal from devices, fans, ducts or other appurtenances that have an accumulation of grease.
65. OFC 607.3.3.3 Provide records onsite for maintenance/service of hood duct cleaning 607.3.3.3.1 Tags

CLEAN AGENT SYSTEM

66. OFC 901.6/904.10.1 Test and tag Clean Agent systems by qualified company/technician check system 2015 NFPA 2001 (Semi-annually 7.1.3), Service system (Test Annually 7.1.1)

Code Reference

EXITING/CORRIDORS/STAIRWAYS

67. ☒ OFC 1010.1.9 Provide/maintain egress doors to be readily openable from egress side without use of key, special knowledge or effort.
68. ☒ OFC 1010.1.9.1 Repair/replace door handles, pulls, latches, locks and other operating door device for access and not require tight grasp/pinch or twist of wrist to operate
69. OFC 1010.1.9.5 Remove the dead bolt where the unlatching of any door or leaf shall not require more than one operation. Permitted bolt locks are 1010.1.9.4*
70. ☒ OFC 1010.1.3 Repair door opening force open 5 lbs unless fire rated, 15 lbs latch release rate, 30 lbs force to open with 15 lbs swing force until fully open
71. ☒ OFC 1010.1 Remove door decorations so not to be concealed by curtains, drapes, decorations or similar materials for door to be easily recognizable and not hidden
72. OFC 1010.1.9.4 (2.2) Post notice on or above exit doors "THIS DOOR TO REMAIN UNLOCKED DURING BUSINESS HOURS"
73. OFC 705.1 Maintain fire rated doors closed or provide approved device to hold open door and automatically release door upon fire alarm. DO NOT penetrate doors*
74. OFC 705.2.4 Repair and Maintain swinging fire doors to close from full open position to close and latch automatically
75. OFC 1010.1.10 Provide panic hardware in group H occupancies or group A or E occupancies of 50 or more
76. ☒ OFC 1010.1.10.1 Repair panic hardware or fire exit hardware unlatching force shall not exceed 15 pounds *FRONT DOOR*
77. ☒ OFC 1013.1 Provide and maintain approved exiting hardware/sign(s)
78. OFC 1013.5 Provide Internally or externally Illuminated Exit Sign(s). External exit signs minimum 5 foot-candles all times, last 90 min upon power failure.
79. OFC 108.1-2.1 Provide and maintain emergency lighting and illumination 1-foot candle at walking surface for corridors/exits/exit signs
80. OFC 1008.3.4 Provide emergency lighting remain working for no less than 90 minutes upon a power outage
81. ☒ OFC 315.3.2 Remove Combustible materials that are stored in exits or exit enclosures for stairways and ramps
82. ☒ OFC 1003.6 Remove exit, corridor, or stairway obstructions and maintain required aisle width _____ OFC 1018.1 (50 feet from building 1028.5)
83. ☒ OFC 1022.1 Remove exit obstructions for any other purpose that interferes with it as a means of egress and maintain exits to be continuous through exit discharge
84. ☒ OFC 1011.7.3 Remove storage under the stairs that is not enclosed with a minimum 1-hour rated fire wall. Exterior completely enclosed 1-hour rated or no storage 1011.7.4

Code Reference

ASSEMBLY/EDUCATIONAL FACILITIES

85. OFC 308.3.1 Maintain Candles in group A occupancy to be compliant with Oregon State Fire code
86. OFC 404.2 Post Evacuation plans
87. OFC 405.2 Conduct _____ Fire drills (ORS 336.071 earthquake drills/tsunami) drills in occupancy with staff/students
88. OFC 405.5 Maintain Records for fire drills person conducting drill, date / time, notification method, staff, # of occ., special conditions, problems, weather, time to evacuate
89. OFC 807.5.2.2 Remove artwork from walls to be 20 percent or less in corridors. _____ Classrooms up to 50 percent for each wall 807.5.2.3
90. OFC 807.2 Maintain Fire Resistive Rating per Section 8 Decorative Material _____ Exception #1 A occ. curtains required fire sprinklers 75% of wall or use 807.3
91. OFC 806.1 Maintain Christmas Trees in occupancy to be compliant with Oregon State Fire Code
92. OFC 1004.9 Post approved occupancy load sign for assembly occupancy near entrance. See OFC Table 1004.5

Code Reference

HOT WORKS Hot Work operations in accordance with Oregon Fire Code Chapter 35 (3501.1)

93. OFC 3503.6 Provide Signage posted to warn others before they enter hot work area. "CAUTION- HOT WORK IN PROGRESS- STAY CLEAR"
94. OFC 3504.1.1 Remove combustibles and/or Provide shielding to prevent sparks, slag or heat from igniting exposed combustibles (OFC 3504.1.5)
95. OFC 3504.1.3 Maintain floors to be kept clean within the hot work area and be non-combustible surfaces (OFC 3504.1.6)
96. OFC 3504.2 Provide fire watch per Oregon Fire Code 3504.2.1 through 3504.2.6
97. OFC Apdx. T All persons who conduct fire watch or Hot Works operations read and sign "Fire Watch Notice" and maintain per Appendix N
98. OFC 3504.2.6 Provide a minimum 2-A:20-B:C serviced fire extinguisher accessible within 30 feet of location where hot works is performed

LPG

99. OFC 6107.3 Remove weeds, grass, brush, trash and other combustibles maintaining minimum 10 feet clearance from LP-gas tanks or containers.
100. OFC 6104.3 Relocate LPG containers to be compliant with table 6104.3
101. OFC 6106.1 Dispensing of LP gas shall be performed by qualified attendant and location per OFC 6106.3 and per NFPA 58
102. OFC 6109.9 LPG with DOT specified cylinders with max water capacity of 2.5 lbs. shall not exceed 200 lbs. in buildings accessible to public
103. OFC 6109.10 Storage within buildings not accessible to public shall not exceed water capacity of 735 lbs.
104. OFC 6109.13 LP gas containers shall be stored with a suitable enclosure or protected from tampering. Vehicular protection shall be provided per OFC 312.

Code Reference HAZARDOUS MATERIALS/CHEMICALS

- 105. OFC 407.5 Provide hazardous Materials Inventory Statements (OFC 5001.5.2) OFC 407.6 Provide Hazardous Materials Management Plan (OFC 5001.5.1)
- 106. OFC 5003.9 Provide Personnel training and written procedures, fire department liaison, electrical wiring and equipment per NFPA 70, prevention of static accumulation
- 107. OFC 906.3.2 Provide minimum rated 2-A,10/20 (4A;40/80) B:C annually serviced by qualified technician travel distance 30/50 feet for FC liquids area Per NFPA 10
- 108. OFC 2205.1 Provide approved dust collection system for sawdust and wood shavings Section 510 and 511 IMC. 511.1.1 Ex.2 independent collectors 3 bags svc to 5 devices
- 109. OFC 5303.5.3 Secure compressed gas cylinders at all times
- 110. 2018 NFPA 99.5.1.11 Provide piping system for compressed gas and chemicals to be marked a minimum of every 20 feet & at penetrations & bends, shut off valves
- 111. OFC 5704.3.6.2 Class I liquids shall not exceed a capacity of 5 gallons (except IB and IC in 55 gal. drums or less and in fully sprinklered building)
- 112. OFC 5704.3.6.3 Fire protection and storage arrangement. Metal Shelves no exceed 6 feet high and sprinkler protection - see this section and table 5704.3.6.3(1)
- 113. OFC 5003.2.2 Piping, tubing, valves, and fittings conveying hazardous materials designed / installed per ASME B31 or other approved standards also see 5003.2.2.1-2
- 114. OFC 5705.2.4 Dispensing Class I, II, III liquids through approved pump taking suction in top of container or tank or IB, IC, II, III gravity through approved self-closing or auto closing valve or provided with spill control **and** secondary containment per section 5703.4. Class IA liquids shall not be dispensed by gravity from tanks.
- 115. OFC 5003.4 Provide and maintain Safety Data Sheets on premises
- 116. OFC 5003.5 Provide approved placards for buildings/tanks (NFPA 704)
- 117. OFC 5703.5 Provide warning signs of durable material identifying hazards or store or use of flammable liquids and no smoking signs
- 118. OFC 5704.3.4.4 Provide approved cabinet for flammable liquid/hazardous materials storage (required if over 10 gallons aggregate storage/use)
- 119. OFC 5003.8.7 Provide storage cabinets for increase of hazmat stored listed in accordance with UL 1275 as suitable for the intended storage or constructed per 5003.8.7.1
- 120. OFC 5003.8.7.2 Cabinets shall be clearly identified with red letters on contrasting background HAZARDOUS-KEEP FIRE AWAY
- 121. OFC 5704.3.2 Liquid Storage Cabinets Listed UL 1275 or constructed per 5704.3.2.1, self-closing doors and red letters labeled FLAMMABLE-KEEP FIRE AWAY
- 122. OFC 5003.9.8 Provide separation of incompatible materials
- 123. OFC 5004.2.2 Provide secondary containment for drum storage more than 55 gallons or aggregate of multiple vessels exceeds 1,000 gallons
- 124. OFC 5703.4 Spill control and secondary containment storage dispense us mix or handled exceeds max quantity
- 125. OFC 5705.3.7.5.3 Provide spill control / secondary contain of Class I, II, IIIA liquids dispensed into 1.3 gal containers or mixed /used open 5.3 gal of 55 gal or 100 aggregate
- 126. OFC 5704.3.3.9 Maintain storage of empty or idle combustible pallets inside to maximum height 6 feet inside an unprotected liquid storage area max 2,500 sq. ft.
- 127. OFC 5704.3.5.1 Discontinue storage of Class I flammable liquids in basements
- 128. OFC 5703.1 Provide Class I electrical equipment per Table 5703.1.1

MOTOR VEHICLE FUEL DISPENSING

- 129. OFC 2311.2.3.2 Provide approved container metal can with self-closing lid for oily waste in repair garage
- 130. OFC 2303.2 Provide disconnect switch easily identifiable within 20-100 feet from fuel dispenser labeled "EMERGENCY FUEL SHUTOFF"
- 131. OFC 2304.3.6 Provide telephone not requiring a coin to operate or other approved communication onsite to notify Fire Department in case of emergency
- 132. OFC 2305.2.2 Repair/replace leaking/damaged product line/equipment (nozzle, hose, retractor cables)
- 133. OFC 2304.3.4 Provide dispenser operating instructions on every dispenser and location of emergency control
- 134. OFC 2304.3.5 Provide an approved emergency procedure sign "IN CASE OF FIRE, SPILL OR RELEASE 1. USE EMERGENCY PUMP SHUTOFF
2. REPORT THE ACCIDENT! Fire department telephone number: _____ FACILITY ADDRESS: _____"
- 135. OFC 2305.6 Provide warning signs within sight of each dispenser: 1. No Smoking 2. Shut Off Motor 3. Discharge your static electricity before fueling by touching a metal surface away from the nozzle. 4. To prevent static charge, do not reenter your vehicle while gasoline is pumping. 5. If a fire starts, do not remove nozzle-use emergency fuel shutoff 6. It is unlawful and dangerous to dispense gasoline into unapproved containers. 7. No filling of portable containers in or on a motor vehicle. Place container on ground before filling.

Change OF OCC RI TO IZZ NO PERMIT

→ SPRINKLER 13R

**CITY OF TOLEDO
RESOLUTION NO. 1504**

A RESOLUTION OF THE TOLEDO CITY COUNCIL SATISFYING THE CONDITION SET FORTH IN RESOLUTION 1480, SECTION 3 REQUIRING A STRUCTURAL ENGINEERING REPORT AT 160 N. MAIN ST. TOLEDO, OR 97391

WHEREAS, The Toledo City Council held a duly noticed public hearing on January 26, 2022, and pursuant to Toledo Municipal Code 15.12.060, the Council adopted Resolution No. 1480. A notice was sent to the owner of the property at 160 N. Main St. Toledo, OR 97391, notifying the owner of the findings and orders made in Resolution No. 1480 by the Toledo City Council at that public hearing; and

WHEREAS, Resolution 1480, Section 3, included the requirement: “That as a condition of allowing the building to reopen to the public, a structural engineering report that details the structural stability of the building must be submitted to the City. The property owner will incur the costs of all inspections and engineering reports.”; and

WHEREAS, The Yaquina Bay Hotel building structural evaluation letter, dated 20 June 2022, hereunto attached as Exhibit A to this resolution does satisfy the requirement for a structural engineering report detailing the structural stability of the building; and

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

- Section 1. The City Council declares that Section 3 of Resolution 1480, imposing the requirement “[T]hat as a condition of allowing the building to reopen to the public, a structural engineering report that details the structural stability of the building must be submitted to the City,” has been met, and is fully satisfied, by the structural engineering letter attached as Exhibit A.
- Section 2. That this Resolution shall be effective immediately upon passage by the Toledo City Council.

That this resolution is hereby adopted by the Toledo City Council on this 20th day of July, 2022.

APPROVED

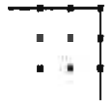
ATTEST

Mayor Rod Cross

City Recorder Lisa Figueroa



ARCHITEER ARCHITECTURE & ENGINEERING, LLC
9318 NORTH MONTANA AVENUE
PORTLAND, OREGON 97203
CELL (503) 435-9133
architeer@yahoo.com



22 June 2022

Denny Elmer
Land Use Resources

Re: Yaquina Bay Hotel building
160 N Main Street
Toledo, OR 97391

Dear Denny,

I met with you at the above reference building on 27 May 2022 to evaluate the structural integrity of the building. The evaluation was limited to a visual observation. The majority of the structure has architectural finishes, so it was not possible to see most of the actual construction of the building. The following is a summary of what I observed.

The building is a three-story structure consisting of a concrete foundation, wood floor, roof, and wall framing. The building is "L" shaped and approximately 7,350 square feet on each level. There is a small mechanical penthouse on the roof. The ground floor level is constructed into the hillside on the east side and there is a courtyard on the ground floor at the inside of the "L". The courtyard may have had a roof over it at some point in the past judging by the notches in the concrete on the east and west sides. There is also a deck along the inside of the "L" that extends into light wells between segments of the longer western section of the building. A portion of the deck on the north side of the south wing that has deteriorated and is allowing rainwater to enter the building.

The concrete foundation forms a large part of the ground floor particularly along the west, south, and east. Above that the exterior has what appears to be a cement stucco finish on the west, south and east side. The entire northern wall is constructed of clay tile units, which along with a small area on the ground floor in south wing that was exposed, would imply that most of the exterior of the upper floors are also constructed of clay tile.

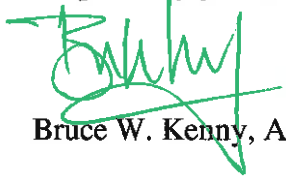
The concrete foundation in all areas I observed appeared to be in good condition and no cracks or other indications of overstress or settlement were noted. The upper floors were sound and I did not notice any appreciable humps, sags, or creaking as we walked through the halls and units. There was one small area in the middle of the south wing where the roof had failed due to inadequate drainage and there was some limited water intrusion that has occurred in one unit and possibly at the wall of the adjacent unit to the east.



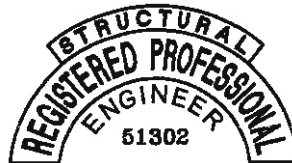
There is a slight bulge on the exterior roughly at the level of the third floor. There are no visible cracks in the exterior stucco as observed from the ground and the bulge is not pronounced and, therefore, it does not appear to be any significant structural issue. There is also a bump at the windowsill level of the third floor along the west side that appears to likely be an architectural feature that is obscured by the stucco.

In general, the building structure appears to be in relatively good condition excluding the deterioration noted on the previous page. However, as with all unreinforced masonry buildings, it is susceptible to damage in a moderate to severe earthquake. In order to provide a more thorough evaluation of the building structure, it would be necessary to remove some of the interior finishes to enable a visual inspection of the construction.

Respectfully yours,



Bruce W. Kenny, Architect, S.E.



**CITY OF TOLEDO
REQUEST FOR COUNCIL ACTION**

	Meeting Date:	Agenda Topic:
	July 20, 2022	Presenting a Settlement Agreement to the Toledo Cemetery Association
Council Goal:	Agenda Type:	
Not Applicable	Decision Items	
Prepared by:	Reviewed by:	Approved by:
City Attorney Mike Adams	City Manager Judy Richter	City Manager Judy Richter

Recommendation:

Motion present the Settlement Agreement and Release of All Claims (“Agreement”) to the Toledo Cemetery Association, which offer will expire if it has not been returned to the City Attorney, prior to 5:00 p.m. on Wednesday, August 17, 2022; and delegating, to City Manager, Judy Richter, the authority to sign on behalf of the City.

Background:

The settlement offer to the Toledo Cemetery Association (TCA) includes a perpetual, exclusive easement for the approximate .28 acres impacted by the slide, and a 20 foot road access from the .28 acres to NE Arcadia Drive (“Easement Area”). It contemplates surveying, after the Agreement has been signed, to define the Easement Area, which cost shall be shared equally by the parties. It clarifies the parties are talking about a release of all claims up to and including the date of execution of the Agreement. The City is offering to pay \$10,000, approximately double what the appraisal states the property is worth, not 10 times (or \$50,000) contemplated in the last offer made by the TCA. Our counter-offer is a rejection of TCA’s last offer. Both parties want to resolve this matter without litigation.

Fiscal Impact:	Fiscal Year:	GL Number:
Unknown	2022-2023	N/A

Attachments

1. Settlement Agreement and Release of All Claims

SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS

This **SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS** (this “Agreement”) is made and binding between and among City of Toledo, an Oregon Municipal Corporation (“City”), and the Toledo Cemetery Association an Oregon Domestic Non-Profit Corporation (“TCA”), collectively referred to as the “Parties”.

This Agreement is effective as of the date that both Parties have executed it.

WHEREAS, the Toledo Cemetery Association owns Tax Lot 400 on Lincoln County Tax Assessor’s Map 11-10-08-BA, which includes property on both sides of NE Arcadia Drive (County Road 525), and

WHEREAS, the City of Toledo owns Tax Lot 200 on Lincoln County Tax Assessor’s Map 11-10-08-BB, where the Skyline Water Tank was built in 2014, which is shares its East boundary with the southern portion of the West boundary of Tax Lot 400; and

WHEREAS, sometime during the winter months of 2016-2017, two rocks slides occurred from Tax Lot 200, onto the portion of Tax Lot 400 that is on the West side of NE Arcadia Drive;

WHEREAS, the rock, from the “North” slide, is impacting approximately .28 acres of the portion of Tax Lot 400 on the West side of NE Arcadia Drive;

WHEREAS, after the “North” slide there was a discussion with a member of the TCA Board about the City moving dirt onto the TCA’s property; and

WHEREAS, TCA’s attorney wrote a demand letter dated July 26, 2021 that TCA will likely pursue damages for continuing trespass, inverse condemnation and violation of USC 42 Section 1983; and

WHEREAS, the City has contemplated an action of eminent domain to acquire ownership of the portion of Tax Lot 400 that is West of NE Arcadia Drive (County Road 525); and

WHEREAS, both Parties want to resolve this matter without litigation, and as TCA wants the rock removed from Tax Lot 400, and the City understands that removing the rocks will affect the stability and substrate of the hill, so the Parties enter this Agreement, to avoid future slides that will impact TCA; and

WHEREAS, each party denies liability to any other party; and

WHEREAS, the outcome of the claims is uncertain and each party desires to settle all the claims, including all claims asserted in the case or related to the case, fully and finally without further risks, uncertainties, expenses, and inconveniences of litigation;

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

SECTION 1. CONSIDERATION

In consideration of the Releases set forth below in section 2, and the other terms set forth in section 3 and 4, TCA agrees to grant the City a perpetual easement on the property and City agrees to pay the TCA for such easement, as described in section 3.

As further consideration, each party agrees to execute this Agreement and to release any and all claims, without limitation, that each may have against the other arising out of the contemplated actions related to trespass, inverse condemnation, violation of USC 42 Section 1983, and eminent domain. The releases are set forth in section 2. The timing of the payment for the easement will occur after the easement, in the form attached as Exhibit A, is recorded, as described in Section 3.

SECTION 2. RELEASE

2.1 Toledo Cemetery Association, an Oregon Domestic Non-Profit, for itself and its successors, predecessors, assigns, agents, employees, officers, directors, insurers, authorized representatives, and all other affiliated persons, firms, or corporations whomsoever, hereby fully and forever releases and discharges City of Toledo, an Oregon Municipal Corporation, and its successors, predecessors, assigns, agents, employees, officers, directors, insurers, authorized representatives, and all other affiliated persons, firms, or corporations whomsoever, of and from any and all past, present, and future claims, demands, obligations, causes of action, or damages of any kind, known and unknown, arising out of any fact, event, act, or omission occurring at any time, but is expressly limited to those that have occurred through and including the date of execution of this Agreement, including any fraud, nondisclosure, misrepresentation, or fraud in inducing this Agreement, and resulting from or arising out of the actions specified in the recitals, or either rock slide in 2017 onto Tax Lot 400 on Lincoln County Tax Assessor's Map 11-10-08-BA. Accordingly, the parties wish to clarify that this release excludes those that have occurred after the date of execution of this Agreement.

2.2 City of Toledo, an Oregon Municipal Corporation, for itself and its successors, predecessors, assigns, agents, employees, officers, directors, insurers, authorized representatives, and all other affiliated persons, firms, or corporations whomsoever, hereby fully and forever releases and discharges Toledo Cemetery Association, an Oregon Domestic Non-Profit, and its successors, predecessors, assigns, agents, employees, officers, directors, insurers, authorized representatives, and all other affiliated persons, firms, or corporations whomsoever, of and from any and all past, present, and future claims, demands, obligations, causes of action, or damages of any kind, known and unknown, arising out of any fact, event, act, or omission occurring at any time, but is expressly limited to those that have occurred through and including the date of execution of this Agreement, including any fraud, nondisclosure, misrepresentation, or fraud in inducing this Agreement, and resulting from or arising out of the actions specified in the recitals, or either rock slide in 2017 onto Tax Lot 400 on Lincoln County Tax Assessor's Map 11-10-08-BA. Accordingly, the parties wish to clarify that this release excludes those that have occurred after the date of execution of this Agreement.

SECTION 3.

3.1 The parties agree that TCA will convey an easement to the City. After this Agreement has been executed, the parties will share equally in the costs of a surveyor to survey the approximate .28 acre slide area and 20 foot wide access road from the .28 acres to NE Arcadia Drive (the "Easement Area"). If needed, TCA agrees to off-set its costs received from the sale of the easement to pay its portion of the surveyor costs. After the easement has been recorded, the City will pay TCA \$10,000 for the easement and to resolve this matter fully.

3.2. The parties contemplate that the easement conveyed will be an exclusive, perpetual easement. It is important that the TCA understands that by conveying an exclusive easement, it will limit its own rights with respect to the Easement Area as well as its rights to grant other parties the right to use the easement area. It will limit TCA's rights to remove rock and dirt from the .28 acre easement area. It will allow the City to reinforce the rock in the easement area as needed. It will contemplate purposes, without limitation, including access, utility pipelines, maintenance, and hillside reinforcement.

SECTION 4. EXPRESS ACKNOWLEDGMENTS, REPRESENTATIONS, AND WARRANTIES

4.1 The parties expressly acknowledge and agree that the Release set forth in section 2 is a general release of the matters described above. In that context, the parties expressly waive and assume the risk of any and all claims for damages that exist as of the date of this Agreement, but of which they do not know or suspect to exist, whether through ignorance, oversight, error, negligence, or otherwise and which, if known, would materially affect their decision to enter into this Agreement.

4.2 TCA further agrees to accept payment of the sums specified herein as a complete compromise of matters involving disputed issues of law and fact. TCA assumes the risk that the facts or law may be other than as TCA believes. The City further agrees to accept the sale of the easement as a complete compromise

of matters involving disputed issues of law and fact. The City also assumes the risk that the facts or law may be other than as the City believes.

4.3 Each party expressly represents and warrants that it has relied on its own knowledge of the facts and the advice of its own lawyer, or had the opportunity to consult their own lawyer, concerning the consequences of this Agreement; and that the signers of this Agreement are of legal age, legally competent to execute this Agreement, and have full authority to sign this Agreement. The parties further warrant that no promise or inducement has been offered, except as set forth in this Agreement, and that this Agreement is executed without reliance on any statement or representation by any other party concerning the nature and extent of damages or legal liability.

4.4 The Parties represent and warrant that no other person or entity has any interest in the claims, demands, obligations, or causes of action referred to in this Agreement and that each party has the sole right and exclusive authority to execute this Agreement and to receive the sums specified in it and that no party has sold, assigned, transferred, conveyed, or otherwise disposed of any of the claims, demands, obligations, or causes of action referred to in this Agreement.

4.5 The Parties agree that the sale price of the easement, as described in section 3, constitutes the Parties entire financial obligation under this Agreement.

4.6 The Parties expressly acknowledge and agree that the purpose and effect of this Agreement is to fully and forever resolve all issues referring to or relating to the claims in the action and that no party will pursue the other for anything relating in any way to the claims being released.

4.7 The Parties expressly acknowledge and agree that the terms of this Agreement are contractual in nature and not merely a recital.

SECTION 5. NO ADMISSION OF LIABILITY

The Parties to this Agreement agree that entering into this Agreement and the payment of the settlement amount is not an admission of liability by any party and that such liability is expressly denied.

SECTION 6. ATTORNEY FEES

Each party to this Agreement will bear all of that party's attorney fees and costs incurred to the date of this Agreement.

SECTION 7. ENFORCEMENT OF AGREEMENT

In the event of a material breach of this Agreement or other dispute regarding the enforcement or interpretation of this Agreement, the losing party will pay attorney fees, costs, and expenses incurred by the prevailing party in enforcing the Agreement.

SECTION 8. GOVERNING LAW

This Agreement will be construed and interpreted in accordance with the laws of the state of Oregon without regard to its principles of conflicts of laws. Because the parties and their respective lawyers have reviewed, revised, and negotiated, or had the opportunity to review, revise, or negotiate, the terms, conditions, and language of this Agreement, the rule of construction that ambiguities are to be resolved against the drafting party does not apply. The parties agree that any action to enforce or interpret this Agreement will be brought in Lincoln County, Oregon.

SECTION 9. INTEGRATION

This Agreement contains the entire agreement between and among the parties regarding the matters set forth herein and is conclusive and binding on and inures to the benefit of the executors, administrators, personal representatives, heirs, next of kin, children, successors, or assigns of each.

SECTION 10. MODIFICATION

This Agreement may not be amended or modified except in writing signed by all parties.

SECTION 11. SAVING CLAUSE

If any provision of this Agreement, or the application of a provision to any person or circumstance, is held invalid, the remainder of this Agreement, or the application of that provision to other persons or circumstances, will not be affected thereby.

SECTION 12. FURTHER ASSURANCES

The parties agree to execute and deliver any further documents, instruments, and other agreements as are necessary or convenient to carry out the terms and purposes of this Agreement.

SECTION 13. COUNTERPARTS

This Agreement may be executed in any number of counterparts. Photocopied and scanned email signatures will be deemed originals.

SECTION 14. AUTHORITY TO BIND THE PARTIES

The parties agree that they have the authority to bind their respective entities.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in duplicate by the duly authorized persons whose signature appear below. Each party, by the signature below of its authorized representative, hereby acknowledges that it has read this agreement, understands it, and agrees to be bound by its terms and conditions. Each person signing this agreement represents and warrants to have the authority to execute this agreement on behalf of City or Non-Profit Corporation.

City of Toledo, an Oregon Municipal Corporation

/s/ _____
By: Judy Richter, City Manager
Dated: _____, 2022

Toledo Cemetery Association, an Oregon Domestic Non-Profit Corporation

/s/ _____
By: Anthony R. Molina, President
Dated: _____, 2022

/s/ _____
By: Merrick Kriz, Secretary
Dated: _____, 2022

**CITY OF TOLEDO
REQUEST FOR COUNCIL ACTION**

	Meeting Date:	Agenda Topic:
	July 20, 2022	Ordinance No. 1402 , an Ordinance adopting a ban on Psilocybin Service Centers, Psilocybin Product Manufacturers, and the Manufacture of Psilocybin Products Resolution No. 1505 , a Resolution referring to the voters of Toledo a measure proposing a temporary prohibition on Psilocybin-Related Businesses and adopting a ballot title and explanatory statement
Council Goal:	Agenda Type:	
Not Applicable	Decision Items	
Prepared by:	Reviewed by:	Approved by:
City Attorney M. Adams	City Manager Judy Richter	City Manager Judy Richter

Recommendation:

Motion to adopt Ordinance No. 1402, **by reading by title only, twice:** “An Ordinance of the Toledo City Council declaring a ban on Psilocybin Service Centers, Psilocybin Product Manufacturers, and the Manufacture of Psilocybin Products.”

Motion to approve Resolution No. 1505, a resolution of the Toledo City Council referring to the voters of Toledo a measure proposing a temporary prohibition on psilocybin-related businesses and adopting a ballot title and explanatory statement.

Background:

The ordinance [attached] provides for a two-year ban, which takes effect and becomes operative 30 days after the day on which it is approved by the majority of the voters. It sunsets, or terminates, on December 31, 2024. Consistent with Ballot Measure 109, the resolution adopts a ballot title and explanatory statement and refers the ordinance to voters.

Toledo Municipal Code, Chapter IX, Section 31(3)(b) allows adoption of an ordinance in a single council meeting, if no councilor present at the meeting requests the ordinance be read in full, a copy has been provided to each councilor not later than one week before the meeting (emailed on July 11, 2022), and copies posted at City Hall, Police Station and Library (on July 11, 2022).

Fiscal Impact:	Fiscal Year:	GL Number:
Unknown	2022-2023	N/A

Attachments

1. Ordinance No. 1402
2. Resolution No. 1505

**CITY OF TOLEDO
ORDINANCE NO. 1402**

**AN ORDINANCE OF THE TOLEDO CITY COUNCIL DECLARING A BAN ON
PSILOCYBIN SERVICE CENTERS, PSILOCYBIN PRODUCT MANUFACTURERS,
AND THE MANUFACTURE OF PSILOCYBIN PRODUCTS**

WHEREAS, in November 2020, Oregon voters approved Ballot Measure 109, known as the Oregon Psilocybin Service Act (codified at ORS Chapter 475A), which allows for the manufacture, delivery and administration of psilocybin at licensed facilities; and

WHEREAS, ORS 475A.235 provides that the Oregon Health Authority will regulate the manufacturing, transportation, delivery, sale and purchase of psilocybin products and the provision of psilocybin services in the state; and

WHEREAS, the Oregon Health Authority has initiated a rulemaking process to implement the state's psilocybin regulatory program and intends to begin accepting applications for psilocybin related licenses on January 2, 2023; and

WHEREAS, as of June 20, 2022, the Oregon Health Authority has not completed the rulemaking process for implementing the state's psilocybin regulatory program, and the City of Toledo is uncertain how the manufacture, delivery and administration of psilocybin at licensed psilocybin facilities will operate within the city; and

WHEREAS, ORS 475A.718 provides that a city council may adopt an ordinance to be referred to the electors of the city prohibiting the establishment of state licensed psilocybin product manufacturers and/or psilocybin service centers in the area subject to the jurisdiction of the city; and

WHEREAS, the Toledo City Council believes that prohibiting psilocybin product manufacturers and psilocybin service centers within the city's jurisdictional boundaries to enable the adoption of the state's psilocybin licensing and regulatory program and to allow the city to adopt reasonable time, place, and manner regulations on the operation of psilocybin facilities is in the best interest of the health, safety and welfare of the people of Toledo; and

WHEREAS, the City Council seeks to refer to the voters of Toledo the question of whether to establish a ban on state-licensed psilocybin product manufacturers and psilocybin service centers within the city's jurisdictional boundaries; and

WHEREAS, in compliance with the Oregon Revised Statutes Chapter 475A, the City of Toledo adopts this ordinance to refer it the voters at the next statewide general election; and

WHEREAS, these regulations are also adopted in furtherance and protection of the health, safety and welfare of the citizens of Toledo, including under the broad home rule authority of the City of Toledo in Chapter II, Section 5, of its municipal charter: "the Charter shall be liberally construed, so that, within the limits imposed by the charter or the constitution or the laws of the

United States or the State of Oregon, the City has all powers necessary or convenient for conducting its affairs, including all powers that the City may now or hereafter assume under the home rule provisions of the Oregon Constitution and the laws of the State of Oregon. The powers are continuing powers;” and

WHEREAS, the implementation of this ordinance is in the public interest and necessary for the peace, health, convenience, and safety of the inhabitants of the City of Toledo.

NOW THEREFORE, THE CITY OF TOLEDO ORDAINS AS FOLLOWS:

Section 1. **Prohibition.**

The establishment of psilocybin product manufacturers licensed under ORS 275A.290 and psilocybin service centers licensed under ORS 475A.305 is prohibited in the City of Toledo.

Section 2. **Referral.**

This ordinance is referred to the electors of the city of Toledo for approval at the next statewide general election on November 8, 2022.

Section 3. **Effective Date.**

This ordinance takes effect and becomes operative 30 days after the day on which it is approved by a majority of voters.

Section 4. **Sunset.**

This ordinance is repealed on December 31, 2024.

That this ordinance is hereby adopted by the Toledo City Council on this 20th day of July, 2022.

APPROVED

ATTEST

Mayor Rod Cross

City Recorder Lisa Figueroa

**CITY OF TOLEDO
RESOLUTION NO. 1505**

A RESOLUTION OF THE TOLEDO CITY COUNCIL REFERRING TO THE VOTERS OF TOLEDO A MEASURE PROPOSING A TEMPORARY PROHIBITION ON PSILOCYBIN-RELATED BUSINESSES AND ADOPTING A BALLOT TITLE AND EXPLANATORY STATEMENT

WHEREAS, Ballot Measure 109, known as the Oregon Psilocybin Services Act, which passed in November 2020, requires the Oregon Health Authority (“OHA”) to begin accepting applications for licenses to manufacture, deliver and administer psilocybin on January 2, 2023; and

WHEREAS, Ballot Measure 109 also allows local governments to prohibit psilocybin-related businesses by referring an ordinance to the voters at a statewide general election; and

WHEREAS, Ballot Measure 109 also allows local governments to prohibit psilocybin-related businesses by referring an ordinance to the voters at a statewide general election; and

WHEREAS, OHA has initiated its rulemaking process; however, the regulatory program will not likely be completed by the deadline for local governments to refer a measure for the November ballot; and

WHEREAS, the Toledo City Council voted to adopt for referral to the voters Ordinance No. 1402, to temporarily prohibit psilocybin-related businesses in Toledo in order to enable the adoption of the state’s psilocybin regulatory program and to allow the city to consider reasonable time, place and manner regulations;

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

Section 1. The City Council refers to the November 8, 2022, election a ballot measure proposing a two-year prohibition on psilocybin-related businesses in Toledo.

Section 2. The City Council adopts the following ballot title for referral:

CAPTION:

Prohibits psilocybin-related businesses within Toledo for two years.

QUESTION:

Shall Toledo prohibit psilocybin-related businesses for two years?

SUMMARY:

State law allows for the manufacturing, transportation, delivery, sale and possession of psilocybin, the psychedelic drug found in certain mushrooms. State law provides that a local government may adopt an ordinance to be referred to the voters to prohibit the establishment of licensed psilocybin product manufacturers and/or psilocybin service centers. The Toledo City Council adopted an ordinance to refer to the voters that temporarily prohibits psilocybin-related businesses in Toledo to enable the city to consider local regulations once the state's psilocybin regulatory program is established.

Approval of the measure would prohibit the establishment of psilocybin product manufacturers and psilocybin service centers within the area subject to the jurisdiction of City of Toledo until December 31, 2024.

Section 3. The City Council adopts the following explanatory statement for the ballot measure:

EXPLANATORY STATEMENT

Approval of this measure would establish a two-year prohibition on the establishment and operation of psilocybin product manufacturers and psilocybin service centers within the city of Toledo. Psilocybin is the psychedelic drug derived from certain mushrooms. Oregon voters legalized psilocybin through Ballot Measure 109 (2020), which directs the Oregon Health Authority (OHA) to develop a psilocybin licensing and regulatory program for the state by January 2, 2023. OHA's psilocybin regulatory program is in development, and the city would like to consider local regulations for psilocybin-related businesses once OHA's program is in place.

Ballot Measure 109 (2020) allows a local government to adopt an ordinance to be referred to the voters that prohibits the establishment of certain licensed psilocybin-related businesses. The Toledo City Council has adopted such an ordinance that temporarily prohibits psilocybin-related businesses to enable the city to consider local regulations once the state psilocybin program is in place. If approved, this measure would prohibit psilocybin product manufacturers and psilocybin service centers within the City of Toledo until December 31, 2024.

The authority to impose a tax or fee on the manufacturing or sale of psilocybin products, or the provision of psilocybin services in Oregon is vested solely in the Legislative Assembly. Additionally, Measure 109 prohibits a city from adopting or enacting an ordinance imposing a tax or fee on psilocybin manufacturing or the provision of psilocybin services. Consequently, approval of this measure should not have any revenue impacts on the City.

- Section 4. The ballot title and explanatory statement adopted by this resolution shall be filed with the city elections officer. The city attorney and city elections officer are jointly and severally authorized and directed to take all necessary steps for and on behalf of the city to effectuate this resolution, in compliance with the applicable provisions of law, including providing public notice and submitting required materials to the county elections officer to cause the measure to appear on the ballot for the November 8, 2022, election and to otherwise carry out the intent and purpose of this resolution.
- Section 5. The city ordinance that is the subject of this referral is attached hereto and incorporated herein as Exhibit A.
- Section 6. That this Resolution shall be effective immediately upon passage by the Toledo City Council.

That this resolution is hereby adopted by the Toledo City Council on this 20th day of July, 2022.

APPROVED

ATTEST

Mayor Rod Cross

City Recorder Lisa Figueroa

**CITY OF TOLEDO
ORDINANCE NO. 1402**

**AN ORDINANCE OF THE TOLEDO CITY COUNCIL DECLARING A BAN ON
PSILOCYBIN SERVICE CENTERS, PSILOCYBIN PRODUCT MANUFACTURERS,
AND THE MANUFACTURE OF PSILOCYBIN PRODUCTS**

WHEREAS, in November 2020, Oregon voters approved Ballot Measure 109, known as the Oregon Psilocybin Service Act (codified at ORS Chapter 475A), which allows for the manufacture, delivery and administration of psilocybin at licensed facilities; and

WHEREAS, ORS 475A.235 provides that the Oregon Health Authority will regulate the manufacturing, transportation, delivery, sale and purchase of psilocybin products and the provision of psilocybin services in the state; and

WHEREAS, the Oregon Health Authority has initiated a rulemaking process to implement the state's psilocybin regulatory program and intends to begin accepting applications for psilocybin related licenses on January 2, 2023; and

WHEREAS, as of June 20, 2022, the Oregon Health Authority has not completed the rulemaking process for implementing the state's psilocybin regulatory program, and the City of Toledo is uncertain how the manufacture, delivery and administration of psilocybin at licensed psilocybin facilities will operate within the city; and

WHEREAS, ORS 475A.718 provides that a city council may adopt an ordinance to be referred to the electors of the city prohibiting the establishment of state licensed psilocybin product manufacturers and/or psilocybin service centers in the area subject to the jurisdiction of the city; and

WHEREAS, the Toledo City Council believes that prohibiting psilocybin product manufacturers and psilocybin service centers within the city's jurisdictional boundaries to enable the adoption of the state's psilocybin licensing and regulatory program and to allow the city to adopt reasonable time, place, and manner regulations on the operation of psilocybin facilities is in the best interest of the health, safety and welfare of the people of Toledo; and

WHEREAS, the City Council seeks to refer to the voters of Toledo the question of whether to establish a ban on state-licensed psilocybin product manufacturers and psilocybin service centers within the city's jurisdictional boundaries; and

WHEREAS, in compliance with the Oregon Revised Statutes Chapter 475A, the City of Toledo adopts this ordinance to refer it the voters at the next statewide general election; and

WHEREAS, these regulations are also adopted in furtherance and protection of the health, safety and welfare of the citizens of Toledo, including under the broad home rule authority of the City of Toledo in Chapter II, Section 5, of its municipal charter: "the Charter shall be liberally construed, so that, within the limits imposed by the charter or the constitution or the laws of the

United States or the State of Oregon, the City has all powers necessary or convenient for conducting its affairs, including all powers that the City may now or hereafter assume under the home rule provisions of the Oregon Constitution and the laws of the State of Oregon. The powers are continuing powers;” and

WHEREAS, the implementation of this ordinance is in the public interest and necessary for the peace, health, convenience, and safety of the inhabitants of the City of Toledo.

NOW THEREFORE, THE CITY OF TOLEDO ORDAINS AS FOLLOWS:

Section 1. **Prohibition.**

The establishment of psilocybin product manufacturers licensed under ORS 275A.290 and psilocybin service centers licensed under ORS 475A.305 is prohibited in the City of Toledo.

Section 2. **Referral.**

This ordinance is referred to the electors of the city of Toledo for approval at the next statewide general election on November 8, 2022.

Section 3. **Effective Date.**

This ordinance takes effect and becomes operative 30 days after the day on which it is approved by a majority of voters.

Section 4. **Sunset.**

This ordinance is repealed on December 31, 2024.

That this ordinance is hereby adopted by the Toledo City Council on this 20th day of July, 2022.

APPROVED

ATTEST

Mayor Rod Cross

City Recorder Lisa Figueroa

**CITY OF TOLEDO
REQUEST FOR COUNCIL ACTION**

	Meeting Date:	Agenda Topic:
	July 20, 2022	Consideration to develop a Livability Code in the City of Toledo
Council Goal:	Agenda Type:	
Not Applicable	Decision Items	
Prepared by:	Reviewed by:	Approved by:
City Attorney Mike Adams	City Manager Judy Richter	City Manager Judy Richter

Recommendation:

Council may make a motion based on one of the recommended options listed under the background.

Background:

The City Manager asked me to do a presentation on a Livability Code . The fire department staff has referenced it. Livability in general is dealt with, through findings and policies related to neighborhood-oriented development and impacts, as well as transportation issues and housing needs.

The City of Corvallis adopted the Corvallis Livability Code, which was a minimum three year process. The ordinance was 58 pages long and attached to this council action request. The City of Corvallis employs two full-time employees to enforce the Livability Code. Also attached is a PowerPoint presentation highlighting the Code.

Your options:

- 1) Not interested in a livability code;
- 2) Interested, and direct staff to try to start to identify some issues or just a portion of the language to be included in the Toledo Municipal Code; or
- 3) Interested, and direct staff to draft a revision in full, not just a portion, for adoption in Toledo.

Recommendation: 1) or 2), as the entire Corvallis Livability Code regulates more than is needed in Toledo.

Fiscal Impact:	Fiscal Year:	GL Number:
Unknown	2022-2023	N/A

Attachments

1. Power Point Presentation
2. Corvallis Livability Code

Introduction



► Definition

- Livability, in general, is dealt with through findings and policies related to neighborhood-oriented development and impacts, as well as transportation issues and housing needs.

► Corvallis Livability Code, Corvallis Municipal Code, Chapter 9.02

- Started to develop in May, 2012, culminating with passage by City Council on November 15, 2015.
- Need arose from having University in City, and increase in student population moving out to residential areas. Combined with Oregon's land use laws, and City, being restrictive on development, so have to deal with old housing stock.
- Extensive review from numerous stakeholder groups over 3 year period: OSU/City Collaboration Project, Neighborhood Livability Work Group, Collaboration Steering Committee, Property Maintenance Code Advisory Group, Livability Code Department Advisory Committee, and Administrative Services Committee. Representatives included OSU students/staff, neighborhood associations, property managers, landlords, renters, affordable housing developers, community advocates, City Council, and City of Corvallis staff.

Corvallis Livability Code

► Pamphlet –



Corvallis Livability Code

The Corvallis Livability Code went into effect on September 15, 2016, following a three-year development and community outreach process. The goal of the Livability Code is to promote public health, safety, preservation of community and prevention of blight. The new Livability Code replaced the previous Rental Housing Code, creating a more extensive approach to enhancing community livability.

For more information, go to
www.corvallisoregon.gov/livability

Common Code Violations

- Habitability issues (lack of heat, egress, ventilation, electrical)
- Plumbing issues (no hot water, leaks, standing water)
- Trash and debris (litter, glass, junk, scrap materials, dead vegetation)
- Solid waste (discarded home and industrial appliances, furniture, construction or demolition materials)
- Inoperable or neglected vehicles, trailers or boats
- Exterior and interior sanitation issues, overgrown vegetation limiting vision (which encourages rats and even criminal activity)
- Over-occupancy (more than five unrelated adults in a single dwelling unit)
- Parking on unapproved surfaces (grass lawns, gravel pads)



Key Stakeholders

The Livability Code wouldn't have happened without the involvement of key stakeholders throughout the community.

- City Collaboration Project's Neighborhood Livability Work Group
- Collaboration Steering Committee
- Oregon State University
- Property Maintenance Code Advisory Group
- Livability Code Advisory Committee
- Administrative Services Committee

How to Report a Problem

ONLINE

www.corvallisoregon.gov/report

PHONE

541-766-6545

IN PERSON

City Hall
Housing & Neighborhood Services Division
501 SW Madison Ave.
Corvallis, OR 97333

How to Follow Up on a Report

Once a complaint is filed, Code Compliance staff will review the complaint and take appropriate actions for remedy.

Community members can track progress by searching for the address of the complaint at www.corvallispermits.com.

The City of Corvallis cannot accept anonymous complaints. Complainants may elect to have all information kept confidential. The City will not disclose this information unless disclosure is required by law. See ORS 192.502 (4).



Landlord and Tenant Issues

The Livability Code includes important provisions and protections for landlords and rental tenants.

Common concerns can be reported online at www.corvallisoregon.gov/report.

Landlord or Tenant Questions?

Email rentalhousing@corvallisoregon.gov

Issues that don't pertain to habitability may be referred to the agency or entity that can provide assistance (this may be a City department, the State's Manufactured Dwelling Park Ombudsperson, Legal Aid, or other pertinent agencies.)

For students at Oregon State University, an attorney is typically available at no cost through Student Legal Services on campus.



Livability Code

Community Development Department

Housing & Neighborhood Services Division

501 SW Madison Ave.
Corvallis, OR 97333
codecompliance@corvallisoregon.gov

Corvallis Livability Code

- ▶ 58-page Ordinance creating Code. Similar to City of Eugene's Code, focused on prevention of urban blight.
- ▶ Created administrative and criminal penalties.
- ▶ Two full-time personnel, non-stop, doing just livability code enforcement. Hearings officer needed.
- ▶ Complaint based system. Average 400 cases per year. 75-80% of complaints university related. City underestimated # of complaints.
- ▶ Scope

Section 9.02.040 – Scope. This chapter establishes minimum requirements and standards for the protection of structures and premises from the elements, life safety and other hazards, and for their safe and sanitary maintenance; assigning the responsibility of owners and occupants; and, establishes the processes and standards for the administration of this chapter, its administration, enforcement, appeals and penalties.

1) Provisions of this chapter that address the interior conditions of residential structures apply to tenant occupied residential structures only.

2) Provisions of this chapter that address the exterior conditions of structures and the conditions of premises apply to all residential and nonresidential structures and all premises, with the exclusion of children's play structures which shall be exempt from the maintenance standards established by this chapter other than with respect to conditions that constitute imminent or incipient hazards, as those terms are defined in this chapter.

3) Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health, safety and maintenance, as required by the provisions of this chapter.

9.02.070.03 – Complaint Based Response.

1) Administrative and enforcement responses under this chapter are intended to be initiated on the basis of a complaint.

2) Complaints may be filed by members of the public, by representatives of the city organization and by representatives of external agencies in a manner that shall be consistent with administrative operating guidelines.

3) Anonymous complaints will not be accepted.

4) Notwithstanding the provisions of CMC 9.02.070.03(1), the Director may choose to initiate administrative or enforcement activities when conditions are known or suspected to be present on a property, premises or a structure that would constitute an imminent hazard or an incipient hazard, as those terms are defined herein.

Corvallis Livability Code

- ▶ As regulating interior of tenant-occupied residential structures, the City developed a self-inspection checklist primarily for landlords and property managers

		City of Corvallis Livability Code	
		SELF-INSPECTION CHECKLIST <i>for Rental Properties</i>	
Property Address:			
Date of Self-Inspection:		Self-Inspected By:	
BUILDING EXTERIOR		OUTDOOR PREMISES	
Exterior Walls		Exterior Sanitation	
Siding and joints kept in weather-tight condition, including the perimeter of windows, doors and skylights.		Fill holes, properly abandon and cap cisterns or other hazards and remove refrigerators, freezers or other conditions that could endanger health or safety.	
Exterior wood surfaces protected from weather by protective coating.		Maintain all structures, premises and common areas in clean, safe and sanitary condition.	
Wooden walls or attachments contain no loose or rotting boards.		Remove any condition that provides rat harborage or overgrown thickets that could conceal trash or criminal activity.	
Peeling, chipping or deteriorated paint is not observable.		Clear all brush, vines and overgrowth within ten feet of a structure or property line to allow emergency response.	
Metal surfaces are protected from rust and corrosion.			
Roofs & Chimneys		Trash & Debris	
No defects exist that are likely to admit water.		No waste materials, nor accumulations of junk, trash, dead trees and yard debris exist.	
No loose bricks or blocks are observed.		No storage of inoperative vehicles.	
Drainage is adequate to prevent water from causing dampness.			
Gutters and downspouts maintained and free from obstructions.			
Foundations		NOTES	
Free of cracks and breaks.			
Supporting structures maintained in sound condition.			
Stairways, Decks, Balconies & Attachments			
Safe to use and capable of supporting designed load.			
No broken or deteriorated flooring, treads or risers.			
Hand and guardrails maintained in good repair.			

BUILDING INTERIOR		Windows and Doors	
Plumbing		Windows, doors and their hardware maintained in good working condition.	
Plumbing systems installed and maintained in a safe and sanitary manner.		Exterior windows and doors kept in weather tight condition.	
Sinks, tubs and showers have hot and cold running water.		Windows kept free of cracks and holes.	
		Working locking devices on all exterior doors and windows, including basement hatchways and windows within 10 feet above ground level.	
		Working doorknobs and deadbolt locks on all entrance doors.	
		All egress doors openable from inside without keys or special effort.	
Electrical		NOTES:	
All electrical components meet code specifications.			
Ventilation			
Interior is free from dampness.			
Kitchens have a maintained local exhaust ventilation system.			
Clothes dryers have an independent system that exhausts outside the building.			
Exhaust hoses maintained free of leaks and obstructions.			
Lighting			
Lighting meets code specifications.			
Lighting provided for all means of egress.			
Sanitation			
Interior areas kept in good repair as well as clean and sanitary.		The Corvallis Livability Code promotes public health, safety, preservation of community and prevention of blight. Learn more about the Corvallis Livability Code at:	
Sanitation services and trash removal are arranged for and in use.			
Common hallways, utility rooms, stairways and public areas are well-maintained, lighted and code compliant.			
Heating		☎ 541-766-6545 ✉ housing@corvallisoregon.gov 🌐 www.corvallisoregon.gov	
Habitable rooms are capable of maintaining heat at 68 degrees (F).			
All heating devices are of an approved type and do not include portable, unvented, open flame or use of cooking appliances for heat.			
Fire Safety			
Every dwelling unit shall be equipped with an approved and properly functioning smoke alarm or smoke detector installed and maintained in accordance with the state building Code, ORS 479.270, 479.275, and 479.285, and applicable rules of the State Fire Marshal.			
DISCLAIMER: Use of this self-inspection checklist shall not be construed to relieve a person from complying with any federal, state or local law, including any provision in the Corvallis Livability Code or any other provision of the Corvallis Municipal Code or the requirement to obtain all necessary permits and approvals.			

Corvallis Livability Code Overview

► In landlord owned- tenant occupied structures, the City is regulating:

► Lighting of Egress

► Ventilation

► Electrical system

► Circuit Protection

► Plumbing System

► Hot water

► Interior Sanitation

► Heat in bathrooms and habitable rooms

► Landlord Responsibilities

► Entrance doors

► Window and door security

► Operable windows

► Basement hatchways

9.02.090.05 – Interior Conditions of Tenant Occupied Residential Structures.

The provisions of this subsection shall be exclusively applicable to all structures occupied for residential use by tenants, regardless of the terms of their possession.

9.02.090.05.030 – Electrical System.

9.02.090.05.030.01 – Equipment Exposed to Water.

1) Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space shall replace electrical equipment or portions of electrical systems that have been exposed to water.

9.02.090.05.070.03 – Operable Windows. Operable windows located in whole or in part within 10 feet above ground level or a walking surface below that provide access to a dwelling unit shall be equipped with a window sash locking device.

9.02.090.05.010 – Lighting of Accessible Means of Egress.

1) Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit or sleeping unit within any such space, other than in 1-2 family dwellings, shall, at all times:

a) provide minimum illumination of 1 footcandle (11 lux) at floors, landings and stairs for all common areas and spaces in all residential occupancies, with responsibility to maintain functioning bulbs; and,

b) for all other accessible means of egress within dwelling units, shall provide the means for minimum illumination of either 3 footcandles (33 lux) at floors, landings and stairs, or shall provide at least one operable fixture capable of illuminating a 60-watt standard incandescent bulb, or equivalent, for each 200 square feet of floor area, not spaced greater than 30 feet apart.

2) Every landlord who rents, leases or lets one or more dwelling unit or sleeping unit of any 1-2 family structure shall provide the means for minimum illumination of either:

a) 3 footcandles (33 lux) at floors, landings and stairs; or,

9.02.090.05.020 – Ventilation.

1) Every dwelling, including basements, and attics shall be maintained reasonably free from dampness to prevent conditions conducive to decay, mold growth, or deterioration of the structure.

2) Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space shall be responsible to maintain legally existing ventilation systems in compliance with these requirements:

a) Except where another approved ventilation device is provided, the total openable window area in every bathroom and toilet room or compartment shall be equal to at least one-fortieth (2.5%) of the area of the room.

1) The glazed areas of a window in such spaces need not be openable where an approved mechanical ventilation system is provided that is functional and capable of producing 0.35 air changes per hour in the room.

b) In kitchens, a local exhaust ventilation system shall be maintained to remove the contaminating agent at the source.

c) Clothes dryer exhaust systems shall be independent of all other systems, shall be exhausted outside the structure and shall be installed in accordance with manufacturer's instructions.

d) Mechanical clothes drying appliances and exhaust systems shall be properly installed, connected, and maintained in a safe condition and good working order. Exhaust hoses must be free from leaks and obstructions and kept functioning properly so as to be free from fire, health, and accident hazards.

9.02.090.05.030.02 – Circuit Protection.

Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space shall be responsible to provide and maintain each building and dwelling unit in accordance with these standards:

1) Every kitchen and other interior location with a water containment or water supply fixture in its area shall contain at least one grounded type receptacle or a receptacle with a ground fault circuit interrupter.

2) Every bathroom shall contain at least one receptacle. Any new or replacement bathroom receptacle outlet shall have ground fault circuit interrupter protection.

3) All receptacle outlets shall have the appropriate faceplate cover for the location.

In landlord owned- tenant occupied structures, the City is regulating the interior of structures:

- ▶ Lighting of Egress
- ▶ Ventilation
- ▶ Electrical system
- ▶ Circuit Protection
- ▶ Plumbing System
- ▶ Hot water
- ▶ Interior Sanitation
- ▶ Landlord Responsibilities
- ▶ Heat in bathrooms and habitable rooms
- ▶ Entrance doors
- ▶ Window and door security
- ▶ Operable windows
- ▶ Basement hatchways

9.02.090.05 – Interior Conditions of Tenant Occupied Residential Structures.
The provisions of this subsection shall be exclusively applicable to all structures occupied for residential use by tenants, regardless of the terms of their possession.

9.02.090.05.030 – Electrical System.

9.02.090.05.030.01 – Equipment Exposed to Water.

1) Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space shall replace electrical equipment or portions of electrical systems that have been exposed to water.

9.02.090.05.070.03 – Operable Windows. Operable windows located in whole or in part within 10 feet above ground level or a walking surface below that provide access to a dwelling unit shall be equipped with a window sash locking device.

9.02.090.05.010 – Lighting of Accessible Means of Egress.

1) Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit or sleeping unit within any such space, other than in 1-2 family dwellings, shall, at all times:

a) provide minimum illumination of 1 footcandle (11 lux) at floors, landings and stairs for all common areas and spaces in all residential occupancies, with responsibility to maintain functioning bulbs; and,

b) for all other accessible means of egress within dwelling units, shall provide the means for minimum illumination of either 3 footcandles (33 lux) at floors, landings and stairs, or shall provide at least one operable fixture capable of illuminating a 60-watt standard incandescent bulb, or equivalent, for each 200 square feet of floor area, not spaced greater than 30 feet apart.

2) Every landlord who rents, leases or lets one or more dwelling unit or sleeping unit of any 1-2 family structure shall provide the means for minimum illumination of either:

a) 3 footcandles (33 lux) at floors, landings and stairs; or,

9.02.090.05.020 – Ventilation.

1) Every dwelling, including basements, and attics shall be maintained reasonably free from dampness to prevent conditions conducive to decay, mold growth, or deterioration of the structure.

2) Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space shall be responsible to maintain legally existing ventilation systems in compliance with these requirements:

a) Except where another approved ventilation device is provided, the total openable window area in every bathroom and toilet room or compartment shall be equal to at least one-fortieth (2.5%) of the area of the room.

1] The glazed areas of a window in such spaces need not be openable where an approved mechanical ventilation system is provided that is functional and capable of producing 0.35 air changes per hour in the room.

b) In kitchens, a local exhaust ventilation system shall be maintained to remove the contaminating agent at the source.

c) Clothes dryer exhaust systems shall be independent of all other systems, shall be exhausted outside the structure and shall be installed in accordance with manufacturer's instructions.

d) Mechanical clothes drying appliances and exhaust systems shall be properly installed, connected, and maintained in a safe condition and good working order. Exhaust hoses must be free from leaks and obstructions and kept functioning properly so as to be free from fire, health, and accident hazards.

9.02.090.05.030.02 – Circuit Protection.

Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space shall be responsible to provide and maintain each building and dwelling unit in accordance with these standards:

1) Every kitchen and other interior location with a water containment or water supply fixture in its area shall contain at least one grounded type receptacle or a receptacle with a ground fault circuit interrupter.

2) Every bathroom shall contain at least one receptacle. Any new or replacement bathroom receptacle outlet shall have ground fault circuit interrupter protection.

3) All receptacle outlets shall have the appropriate faceplate cover for the location.

Applicable to all structures, including vacant buildings, and excluding children's play structures, the exterior of premises are regulated:

- ▶ Weatherproofing and waterproofing, roofs and drainage, exterior walls and exposed surfaces, windows and doors, glazing (of windows), basement hatchways, temporary measures (ie use of tarps), exterior sanitation, holes, tanks and child traps, unsecured structures, rat harborage, emergency access routes, thickets that conceal hazards, trash and debris, storage of non-trash items, solid waste removal, landlord responsibilities, building and accessory structures, general maintenance, including foundation and structural members, exterior walls and exposed surfaces, bricks and veneers, chimneys, roofs, decorative features, accessory structures, and vacant structures and land, decks, stairways and handrails, and fire safety.

9.02.090.06 – Exterior Structure and Premises Conditions. The provisions of this subsection shall be applicable to all structures, properties and premises and for all occupancy and use types, with the exception that children's play structures shall be exempt from the maintenance standards herein established other than with respect to conditions that constitute imminent or incipient hazards, as those terms are herein defined. The assignment of responsibilities for owner, landlord and tenant occupants shall be as set forth within the following standards.

9.02.090.06.030.03 – **Landlord Responsibilities.**

1) The landlord of any multi-family dwelling shall:

a) Provide, in a location accessible to all dwelling units, adequate solid waste receptacle capacity for the containment of solid waste generated or discarded on the property or premises, whether that containment capacity is provided individually for each dwelling unit or cumulatively for more than individual dwelling units, into which all solid waste from the dwellings unit may be emptied for storage between days of collection. Receptacles must be of sufficient capacity to prevent the overflow of solid waste from occurring; and,

b) Subscribe to and pay for weekly solid waste management services, including recycling and yard waste service, by a person holding a valid franchise from the City of Corvallis. Notwithstanding the minimum of solid waste management services herein established, the period and frequency of collection must be sufficient to prevent the overflow of solid waste from occurring.

2) The landlord of any 1 and 2 family dwelling, except as otherwise provided by written agreement between the landlord and the tenant, shall:

a) Provide, in a location accessible to each dwelling unit, adequate solid waste receptacle capacity for the containment of solid waste generated or discarded on the property or premises, whether that containment capacity is provided individually for each dwelling unit or cumulatively for more than individual dwelling units, into which solid waste from the dwelling unit(s) may be emptied for storage between days of collection. Receptacles must be of sufficient capacity to prevent the overflow of solid from occurring; and,

b) Subscribe to and pay for weekly solid waste management services, including recycling and yard waste service, by a person holding a valid franchise from the City of Corvallis. Notwithstanding the minimum of solid waste management services herein established, the period and frequency of collection must be sufficient to prevent the overflow of solid waste from occurring.

9.02.090.07.040 – Smoke Detectors. Every dwelling unit shall be equipped with an approved and properly functioning smoke alarm or smoke detector installed and maintained in accordance with the State Building Code, ORS 479.270, 479.275, and 479.285, and applicable rules of the State Fire Marshal.

9.02.090.07.020 – Unobstructed Path of Travel.

1) Every accessible means of egress, fire escape or stairway, stair platform, corridor or passageway which may be one of the regular accessible means of egress or means of emergency exit from a residential structure shall be kept free of encumbrances or obstructions of any kind.

2) Any installed storm windows on windows required for emergency escape must be easily openable from the inside without the use of a key or special knowledge or effort.

9.02.090.07 – Fire Safety.

9.02.090.07.010 – Means of Egress Door Locks. All means of egress doors shall be readily openable from the side from which egress is to be made without the use of a key or any special knowledge or effort.

9.02.090.06.010.06 – Temporary Measures. The use of tarps or similar material for emergency repair, or in place of a customary building component such as siding or roofing, shall not exceed 45 days in any 12 month period, except for use during construction in association with a building permit, or as a requirement included in a lawfully served Dangerous Building or Public Nuisance notice.

Enforcement of Livability Code:

► Created crimes and civil penalties

Section 9.02.110 – Derelict Structures.

9.02.110.01 – Derelict Structures Prohibited. Derelict structures on any premises are hereby declared to be a public nuisance and their presence prohibited.

9.02.110.02 – Prohibited Habitation.

1) No person shall inhabit a derelict structure, and no owner shall allow any person to inhabit a derelict structure, or a building or structure ordered vacated by the Director.

2) A violation of this subsection is a separate Class C misdemeanor each day that the violation exists or continues.

9.02.100.03 – Failure to Obey Order of Director.

1) It shall be unlawful for any person acting intentionally to refuse to obey an order by the Director acting in the discharge or apparent discharge of official duty administering this chapter.

2) It is no defense to a prosecution for a violation of this section that the Director lacked legal authority to issue the order, provided the Director was acting under color of official authority.

9.02.140.04.060 – Amount of Civil Penalty.

The Director is authorized to impose civil penalties in the amounts as follows, and the Hearings Officer may allow reductions consistent with CMC 9.02.140.04.040(2)(a) and operational guidelines in the amounts as follows:

1) Violation of a provision of this chapter may be subject to a civil penalty in an amount no less than \$50.00 and not exceeding \$5,000.00 per offense, or in the case of a continuing offense, not more than \$1,000.00 for each day of the offense;

2) In imposing a penalty authorized by this section, the Director shall consider:

a) The person's past history in taking all feasible steps or procedures necessary or appropriate to correct the violation;

b) Any prior violations of statutes, rules, orders, and permits;

c) The gravity and magnitude of the violation;

d) Whether the violation was repeated or continuous;

e) Whether the cause of the violation was an unavoidable accident, negligence, or an intentional act;

f) The violator's cooperativeness and efforts to correct the violation; and,

g) Any relevant rule of this or other city code.

(Ordinance 2015-20 §2, 11/16/2015)

9.02.140.03 – Misdemeanors and Infractions.

9.02.140.03.010 – Imposition of Penalty. Any person who shall violate any of the provisions herein or fail to comply therewith or who shall violate or fail to comply with any order made hereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the Hearings Officer or by a court of competent jurisdiction within the time fixed herein shall severally for each and every such violation and noncompliance respectively be guilty of a misdemeanor or infraction, as designated under CMC 9.02.140.03.020, unless otherwise provided for by the provisions of this chapter.

1) All such persons shall be required to correct or remedy such violations or defects within a reasonable time, consistent with CMC 9.02.100.02, and, when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

2) Upon conviction of a misdemeanor offense, any person shall be liable for the fines and terms of imprisonment provided for under CMC 1.01.120(1-3).

3) Upon conviction of an infraction offense, any person shall be liable for the fines provided for under CMC 1.01.120(4-6) and CMC 9.02.140.03.020(1)(d).

9.02.140.03.020 – Classification of Offenses.

1) Violation of the provisions of this chapter shall be designated as follows:

a) Violation of CMC 9.02.090.06.030.01 through CMC 9.02.090.06.030.03 Solid Waste is a Class A misdemeanor.

b) Violation of CMC 9.02.120.01(2) Public Nuisances is a Class B misdemeanor.

c) Violation of CMC 9.02.090.07.010 through CMC 9.02.090.07.040 Fire Safety provisions; CMC 9.02.100.03 Failure to Obey; or CMC 9.02.110.02 Prohibited Habitation is a Class C misdemeanor.

d) Violation of every provision of this chapter not otherwise designated herein is deemed an infraction punishable upon conviction by a fine of not more or less than:

1) 1st offense shall be \$250<>\$100;

2) 2nd offense for violation of same provision of this chapter within 24 month period shall be \$500<>\$250;

3) 3rd offense for violation of same provision of this chapter within 24 month period shall be \$500<>\$500;

4) 4 or more offenses for violation of same provision of this chapter within 24 month period shall constitute a Class A misdemeanor.

2) *Declaration of Infraction.* Notwithstanding the designations provided for under paragraph 1) of this subsection, any violation of the provisions of this chapter may be declared to be an infraction pursuant to the procedure provided in CMC Section 5.03.160.

Enforcement of Livability Code:

- ▶ Inspections,
- ▶ Right of entry, and
- ▶ Administrative Search Warrants

9.02.070.04 – Inspections.

1) *Inspections.* The Director is authorized to make inspection of all premises for the purposes of enforcing this chapter.

2) *Coordination of Enforcement.* Whenever inspections are deemed necessary by the Director and any other division or department, the **Director shall make reasonable effort to arrange for the coordination of such inspections** so as to minimize the number of visits by inspectors, and to confer with the other divisions and departments for the purpose of eliminating conflicting orders before any are issued.

9.02.070.05 – Right of Entry. Following the process set out below, the Director **may enter all premises, including the interior of structures, at all reasonable times** whenever an inspection is necessary to enforce any regulations of this chapter, or whenever the Director has reasonable cause to believe that there exists in any structure or upon any premises any condition which makes such premises substandard as defined in any regulations of this chapter.

9.02.070.05.040 – Execution of Administrative Warrant.

1) *Occupied Premises.* Except as provided in paragraph 2) of this subsection, in executing an administrative warrant, the person authorized to execute the warrant shall, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the premises designated in the warrant and show the occupant or person in possession of the premises the warrant or a copy thereof upon request.

2) *Unoccupied Premises.* In executing an administrative warrant, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in paragraph 1) of this subsection, but may promptly enter the premises if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition. In such case a copy of the warrant shall be conspicuously posted upon the property.

3) *Return.* An administrative warrant must be executed within 10 business days of its issue and returned to the judge by whom it was issued within 10 business days from its date of execution. After the expiration of the time prescribed by this paragraph, the warrant, unless executed, is void.

ORDINANCE 2015-20

AN ORDINANCE REPEALING CORVALLIS MUNICIPAL CODE CHAPTER 9.02, RENTAL HOUSING CODE, AMENDING CHAPTER 8.03, FEES, ENACTING NEW CORVALLIS MUNICIPAL CODE CHAPTER 9.02, CORVALLIS LIVABILITY CODE, ESTABLISHING AN ENFORCEMENT DATE AND REQUIRING A REVIEW AFTER ONE YEAR.

WHEREAS, the City Council has a duty to ensure and protect the public health, safety and welfare of all residents of Corvallis; and

WHEREAS, all residents and property owners in the City of Corvallis benefit from the prevention of urban blight and the preservation of community livability; and

WHEREAS, minimum property maintenance standards and minimum livability standards prevent urban blight and preserve community livability; and

WHEREAS, special considerations for rental housing habitability are necessary to ensure the health, safety and welfare of tenants and to preserve community livability; therefore,

THE CITY OF CORVALLIS ORDAINS AS FOLLOWS:

Section 1: Municipal Code Chapter 9.02, Rental Housing Code is repealed.

Section 2: Municipal Code Chapter 9.02, Corvallis Livability Code is hereby enacted to read as set out in Exhibit A to this Ordinance and incorporated by this reference as if fully set out herein.

Section 3. Municipal Code 8.03.300.065 Rental Housing Program Fees is amended to read as set out in Exhibit C to this Ordinance and incorporated by this reference as if fully set out herein.

Section 4. Effective Date. The provisions specified above in Sections 1, 2 and 3 of this Ordinance, shall become effective 180 days following City Council adoption of this ordinance.

Section 5. Review by the Council. The City Manager shall provide the City Council with a report and the City Council shall review Corvallis Municipal Code Chapter 9.02, Corvallis Livability Code one year after Chapter 9.02 has been enforceable, or as soon thereafter as the Council business allows. After the first year, review of the Chapter shall be every three years.

PASSED by the City Council this 16th day of November, 2015.

APPROVED by the Mayor this 16th day of November, 2015.

EFFECTIVE this 14th day of May, 2016.

*An earlier draft of the Livability ordinance was placed before the Mayor for his signature and was not the version the Council voted on. This ordinance reflects the version passed by the City Council.

Biff Taber 12/11/2015
Mayor

ATTEST:

Carla Hogworth

City Recorder

Chapter 9.02 – LIVABILITY CODE

Section 9.02.010 – Short Title. This Chapter shall be known and may be cited as the Corvallis Livability Code and may be referred to herein as "this chapter."

Section 9.02.020 – Purpose. The purpose of this chapter is to ensure and protect the public health, safety and welfare and to prevent or reduce urban blight by establishing minimum property maintenance and livability standards for all premises.

Section 9.02.030 – Application of other Laws.

Nothing in this chapter shall be construed to relieve a person from complying with any federal, state or local law, including any other provisions of the Corvallis municipal code or the requirement to obtain all necessary permits and approvals.

1) *Changes and Alterations.* Any repair, alteration, or addition to, or change of occupancy in an existing building, or any change of use of any property, shall be made in accordance with all applicable provisions of law, including, but not limited to the Corvallis municipal code.

2) *Conflicts.*

a) Except as provided otherwise by federal, state or local law, if a provision of this chapter conflicts with a residential property maintenance law, rule or regulation promulgated by a state or federal authority having jurisdiction over residential property in the City of Corvallis, the provision of the state or federal law, rule or regulation shall apply to the exclusion of the conflicting provision of this chapter.

b) This chapter is intended to supplement rather than conflict with the habitability standards and the assignment of landlord and tenant responsibilities of the State of Oregon Residential Landlord and Tenant Act.

c) If a provision of this chapter conflicts with a provision of the adopted building code, the provision of the building code shall apply to the exclusion of the conflicting provision of this chapter.

Section 9.02.040 – Scope. This chapter establishes minimum requirements and standards for the protection of structures and premises from the elements, life safety and other hazards, and for their safe and sanitary maintenance; assigning the responsibility of owners and occupants; and, establishes the processes and standards for the administration of this chapter, its administration, enforcement, appeals and penalties.

1) Provisions of this chapter that address the interior conditions of residential structures apply to tenant occupied residential structures only.

2) Provisions of this chapter that address the exterior conditions of structures and the conditions of premises apply to all residential and nonresidential structures and all premises, with the exclusion of children’s play structures which shall be exempt from the maintenance standards established by this chapter other than with respect to conditions that constitute imminent or incipient hazards, as those terms are defined in this chapter.

3) Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health, safety and maintenance, as required by the provisions of this chapter.

Section 9.02.050 – Saving Clause. Compliance with this chapter shall not affect violations of any other ordinance, code or regulation existing prior to the effective date hereof, and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes or regulations in effect at the time the violation was committed.

Section 9.02.060 – Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this chapter shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this chapter which shall continue in full force and effect, and to this end the provisions of this chapter are hereby declared to be severable.

Section 9.02.070 – Administration.

9.02.070.01 – Responsibility.

1) The City Manager is hereby authorized to administer and enforce all of the provisions of this chapter. The authority of the City Manager to enforce the

provisions of this chapter is independent of and in addition to the authority of other city officials to enforce the provisions of other city codes.

2) This chapter shall be liberally construed to the end that the City Manager shall not be required to personally perform the administrative or enforcement duties and functions that are the responsibilities of the City Manager under the terms and standards of this chapter.

9.02.070.02 – Appointments.

1) The City Manager may appoint a Director and delegate authority to administer this chapter to the Director.

2) The Director may appoint such number of officers, technical assistants, inspectors and other employees as shall be necessary for the administration and enforcement of this chapter.

3) The Director is authorized to designate an employee as deputy who shall exercise all the powers of the Director during the temporary absence or disability of the Director.

4) Any acts done by any employee who is under the direct supervision and control of the Director and done pursuant to a delegation of authority given by the Director to said employee shall be deemed to be done by the Director as required by the terms and standards of this chapter.

9.02.070.03 – Complaint Based Response.

1) Administrative and enforcement responses under this chapter are intended to be initiated on the basis of a complaint.

2) Complaints may be filed by members of the public, by representatives of the city organization and by representatives of external agencies in a manner that shall be consistent with administrative operating guidelines.

3) Anonymous complaints will not be accepted.

4) Notwithstanding the provisions of CMC 9.02.070.03(1), the Director may choose to initiate administrative or enforcement activities when conditions are known or suspected to be present on a property, premises or a structure that would constitute an imminent hazard or an incipient hazard, as those terms are defined herein.

9.02.070.04 – Inspections.

1) *Inspections.* The Director is authorized to make inspection of all premises for the purposes of enforcing this chapter.

2) *Coordination of Enforcement.* Whenever inspections are deemed necessary by the Director and any other division or department, the Director shall make reasonable effort to arrange for the coordination of such inspections so as to minimize the number of visits by inspectors, and to confer with the other divisions and departments for the purpose of eliminating conflicting orders before any are issued.

9.02.070.05 – Right of Entry. Following the process set out below, the Director may enter all premises, including the interior of structures, at all reasonable times whenever an inspection is necessary to enforce any regulations of this chapter, or whenever the Director has reasonable cause to believe that there exists in any structure or upon any premises any condition which makes such premises substandard as defined in any regulations of this chapter.

9.02.070.05.010 – Administrative Warrant.

In the case of seeking entry into areas of any premises that are plainly enclosed to create privacy and prevent access by unauthorized persons, the following steps shall be taken:

1) *Occupied Premises.* If any structure on the premises is occupied, the Director shall first present proper credentials and request entry. If entry is refused, the Director may attempt to obtain entry by obtaining an administrative warrant; or,

2) *Unoccupied Premises.*

a) If the premises is unoccupied, the Director shall first make a reasonable attempt to contact the property owner, or other persons having charge or control of the premises, and request entry. If entry is refused or if no response is received, the Director may attempt to obtain entry by obtaining an administrative warrant.

b) If structures on the premises are unoccupied, the Director shall first make a reasonable attempt to locate the owner or other persons having charge or control of the premises and request entry. If entry is refused or if no response is

received from the owner or other persons having charge or control of the premises, the Director may attempt to obtain entry by obtaining an administrative warrant; or,

3) *Open, Unoccupied Structures.* If any structure on the premises is unoccupied and open:

a) The Director shall first make a reasonable effort to notify the owner of the specific condition and order the owner, or other persons having charge or control of the premises, to immediately secure the structure against the entry of unauthorized persons.

b) If the structure is not secured within fifteen (15) days from the date notice is sent, the Director may secure the area on or about the premises of the certain hazardous condition concern, as provided in CMC 9.02.110.05.

4) *Hazardous Conditions.*

a) If the Director believes that an imminent hazard condition exists, the Director may immediately secure the area on or about the premises of the certain hazardous condition concern, as provided in CMC 9.02.110.05.

b) Following the summary abatement to secure the hazardous condition, the Director shall make a reasonable attempt to notify the owner, or other persons having charge or control of the premises, of the condition of the premises and request entry.

c) If entry is refused, the Director may attempt to obtain entry by obtaining an administrative or abatement warrant.

5) *Extenuating Circumstances.* The Director may seek approval for an administrative warrant without first requesting entry or making contact with an owner or occupant, if, at the time, facts or circumstances reasonably show that the purpose of the inspection or investigation might be frustrated if entry were sought without an administrative warrant.

9.02.070.05.020 – Grounds for Issuance of Administrative Warrants.

1) *Affidavit.* The Corvallis Municipal Court or any Oregon Court having jurisdiction over violations of ordinances shall issue an administrative warrant only upon cause, supported by affidavit, particularly describing the applicant's status in applying for the warrant; the statute, ordinance or regulation requiring or authorizing the inspection or investigation; the premises to be inspected or

investigated; and, the purpose for which the inspection or investigation is to be made including the basis upon which cause exists to inspect. In addition, the affidavit shall contain either a statement that entry has been sought and refused, or a statement of facts or circumstances reasonably showing that the purposes of the inspection or investigation might be frustrated if entry were sought without an administrative warrant.

2) *Cause.* Cause shall be deemed to exist if reasonable legislative or administrative standards for conducting a routine, periodic or area inspection are satisfied with respect to any building or upon any premises, or there is probable cause to believe that a condition of nonconformity with any provision of this chapter exists with respect to the designated premises, or an investigation is reasonably believed to be necessary in order to discover or verify the condition of the premises for conformity with the provisions of this chapter.

9.02.070.05.030 – Procedure for Issuance of Administrative Warrant.

1) *Examination.* Before issuing an administrative warrant, the judge may examine under oath the applicant and any other witness and shall be satisfied of the existence of grounds for granting such application.

2) *Issuance.* If the judge is satisfied that cause for the inspection or investigation exists and that the other requirements for granting the application are satisfied, the judge shall issue the warrant, particularly describing the person or persons authorized to execute the warrant, the premises to be entered and the purpose of the inspection or investigation. The warrant shall contain a direction that it be executed on any day of the week between the hours of 8:00 a.m. and 8:00 p.m., or where the judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.

3) *Police Assistance.* In issuing an administrative warrant on private property, including abatement warrants pursuant to CMC 9.02.120.05, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described premises to remove any person or obstacle and to assist the Director or representative of the department inspecting the premises in any way necessary to complete the inspection or abatement.

9.02.070.05.040 – Execution of Administrative Warrant.

1) *Occupied Premises.* Except as provided in paragraph 2) of this subsection, in executing an administrative warrant, the person authorized to execute the warrant shall, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the premises designated in the warrant and show the occupant or person in possession of the premises the warrant or a copy thereof upon request.

2) *Unoccupied Premises.* In executing an administrative warrant, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in paragraph 1) of this subsection, but may promptly enter the premises if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition. In such case a copy of the warrant shall be conspicuously posted upon the property.

3) *Return.* An administrative warrant must be executed within 10 business days of its issue and returned to the judge by whom it was issued within 10 business days from its date of execution. After the expiration of the time prescribed by this paragraph, the warrant, unless executed, is void.

9.02.070.06 – Historic Structures. The provisions of this chapter shall not be mandatory for an existing structure designated as a local or national historic resource when such structure is judged by the Director to be safe and its continued maintenance in historic condition to be in the public interest.

9.02.070.07 – Modifications. Where there are extreme hardships involved in carrying out provisions of this chapter, the Director shall have the right to vary or modify such provisions upon application of an owner or occupant, provided that the spirit and intent of the law is observed and that the public health, safety and welfare is assured.

Section 9.02.080 – Definitions.

9.02.080.01 All words and terms assume their dictionary definitions unless they are specifically defined in this chapter.

9.02.080.02 Words stated in the present tense in this chapter include the future; the singular number includes the plural, and the plural includes the singular.

9.02.080.03 Whenever the words "dwelling unit," "dwelling," "premises," "structure," or "building" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof."

9.02.080.04 – Defined Terms. Unless the context otherwise specifically requires, for purposes of this chapter, the following terms and phrases mean:

- 1) *Abandoned Structure.* A vacant structure that is an attractive nuisance.
- 2) *Abatement [e.g., of a Nuisance].* The act of removing, repairing, or taking other steps as may be necessary in order to remove a nuisance.
- 3) *Accessible Means of Egress.* This term shall have the meaning provided under the Oregon Fire Code, Sec. 1002.1: A continuous and unobstructed way of egress travel from any accessible point in a building or facility to a public way.
- 4) *Accessory Structure.* Any structure not intended for human occupancy. Accessory structures may or may not be attached to a primary structure. Examples of accessory structures include, but are not limited to: garages, carports, sheds, playhouses, decks, awnings, heat pumps, fences, trellises, flag poles, tanks, towers, exterior stairs, driveways and walkways.
- 5) *Agent.* A person authorized by another to act in his/her behalf.
- 6) *Approved.* Meets the standards set forth by this chapter, or is approved by the Director.
- 7) *Attic.* The unfinished, non-habitable part of a structure between the roof and the ceiling immediately below.
- 8) *Attractive Nuisance.* Buildings, structures, or premises that are in an unsecured, derelict or dangerous condition so as potentially to constitute an attraction to minors, vagrants, criminals or other unauthorized persons, or so as to enable persons to resort thereto for the purpose of committing an unlawful act.
- 9) *Basement.* That portion of a building or structure which is partly or completely below grade.

10) *Bathroom*. A room containing plumbing fixtures including a bathtub or shower.

11) *Bedroom*. Any room or space used or intended to be used for sleeping purposes.

12) *Boarded*. The securing of an unoccupied building or structure against entry by the placement of material such as plywood, boards, or other similar material over openings, consistent with administrative operating guidelines, that are designed or intended for windows or doors, where the materials are visible off the premises and where the materials are not lawfully or customarily installed on a building or structure that would be occupied.

13) *Building*. Any structure designed for habitation, shelter, storage, trade, manufacture, business, education, or other similar purposes.

14) *Building Code*. The specialty codes adopted and as may be amended by the City of Corvallis, as provided in CMC Chapter 9.01.

15) *Building Official*. The administrator of the Development Services Division of the Community Development Department, or the administrator's designee.

16) *Bulk Solid Waste*. Discarded bedding, mattresses and furniture, junk, yard debris, uprooted tree stumps, demolition or construction debris, or other nonputrefactive and nonhazardous materials not placed in a receptacle, or too large to be placed into a receptacle.

17) *Deterioration*. A lowering in the quality, condition or appearance of a building or structure, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or any other evidence of physical decay, neglect, excessive use or lack of maintenance.

18) *Derelict Structure*. A building or structure that is unfit for human habitation, or poses an incipient hazard, or is detrimental to public health, safety or welfare, as a result of one or more of the following conditions:

- a) Is unoccupied and unsecured;
- b) Is partially constructed;
- c) Is an abandoned structure or attractive nuisance;
- d) Is in condition of deterioration;
- e) Has an infestation of pests;
- f) Has doors or windows boarded over, or;

g) Other condition that in the opinion of the Director is detrimental to public health, safety or welfare.

19) *Dilapidation*. Being in a state of partial ruin, decay or disrepair.

20) *Director*. The person appointed by the City Manager as the Community Development Director for the City of Corvallis, or the person charged by the City Manager with the implementation and enforcement of this chapter, or the appointed person's designee.

21) *Dwelling*. Any structure containing one or more dwelling unit.

22) *Dwelling Unit*. A single unit within a dwelling providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

23) *Exit*. A continuous, unobstructed means of egress from a dwelling to the exterior of the building and to a public way.

24) *Exterior Property*. The areas of a property which are outside the exterior walls and roof of a building. All parts of property that are exposed to the weather including the exterior of structures built for human occupancy. This includes, but is not limited to, yards, gardens, vehicles parked on the property; open and accessible porches, carports, garages, and decks; accessory structures, and any outdoor storage structure.

25) *Extermination*. The control, elimination and removal of pests by eliminating harborage places; by removing or making inaccessible materials that serve as food; by poison spraying, fumigating, trapping or by any other pest elimination method approved by the Director.

26) *Hazardous Solid Waste*. Any solid waste which, in the opinion of the Director, would constitute a danger to collection personnel or to anyone who may come in contact with such solid waste, and includes, without limitation, any hazardous waste as defined in ORS 466.005(7) as may be amended.

27) *Habitable*. Suitable for human habitation.

28) *Habitable Space*. A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

29) *Hazardous Thicket*. Blackberry vines or other thickets that conceal trash, debris, or junk; or create a harborage for people involved in criminal activity or for

products used for unlawful activity; or that encroach upon the public right of way, or private property of another in a manner that may be hazardous.

30) *Hearings Officer*. The person or persons appointed by the City Manager to serve in that capacity and to pass on matters stipulated for quasi-judicial review under this chapter.

31) *Human Habitation*. The use of a structure, portion of the structure, or space, in which any person remains for a continuous period of two or more hours per day, or for periods which will accumulate to four or more hours in a day.

32) *Imminent Hazard*. Any condition of deterioration that places public health, safety or welfare in high risk of peril, when the peril is immediate, impending, or on the point of happening.

33) *Incipient Hazard*. Any condition that can become an imminent hazard if further deterioration is allowed to occur.

34) *Indoor Fixture*. Any item that is designed to be used indoors or otherwise protected from environmental elements, including, but not limited to, heating, plumbing and electrical fixtures.

35) *Indoor Furnishing/Furniture*. Any item that is designed to be used indoors or otherwise protected from environmental elements including, but not limited to, upholstered furniture, indoor appliances and indoor carpet.

36) *Infestation*. The presence of pests in large numbers that is harmful or bothersome within or adjacent to a building or structure or upon premises.

37) *Junk*. Articles of personal property that have outlived their usefulness in their original form, or articles of personal property that have been discarded and are no longer used for their manufactured purpose, regardless of value. As used in this chapter the term “junk” includes, but is not limited to:

a) any derelict motor vehicle, trailer, or boat, i.e., any used motor vehicle, trailer, or boat without a vehicle license or with an expired license; or,

b) neglected motor vehicle, trailer, or boat, i.e., a motor vehicle, trailer, or boat, that is missing critical parts required for the normal and legal operation of the vehicle, but has all of its body parts intact, including fenders, hood, trunk, glass, and tires; or,

c) wrecked motor vehicle, trailer, or boat or part thereof, i.e., a motor vehicle, trailer, or boat, that is dismantled or partially dismantled, or having a broken or missing window or windshield, or lacking a wheel or tire; or,

d) machinery or parts thereof that are inoperative, worn out, or in a state of disrepair; or,

e) any appliances or parts thereof that are inoperative, worn out, or in a state of disrepair; or,

f) any worn out or dilapidated indoor fixtures or furnishings, or parts thereof; or,

g) any bulk solid waste; and,

h) solid waste items that are of a type or quantity inconsistent with normal and usual use such as wood, metal, scrap and other similar items.

38) *Landlord*. The owner or lessor of a dwelling unit, a building, or premises, including a person authorized by the owner or lessor to manage the premises or to enter into a rental agreement.

39) *Legally Occupied*. The use of premises for a purpose authorized by law, including the building code and the Corvallis land development code. For the purposes of this chapter, a premises shall be considered legally occupied, even if presently vacant, as long as the premises is maintained in compliance with the provisions of this chapter, and in the case of a building or structure, conditions that would qualify the building or structure as derelict are not present.

40) *Let for Occupancy* or *Let*. To permit, to provide, or to offer possession or occupancy of a dwelling unit, building, structure or premises, pursuant to a lease, permit, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

41) *Maintained Compost*. A small portion of a property set aside for the purpose of methodically encouraging the rapid decomposition of yard debris and other vegetable matter into a suitable fertilizer or amendment for the soil on the property. Maintained compost shows clear indicators that the organic materials placed there are being actively managed to encourage its rapid decomposition. Possible signs of such active management may include evidence of regular turning, a mixture of yard debris types, any woody materials present having been chopped into small sizes, and the presence of internal heat in the composting mixture. A location where yard debris is placed primarily as a means to store it or dump it without reasonable expectation of rapid decomposition does not constitute maintained compost.

42) *Means of Egress/Doors.* A continuous and unobstructed path of vertical and horizontal egress travel from any occupied portion of a building or structure to a public way. Includes any doors that are present at the exit access, along the path of exit, and at the exit discharge

43) *Multi-Family Dwelling.* A building or structure within which are comprised three or more dwelling units.

44) *Must.* Mandatory

45) *Naturescape.* Landscaping and gardening approaches that use predominately native plants for the purpose of creating improved outdoor habitat for native insects, birds, and mammals and reducing the need for pesticides, chemical fertilizers, and summer watering.

46) *Occupancy.* The purpose for which a building, structure or premises is used or intended to be used.

47) *Occupant.* Any person, including an owner, tenant or operator, using a building or any part of a building for its lawful, intended use or having possession of a space within a building or structure or possession of a premises.

48) *Owner.* The person recorded in the official records of the state, county or city as holding title to premises, and that person's agent; any person who has purchased or otherwise acquired a premises but whose ownership is not yet reflected in the official records of the state, county or city; a trustee, executor, administrator, guardian or mortgagee in possession and having control of the premises; a person who has care and control of a premises in the case of the absence or disability of the person holding title thereto.

49) *Partially Constructed.* An occupied or vacant structure, or portion thereof, that has been left in a state of partial construction for more than six months, or that has not been completed prior to the expiration of any building permit.

50) *Person.* An individual, corporation, limited liability company, cooperative, association, partnership, or any other entity in law or fact.

51) *Pests.* Animals detrimental to humans or human concerns including, but not limited to, insects, rodents, rats or vermin.

52) *Premises.* A lot or parcel of land, including any buildings or structures thereon.

53) *Rank Vegetation*. Any vegetation existing in a state of uncontrolled growth or without commonly recognized vegetation maintenance or management practices applied.

54) *Receptacle*. With respect to solid waste containment, a trash can, cart, bin, container, drop box or other vessel used for the disposal of solid waste that has been approved by the City Manager and into which solid waste, compostable material, mixed compostables, recyclable material or mixed recycling may be placed for such disposal.

55) *Recycling*. The process of transforming waste into new or different products in such a manner that the original waste products may lose their identity. Recycling includes collection, transportation and storage of waste that places the waste in the stream of commerce for recycling, resource recovery or utilization.

56) *Remediation*. The elimination or correction of a condition, including, but not limited to, repair, replacement, restoration or removal.

57) *Repair*. The reconstruction or renewal of any part of an existing structure for the purpose of its maintenance.

58) *Residential Property*. Real property and all improvements thereon including edifices, structures, buildings, dwelling units or parts thereof used or intended to be used for residential purposes including single-family, duplex, multi-family structures and mixed-use structures which have one or more dwelling units. Hotels and other building types used exclusively for transient occupancy are excluded from this definition of residential property.

59) *Rubbish*. Worthless, discarded material, including, but not limited to, cardboard, plastic, glass, paper, rags, sweepings, wood, rubber, leather, and similar waste materials that ordinarily may accumulate on a premises.

60) *Shall*. Mandatory.

61) *Solid Waste*. This term shall have the same meaning as provided under CMC 4.01.010.

62) *Structure*. That which is built or constructed, an edifice or building of any kind, or any piece or work artificially built up or composed of parts joined together in some definite manner.

63) *Temporary*. Unless otherwise specified, a period up to 6 months in any 12 month period.

64) *Unfit for Human Habitation.* A building or structure that, as found by the Director, is unfit for human habitation due to unsanitary conditions, infestation, accumulation of filth or contamination, lack of required ventilation, illumination, sanitary or heating facilities, or is not connected to approved water or electricity, such that habitation would be injurious to the health, safety, or welfare of the occupants.

65) *Unoccupied.* Not legally occupied.

66) *Unsecured.* Any structure in which doors, windows, or apertures are open or able to be opened from the outside so as to allow access by unauthorized persons; unlocked or otherwise open to entry.

67) *Ventilation.* The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

68) *Watertight.* As secure as possible against the entry of rain, melt water and storm water.

69) *Waste Tire.* A tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.

70) *Weathertight.* As secure as possible against the entry of wind, rain, melt water, storm water and natural elements.

71) *Workmanlike.* Executed in a skilled manner, consistent with generally accepted standards of construction and maintenance, e.g., generally plumb, level, square, in line, undamaged, without marring adjacent work.

Section 9.02.090 – Standards.

9.02.090.01 – General Maintenance Requirements. No person shall maintain or permit to be maintained any structure or premises that does not comply with the requirements of this chapter. All systems, devices and safeguards required by this chapter or by a previous statute or code applicable to the building, structure or premises at the time the building, structure or premises were erected or altered shall be maintained in good working order, thus ensuring the health and safety of all inhabitants.

9.02.090.02 – Existing Structures. An existing structure that does not comply with the provisions of this chapter shall be altered or repaired to provide a minimum level of public health, safety and maintenance as required herein.

9.02.090.03 – Applicable Building Code. All structures shall be constructed, altered or repaired in accordance with the standards of the applicable building code in effect at the time of construction, alteration or repair.

9.02.090.04 – Skilled Work Required. All repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this chapter shall be executed and installed in a workmanlike manner.

9.02.090.05 – Interior Conditions of Tenant Occupied Residential Structures. The provisions of this subsection shall be exclusively applicable to all structures occupied for residential use by tenants, regardless of the terms of their possession.

9.02.090.05.010 – Lighting of Accessible Means of Egress.

1) Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit or sleeping unit within any such space, other than in 1-2 family dwellings, shall, at all times:

a) provide minimum illumination of 1 footcandle (11 lux) at floors, landings and stairs for all common areas and spaces in all residential occupancies, with responsibility to maintain functioning bulbs; and,

b) for all other accessible means of egress within dwelling units, shall provide the means for minimum illumination of either 3 footcandles (33 lux) at floors, landings and stairs, or shall provide at least one operable fixture capable of illuminating a 60-watt standard incandescent bulb, or equivalent, for each 200 square feet of floor area, not spaced greater than 30 feet apart.

2) Every landlord who rents, leases or lets one or more dwelling unit or sleeping unit of any 1-2 family structure shall provide the means for minimum illumination of either:

a) 3 footcandles (33 lux) at floors, landings and stairs; or,

b) shall provide at least one operable fixture capable of illuminating a 60-watt standard incandescent bulb, or equivalent, for each 200 square feet of floor area, not spaced greater than 30 feet apart, for all accessible means of egress.

9.02.090.05.020 – Ventilation.

1) Every dwelling, including basements, and attics shall be maintained reasonably free from dampness to prevent conditions conducive to decay, mold growth, or deterioration of the structure.

2) Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space shall be responsible to maintain legally existing ventilation systems in compliance with these requirements:

a) Except where another approved ventilation device is provided, the total openable window area in every bathroom and toilet room or compartment shall be equal to at least one-fortieth (2.5%) of the area of the room.

1] The glazed areas of a window in such spaces need not be openable where an approved mechanical ventilation system is provided that is functional and capable of producing 0.35 air changes per hour in the room.

b) In kitchens, a local exhaust ventilation system shall be maintained to remove the contaminating agent at the source.

c) Clothes dryer exhaust systems shall be independent of all other systems, shall be exhausted outside the structure and shall be installed in accordance with manufacturer's instructions.

d) Mechanical clothes drying appliances and exhaust systems shall be properly installed, connected, and maintained in a safe condition and good working order. Exhaust hoses must be free from leaks and obstructions and kept functioning properly so as to be free from fire, health, and accident hazards.

9.02.090.05.030 – Electrical System.

9.02.090.05.030.01 – *Equipment Exposed to Water.*

1) Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space shall replace electrical equipment or portions of electrical systems that have been exposed to water.

2) For purposes of this subsection, “exposed to water” shall include but is not limited to: submersion due to flooding; inundation due to fire fighting activities; drenching by stormwater; intrusion of moisture; or plumbing system failures.

3) **Exception:** Electrical equipment or portions of electrical systems that are exposed to water shall be allowed to be repaired where an inspection and testing report from the equipment manufacturer, approved manufacturer’s representative, or a state of Oregon Licensed Supervising Electrician indicates that the electrical equipment or electrical system has not sustained damage that requires replacement and may be repaired, safely reenergized, and placed back into service.

9.02.090.05.030.02 – *Circuit Protection.*

Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space shall be responsible to provide and maintain each building and dwelling unit in accordance with these standards:

1) Every kitchen and other interior location with a water containment or water supply fixture in its area shall contain at least one grounded type receptacle or a receptacle with a ground fault circuit interrupter.

2) Every bathroom shall contain at least one receptacle. Any new or replacement bathroom receptacle outlet shall have ground fault circuit interrupter protection.

3) All receptacle outlets shall have the appropriate faceplate cover for the location.

9.02.090.05.040 – Plumbing System.

9.02.090.05.040.01 – *General.*

1) Plumbing systems shall be installed and maintained in a safe and sanitary condition and shall be free of defects, leaks and obstructions. Plumbing components shall be of materials allowed or approved by the Plumbing Code.

2) All sinks, lavatory basins, bathtubs and showers within a dwelling unit shall be supplied with both hot and cold running water facilities which are installed in an approved manner, properly maintained, properly connected and have a water pressure of at least fifteen psi.

9.02.090.05.040.02 – *Hot Water.*

Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space shall be responsible to provide and maintain each dwelling unit in accordance with these standards:

1) Water heating facilities shall be supplied for each dwelling unit. Water heating facilities within a dwelling unit shall be capable of heating an adequate amount of water to provide water at a temperature of at least 120 degrees Fahrenheit for at least 10 minutes at each hot water outlet.

2) Exceptions:

a) at a bidet the temperature shall not exceed 110 degrees Fahrenheit; and,

b) at a shower or tub-shower combination equipped with a scald and thermal shock protection valve the temperature shall be at least 115 degrees Fahrenheit but shall not exceed 120 degrees Fahrenheit.

9.02.090.05.050 – *Interior Sanitation.*

9.02.090.05.050.01 – *General.*

The interior of every structure that is rented, leased or let for residential occupancy shall be maintained in good repair, in a clean and sanitary condition, free from any accumulation of rubbish, garbage or solid wastes. For purposes of this subsection, the term “clean and sanitary” shall mean free from any material or condition that:

- 1) Provides a breeding place for insects, rodents or vermin; or,
- 2) Produces dangerous or offensive gases or odors; or,
- 3) Blocks exits, hallways, corridors or accessible means of egress; or,
- 4) Provides a surface, exposed or concealed, which is conducive for the growth of mold or mildew.

9.02.090.05.050.02 – *Occupant Responsibilities.* Occupants shall keep that part of the dwelling unit which they occupy or control in a clean and sanitary condition.

9.02.090.05.050.03 – *Landlord Responsibilities.*

Every landlord of any dwelling who rents, leases or lets a dwelling unit within any such space shall:

1) Maintain the common halls, stairways, utility rooms and areas, and similar public areas of the dwelling in a clean and sanitary condition; and,

2) Pursuant to CMC 9.02.090.05.050.01(4) of this chapter but not withstanding the requirement under CMC 9.02.090.05.050.02 of this chapter that the occupants shall keep such spaces in a clean and sanitary condition, provide and maintain all interior surfaces in good repair, including windows and doors, as follows: Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered; cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected; walls, floors, ceilings, cabinets and interior doors shall be free of holes larger than four inches in diameter and cracks wider than one-half inch; and,

3) Pursuant to CMC 9.02.090.05.050.01(4) of this chapter but not withstanding the requirement under CMC 9.02.090.05.050.02 of this chapter that the occupants shall keep such spaces in a clean and sanitary condition, be responsible to ensure that every toilet compartment, bathroom, and kitchen floor surface of every dwelling unit is constructed and maintained to be substantially impervious to water and to permit the floor to be kept in a clean and sanitary condition.

9.02.090.05.060 – Heat in Bathrooms and Habitable Rooms.

Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space shall be responsible to provide and maintain every dwelling unit with permanent heating facilities capable of maintaining a year-round room temperature of not less than 68°F (20°C) in all habitable rooms and all bathrooms.

1) Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

2) No portable, unvented or open flame fuel burning devices may be used to meet the heat requirements of this section.

3) All heating devices or appliances shall be of an approved type.

4) Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat to maintain a year-round temperature of not less than 68°F (20°C) in all habitable rooms and all bathrooms.

9.02.090.05.070 – Window and Door Security.

9.02.090.05.070.01 – *General*. Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space shall be responsible to provide and maintain all exterior doors, windows or hatchways for every dwelling unit with devices designed to provide security for the occupants and property within.

9.02.090.05.070.02 – *Entrance Doors*.

Every entrance door to a dwelling unit shall be provided with a door knob and a deadbolt lock, and keys for same, designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort.

1) Deadbolt locks shall have a minimum lock throw of not less than 1 inch (25 mm) and shall be installed according to the manufacturer's specifications.

2) All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door to discourage unwanted entry.

3) For the purpose of this subsection, a sliding bolt shall not be considered an acceptable deadbolt lock.

9.02.090.05.070.03 – *Operable Windows*. Operable windows located in whole or in part within 10 feet above ground level or a walking surface below that provide access to a dwelling unit shall be equipped with a window sash locking device.

9.02.090.05.070.04 – *Basement Hatchways*. Basement hatchways that provide access to a dwelling unit shall be equipped with devices that secure the unit from unauthorized entry.

9.02.090.06 – Exterior Structure and Premises Conditions. The provisions of this subsection shall be applicable to all structures, properties and premises and for all occupancy and use types, with the exception that children’s play structures shall be exempt from the maintenance standards herein established other than with respect to conditions that constitute imminent or incipient hazards, as those terms are herein defined. The assignment of responsibilities for owner, landlord and tenant occupants shall be as set forth within the following standards.

9.02.090.06.010 – Weatherproofing and Waterproofing. It is the responsibility of the owner of every property to maintain every building and structure on the property in a manner that complies with the following requirements:

9.02.090.06.010.01 – *Roofs and Drainage.* All roofs, flashing, vent stacks and boots, and chimneys shall have no defects which might admit rain or melt water.

1) Roof drainage shall be adequate to prevent rain or melt water from causing dampness in the walls, attic or interior portion of the building and shall channel rain or melt water in an approved manner to an approved point of disposal.

2) Any building or structure having originally been designed for and fitted with gutters and downspouts shall continuously be maintained with such devices, in sound condition and good repair.

3) Roof drains, gutters and downspouts of a building or structure shall be free from obstructions and maintained in good repair, so as not to be plugged, overflowing, or in a state of deterioration.

9.02.090.06.010.02 – *Exterior Walls and Exposed Surfaces.*

Every exterior wall and weather-exposed exterior surface or attachment of a building or structure shall be free of holes, breaks, loose or rotting boards or timbers and any other conditions which might admit rain or melt water or dampness to the interior portions of the walls or the occupied spaces of the building or structure.

1) All exterior wood surfaces shall be made substantially impervious to the adverse effects of weather by periodic application of an approved protective coating of weather-resistant preservative, and be maintained in good condition.

2) Every landlord of a structure, building or premises who rents, leases or lets a dwelling or dwelling unit for residential occupancy within any such space shall maintain in a weathertight condition all siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights.

3) Every owner of any structure, building or premises that is not for rent, lease or to be let for residential occupancy, shall maintain in a watertight condition all siding and masonry and joints, including those between the building envelope and the perimeter of windows, doors and skylights.

4) Exterior metal surfaces shall be protected from rust and corrosion. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion.

9.02.090.06.010.03 – *Windows and Doors.*

Every window, sash, door and door frame of a building shall be kept in sound condition and in good repair. Every exterior door, skylight, and window shall comply with the following:

1) Every exterior door, door hinge, door knob, door lock, and strike plate shall be maintained in good condition;

2) Every exterior door, when closed, shall fit reasonably well within its frame;

3) Every exterior door frame shall be constructed and maintained in relation to the adjacent wall construction so as to exclude rain or melt water as completely as possible; and, with respect to all dwellings and dwelling units that are for rent, lease or to be let for residential occupancy, to also substantially exclude wind from entering a building;

4) Every window sash shall be maintained in sound condition and good repair; and, with respect to all dwellings and dwelling units that are for rent, lease or to be let for residential occupancy, shall also substantially exclude wind from entering a building when the window components are placed in a closed position within the frame and jamb;

5) Every window frame and casing shall be constructed and maintained in relation to the adjacent wall construction so as to substantially exclude rain or melt water as completely as possible; and, with respect to all dwellings and

dwelling units that are for rent, lease or to be let for residential occupancy, shall also substantially exclude wind from entering a building.

9.02.090.06.010.04 – *Glazing*. Every window sash of a building exterior envelope shall be fully supplied with glass window panes or an approved substitute without open cracks and holes.

- 1) All glazing materials shall be maintained free from cracks and holes.
- 2) Glazing with holes, cracks, or that is partially or wholly missing shall be replaced within thirty (30) calendar days of the incident that caused the defect.

9.02.090.06.010.05 – *Basement Hatchways*. Every basement hatchway shall be maintained to prevent as completely as possible the entrance of rodents, rain or melt water and surface drainage water.

9.02.090.06.010.06 – *Temporary Measures*. The use of tarps or similar material for emergency repair, or in place of a customary building component such as siding or roofing, shall not exceed 45 days in any 12 month period, except for use during construction in association with a building permit, or as a requirement included in a lawfully served Dangerous Building or Public Nuisance notice.

9.02.090.06.020 – *Exterior Sanitation*. All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The exterior property and premises and the adjacent rights of way shall be maintained in a manner that complies with the following requirements:

9.02.090.06.020.01 – *Responsibilities*.

- 1) The owner of every property shall maintain the structures, premises and all common areas of the exterior property in compliance with these requirements.
- 2) The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

9.02.090.06.020.02 – *Holes, Tanks, and Child Traps*. Remove, or fill where filling will abate the nuisance, all holes, cisterns, open cesspools, open or unsanitary septic tanks, excavations, open foundations, refrigerators, freezers, or iceboxes with unlocked attached doors and any other similar substance, material or condition which may endanger neighboring property or the health or safety of the public or the occupants of the property.

9.02.090.06.020.03 – *Unsecured Structures*. Board over or otherwise secure, and keep boarded over or otherwise secured, all open or broken exterior doors, windows, or apertures of any unsecured structure so as to prevent access by unauthorized persons through such openings. No requirement imposed under this section shall constitute relief from or an exemption to compliance with the provisions of CMC 9.02.090.06.010.03 through CMC 9.02.090.06.010.04 for weathertight and watertight standards.

9.02.090.06.020.04 – *Rat Harborage*. Remove or repair, and keep removed or repaired, any condition that provides a place where rats gain shelter, feed, or breed.

9.02.090.06.020.05 – *Emergency Access Routes*. All brush, vines, overgrowth and other entangling or rank vegetation located within 10 feet of a structure or within 10 feet of a property line, which is likely to obstruct or impede the necessary passage of fire or other emergency personnel, shall be removed and kept clear.

9.02.090.06.020.06 – *Thickets that Conceal Hazards*.

Cut and remove and keep cut and removed all blackberry vines and other thickets when such growth is found to be:

- 1) Concealing trash and debris; or,
- 2) Creating rat harborage; or,
- 3) Creating harborage for people involved in criminal or prohibited activity or for products used for criminal activity.

9.02.090.06.020.07 – *Trash and Debris.*

Remove, and keep removed, unless specifically authorized by ordinance to do otherwise:

1) All garbage, offal, dead animals, animal and human waste, and waste materials;

2) Accumulations of litter, glass, scrap materials (such as wood, metal, paper, and plastics), junk, combustible materials, stagnant water, or trash;

3) All dead bushes, dead trees, and stumps with the exception of such material which:

a) Is being maintained as part of a naturescaped property; and,

b) Does not result in a nuisance as otherwise defined in this chapter; and,

c) Is located on a property which is otherwise substantially in compliance with this chapter;

4) All trees which are dead, dying or dangerous and are determined by the City Forester or a private certified arborist to require removal in order to safeguard people or property;

5) Accumulations of dead organic matter and yard debris, with the exception of small accumulations of such material in a maintained compost area on the property and only if such material does not result in a nuisance, such as creating rat harborage, as otherwise defined in this chapter; and,

6) Accumulations of clothing and any other items not designed for outdoor storage.

9.02.090.06.020.08 – *Storage of non-Trash Items.*

Remove, and keep removed, unless specifically authorized by ordinance to do otherwise:

1) Accumulations of wood pallets;

2) Any woody debris from Elm trees and all firewood that is not stacked and useable. "Useable" firewood has more wood than rot and is cut to lengths that will fit an approved fireplace or wood stove on the property. Elmwood which is infected with Dutch Elm Disease must be properly disposed of at the direction of the City Forester;

3) Accumulations of vehicle parts or waste tires except for storage of non-waste, serviceable parts or tires that are reasonably expected to be used on a vehicle and are stored in a manner to protect their utility and prevent deterioration;

4) All construction materials except those that are stored in a manner to protect their utility and prevent deterioration and are reasonably expected to be used at the site;

5) All appliances or appliance parts except for storage of appliances that are reasonably expected to be used at the site and are stored in a manner to protect their utility and prevent deterioration;

6) All indoor furniture except that which is stored in a manner to protect its utility and prevent deterioration and is reasonably expected to be used at the property;

7) All recycling materials except for reasonable accumulations that are stored in a well-maintained manner;

8) All other non-trash items which:

a) Are of a type or quantity inconsistent with normal and usual use; or,

b) Are likely to obstruct or impede the necessary passage of fire or other emergency personnel.

9.02.090.06.030 – Solid Waste Removal.

9.02.090.06.030.01 – *General.*

All exterior property and premises, and the interior of every structure, shall be kept free from any accumulation of solid waste.

1) Approved receptacles for solid waste shall be provided and utilized for the containment and disposal of solid;

2) bulk solid waste shall be disposed of within a week of discard, in accordance with franchise utility services, or approved alternative.

9.02.090.06.030.02 – *Occupant Responsibilities.* Every occupant of a structure or premises shall dispose of solid waste by placing all such material in an approved solid waste disposal facility or approved receptacles.

9.02.090.06.030.03 – *Landlord Responsibilities.*

1) The landlord of any multi-family dwelling shall:

a) Provide, in a location accessible to all dwelling units, adequate solid waste receptacle capacity for the containment of solid waste generated or discarded on the property or premises, whether that containment capacity is provided individually for each dwelling unit or cumulatively for more than individual dwelling units, into which all solid waste from the dwellings unit may be emptied for storage between days of collection. Receptacles must be of sufficient capacity to prevent the overflow of solid waste from occurring; and,

b) Subscribe to and pay for weekly solid waste management services, including recycling and yard waste service, by a person holding a valid franchise from the City of Corvallis. Notwithstanding the minimum of solid waste management services herein established, the period and frequency of collection must be sufficient to prevent the overflow of solid waste from occurring.

2) The landlord of any 1 and 2 family dwelling, except as otherwise provided by written agreement between the landlord and the tenant, shall:

a) Provide, in a location accessible to each dwelling unit, adequate solid waste receptacle capacity for the containment of solid waste generated or discarded on the property or premises, whether that containment capacity is provided individually for each dwelling unit or cumulatively for more than individual dwelling units, into which solid waste from the dwelling unit(s) may be emptied for storage between days of collection. Receptacles must be of sufficient capacity to prevent the overflow of solid from occurring; and,

b) Subscribe to and pay for weekly solid waste management services, including recycling and yard waste service, by a person holding a valid franchise from the City of Corvallis. Notwithstanding the minimum of solid waste management services herein established, the period and frequency of collection must be sufficient to prevent the overflow of solid waste from occurring.

9.02.090.06.040 – Building and Accessory Structures. It is the responsibility of the owner of any property, improved or unimproved, to maintain the exterior property, premises, buildings and structures of the property and the adjacent right of way in a manner that complies with the following requirements:

9.02.090.06.040.01 – *General Maintenance.* The exterior of a building or structure shall be maintained in good repair and structurally sound so as not to be in a state of deterioration, and in a sanitary condition so as not to pose a threat to the public health, safety or welfare.

9.02.090.06.040.02 – *Foundations and Structural Members.*

Foundation elements shall adequately support the building and shall be free of rot, crumbling elements, or similar deterioration.

1) All foundation walls shall be maintained free from large open cracks and breaks and shall be kept in such condition so as to prevent the entry of insects, rodents or pests.

2) All supporting structural members in every building and structure shall be maintained structurally sound, showing no evidence of deterioration or decay which would substantially impair their ability to carry imposed loads.

9.02.090.06.040.03 – *Exterior Walls and Exposed Surfaces.* Every exterior wall of a building and all weather-exposed exterior surface or attachment of a building shall be free of holes, breaks, loose or rotting boards or timbers.

9.02.090.06.040.04 – *Brick and Veneers.* Every section of exterior brick, stone, masonry or other veneer applied to a building shall be maintained structurally sound and be adequately supported and tied back to its supporting structure.

9.02.090.06.040.05 – *Chimneys.* Every masonry, metal, or other chimney shall remain adequately supported and free from obstructions and shall be maintained in a condition which ensures there will be no leakage or backup of noxious gases. Every chimney shall be reasonably plumb. Loose bricks or blocks shall be rebonded. Loose or missing mortar shall be replaced. Unused openings into the interior of a structure shall be permanently sealed using approved materials.

9.02.090.06.040.06 – *Roofs.* All building roofs shall be structurally sound.

9.02.090.06.040.07 – *Decorative Features*. All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features on a building or structure shall be maintained in good repair with proper anchorage and in a safe condition, so as not to be in a state of deterioration.

9.02.090.06.040.08 – *Accessory Structures*. Every accessory structure, including sheds, trellises, awnings, fences, and other similar features, shall be maintained structurally safe and sound, and in good repair. Exterior steps and walkways shall be maintained free of unsafe obstructions or hazardous conditions.

9.02.090.06.040.09 – *Vacant Structures and Land*. All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

9.02.090.06.040.10 – *Decks, Stairs and Handrails; Maintenance*.

It is the responsibility of the owner of every property to maintain the building and structures on the property in a manner that complies with the following requirements:

1) Every exterior stairway, deck, porch and balcony and attachment to stairways, decks, porches and balconies shall be:

a) Maintained so as to be safe to use and capable of supporting the loads to which it is subjected;

b) Kept in sound condition and good repair, including replacement as necessary of flooring, treads, risers, and stringers that evidence excessive wear and are broken, warped, rotten, deteriorated or loose;

2) Every handrail and guardrail shall be firmly fastened, maintained in sound condition and good repair, and capable of supporting the loads to which it is subjected;

3) Handrails and guardrails required by building codes at the time of construction shall be maintained or, if removed, shall be replaced.

9.02.090.06.040.11 – *Exterior Lighting*. Exterior site lighting required by the Corvallis land development code or the building code at the time of development shall be maintained or, if removed, shall be replaced.

9.02.090.07 – Fire Safety.

9.02.090.07.010 – Means of Egress Door Locks. All means of egress doors shall be readily openable from the side from which egress is to be made without the use of a key or any special knowledge or effort.

9.02.090.07.020 – Unobstructed Path of Travel.

1) Every accessible means of egress, fire escape or stairway, stair platform, corridor or passageway which may be one of the regular accessible means of egress or means of emergency exit from a residential structure shall be kept free of encumbrances or obstructions of any kind.

2) Any installed storm windows on windows required for emergency escape must be easily openable from the inside without the use of a key or special knowledge or effort.

9.02.090.07.030 – Fire-Resistive Assembly; Maintenance.

1) Where required by the code in effect at the time of construction, the fire-resistance rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained.

2) The surfaces of all other non-rated interior walls, floors and ceilings shall be free of holes larger than four inches in diameter.

9.02.090.07.040 – Smoke Detectors. Every dwelling unit shall be equipped with an approved and properly functioning smoke alarm or smoke detector installed and maintained in accordance with the State Building Code, ORS 479.270, 479.275, and 479.285, and applicable rules of the State Fire Marshal.

Section 9.02.100 – Enforcement.

9.02.100.01 – Enforcing Compliance.

To enforce any of the requirements of this chapter, the Director may gain compliance by:

- 1) Instituting an action before the Hearings Officer; or,
- 2) Causing appropriate action to be instituted in a court of competent jurisdiction; or,
- 3) Imposing criminal or civil penalties, or both; or,
- 4) Taking other action as the Director in the exercise of the Director's discretion deems appropriate.

9.02.100.01.010 – Initial Contacts.

1) Housing & Neighborhood Services Code Compliance receives complaint or information of possible violation of this chapter.

2) One contact is made with responsible party, when possible, and the property is inspected.

3) If no violation exists or violation conditions are immediately corrected, file is closed.

4) If violation exists and cannot be immediately corrected, the Director may issue to the responsible party a correction notice that identifies code violation, specifies required abatement action, and assigns a deadline for completion of abatement, consistent with the provision of this chapter. Service of the correction notice may be made:

- a) in person when contact can be promptly made at the premises; or,
- b) for occupant responsibility circumstances at 1-2 Family dwellings, the correction notice may be posted conspicuously on the dwelling if in person contact is not made; or,
- c) via US First Class mail.
- d) Failure for service to be made in the manner provided for within this paragraph shall not render the correction notice void.

9.02.100.01.020 – Notice of Violations.

1) If violation exists and remains uncorrected after issuance of correction notice, the Director may issue a notice of violation to the responsible party.

a) Notice of violation will identify code violation, will specify required abatement action, and will assign a deadline for completion of abatement, consistent with the provision of this chapter.

b) A copy of a notice of violation issued shall be forwarded to the landlord and the occupant if either is not the responsible party identified as recipient of the notice;

1] copy will be mailed to the owner of the property at the address on record with the county assessor's office;

2] a link to an electronically accessible copy will be emailed to the landlord when that person is registered with the City rental housing program and has provided an email address;

3] copy will be mailed to the occupant(s) of the affected premises by situs address(es).

c) Person receiving a notice of violation may request an extension of period of time to correct the violation.

9.02.100.02 – Compliance Period for Required Abatement Response.

1) Other than as specifically provided for under paragraph 2) of this subsection, the landlord or occupant responsible for any violation of the standards specified under subsection 9.02.090 shall be ordered to complete required repairs or abatement within 7 days, plus three days if the notice and order are mailed rather than served on the person.

2) When the finding of violation of a standard of this chapter is due to any of the following conditions the landlord or occupant, as applicable, shall be ordered to complete the required repair or abatement within 48 hours:

a) lack of heat, per CMC 9.02.090.05.060;

b) lack of water, or any properly functioning toilets or sinks, per CMC 9.02.090.05.040.01;

c) lack of hot water, per CMC 9.02.090.05.040.02;

d) lack of any properly functioning smoke detector, per CMC 9.02.090.07.040;

e) uncontained solid waste, other than bulk solid wastes, per CMC 9.02.090.06.030.

9.02.100.03 – Failure to Obey Order of Director.

1) It shall be unlawful for any person acting intentionally to refuse to obey an order by the Director acting in the discharge or apparent discharge of official duty administering this chapter.

2) It is no defense to a prosecution for a violation of this section that the Director lacked legal authority to issue the order, provided the Director was acting under color of official authority.

Section 9.02.110 – Derelict Structures.

9.02.110.01 – Derelict Structures Prohibited. Derelict structures on any premises are hereby declared to be a public nuisance and their presence prohibited.

9.02.110.02 – Prohibited Habitation.

1) No person shall inhabit a derelict structure, and no owner shall allow any person to inhabit a derelict structure, or a building or structure ordered vacated by the Director.

2) A violation of this subsection is a separate Class C misdemeanor each day that the violation exists or continues.

9.02.110.03 – Order to Vacate Buildings or Structures.

1) If the Director finds that a building or structure is or exists in a condition in violation of CMC 9.02.110.01, the Director may order that a placard be posted on the building or structure ordering the building or structure vacated. The placard shall additionally contain the information required in CMC 9.02.120.02(2).

2) Persons performing active work to abate a violation are exempt from a vacation order while working at a premises subject to a vacation order.

9.02.110.04 – Removal of Placard Prohibited.

The Director shall remove a placard whenever the conditions that resulted in the order to vacate the building or structure have been eliminated.

1) No person shall deface or remove a placard without the approval of the Director.

2) A violation of this subsection is a separate infraction each day that the violation exists or continues.

9.02.110.05 – Temporary Safeguards.

Notwithstanding any other provisions of this chapter, whenever, as determined by the Director, a building or structure poses an imminent hazard or incipient hazard, the Director may:

1) Order necessary work to be performed, including the boarding of openings or installation of security fencing, to render such building or structure temporarily safe and secure, whether or not proceedings to abate the hazard have been instituted; and,

2) Cause such other action to be taken that the Director deems necessary to meet such condition.

9.02.110.06 – Abatement of Derelict Structure by Remediation.

1) *Public Hearing.* In addition to, and not in lieu of, the abatement remedies provided for in CMC 9.02.120.01 through CMC 9.02.120.02 and receivership authority in CMC 9.02.120.08, the Director may file a notice with the City Recorder to set a public hearing before the Hearings Officer to seek an order for remediation of the conditions creating a derelict structure.

a) Notice. Upon receipt of such notice, the City Recorder shall:

1] set the matter for prompt public hearing before the Hearings Officer; and

2] not less than fifteen days prior to the hearing, cause notice thereof to be served via certified mail to the owner at the owner's address as reflected on the most recent tax rolls of the county assessor, and on the occupant; and,

3] cause notice to be posted on or near the derelict structure.

b) Service. Failure of the owner or occupant to receive such notice shall not render the notice void, and an unsuccessful attempt to deliver the notice shall be deemed sufficient service.

2) *Presentation at Hearing.* At the hearing, the Director shall present whatever information, evidence or testimony the Hearings Officer may deem relevant in support of the Director's determination, and the owner(s) and occupant(s) shall be afforded a like opportunity to rebut the determination.

a) Any information, opinion, testimony, or evidence may be received which the Hearings Officer deems material, relevant, and probative of the matters in issue.

b) The owner and occupants may represent themselves or be represented by counsel provided that such counsel is admitted to the practice of law in the state of Oregon.

3) *Order for Remediation.* If the Director demonstrates, by a preponderance of the evidence, that the building or structure is a derelict structure, the Hearings Officer shall order the conditions creating the derelict structure be remediated.

4) *Remediation Factors.* In determining whether the conditions are such that remediation is required, the Hearings Officer shall determine whether the building is:

- a) In a condition unfit for human habitation; or,
- b) In a condition that is an incipient hazard, based on the number and extent of the following factors:
 - 1] Dilapidation;
 - 2] Disrepair;
 - 3] Structural defects noted by the Building Official;
 - 4] Defects increasing the hazards of fire, accident or other calamity, such as parts standing or attached in such manner as to be likely to fall and cause damage or injury;
 - 5] Uncleanliness or infestations of pests;
 - 6] Condition of sanitary facilities;
 - 7] The presence of a public nuisance; and,

8] The history of unlawful activity in or around the building or structure.

Section 9.02.120 – Public Nuisances.

9.02.120.01 – Public Nuisance Prohibited.

1) *Declared Public Nuisances.* The following are specifically declared to be public nuisances: Any thing, condition, or act which is or may become a detriment or menace to the public health, welfare, and safety, where such thing, condition, or act is or exists contrary to the provisions of this chapter.

2) *Prohibition.* In addition to the provision of CMC 9.02.110.01, no person shall cause, permit, or maintain a public nuisance on public or private property.

3) *Joint Responsibility.* If more than one person is responsible for a public nuisance, they shall be jointly and severally liable for correcting the violation and for any costs incurred by the city in abating the nuisance.

9.02.120.02 – Notice to Person Responsible.

1) *Notice.* Whenever the Director has reasonable grounds to believe that a violation of CMC 9.02.120.01 has occurred, a notice and order shall be served on the owner(s) and occupant(s).

2) *Form of Notice.* Such notice prescribed in CMC 9.02.120.02(1) and CMC 9.02.110.03(1) shall:

- a) Be in writing;
- b) Include a description of the premises sufficient for identification;
- c) Include a statement of the reason or reasons why the notice is being issued;
- d) Include a correction order allowing a reasonable time, as specified under CMC 9.02.100.02, for the repairs and improvements required to bring the premises into compliance with the provisions of this chapter;
- e) Include a notice that the city may abate the nuisance pursuant to this chapter and that the person responsible for correcting the public nuisance shall be responsible for the costs of such abatement;
- f) Include instructions for requesting an appeal.

3) *Method of Service.*

a) Notices issued under this section shall be deemed to be properly served if a copy thereof is:

- 1] Personally delivered to the owner(s) and occupant(s); or,
- 2] Sent by first class mail to the owner(s) and occupant(s) at their last known address; or,
- 3] Posted at the premises and also sent first class mail to the owner(s) and occupant(s) at their last known address, if they cannot be located.

b) Failure of the owner(s) or occupant(s) to receive such notice or an error in the name or address of the owner(s) or occupant(s) shall not render the notice void and in such case the service shall be deemed sufficient.

4) *Effective Date of Notice.* All notices served pursuant to this section shall be considered served on the date of personal service or as of the date of mailing, if not personally served.

9.02.120.03 – Action by Responsible Party. Within the time specified for achieving compliance, as provided for under CMC 9.02.100.02, the responsible party or person in charge of the property on whom the notice has been served or posted shall remove the nuisance or shall request an appeal hearing in accordance with CMC 9.02.130.01 through CMC 9.02.130.03.

9.02.120.04 – Recording a Violation.

1) The city may record a notice of violation issued under this section with the County Recorder.

2) Failure to record a notice of violation shall not affect the validity of the notice as to persons who receive the notice.

3) When the property is brought into compliance, a satisfaction of notice of violation shall be recorded if a notice of violation had been recorded against the property.

9.02.120.05 – Abatement Procedures - by the City.

1) If, within time prescribed under CMC 9.02.100.02, the violation has not been corrected the Director may cause the violation to be corrected.

2) The Director shall keep an accurate record of the expense incurred while physically correcting the violation and shall include therein a 15 percent charge for administrative overhead.

3) The Director or a person authorized by the Director may enter upon the subject property to abate the nuisance only upon obtaining consent of the person in possession or in charge of the property; or upon obtaining an administrative abatement warrant pursuant to CMC 1.15 or CMC 9.02.070.05.

9.02.120.06 – Abatement Procedures - Assessment of Costs.

1) After abatement by the city, the Finance Director, by first class mail, shall forward to the owner(s) and occupant(s) a notice stating:

a) The total cost of correction, including the administrative overhead; and,

b) That the costs and administrative overhead as indicated will be assessed to and become a lien against the property unless paid within thirty days from the date of the notice.

2) If the costs and administrative overhead are not paid within thirty days of the billing date, the Director shall thereafter file with the Hearings Officer an itemized statement of costs and overhead, including an additional administrative fee in an amount of ten percent of the actual cost of correction to cover the additional expenses involved in collecting the unpaid balance.

3) Upon filing of such statement of costs and overhead required under paragraph 2) of this subsection, the City Recorder shall set the matter for prompt public hearing before the Hearings Officer and cause notice thereof to be served via certified mail to the owner(s) and occupant(s), consistent with the procedures under CMC 9.02.110.06(1)(a).

4) After the hearing, the Hearings Officer shall declare the correctness of such statement and shall declare those as may be accordingly validated to be a lien upon the property.

5) An error in the contents or service of any notice shall not void the assessment nor will a failure of the owner to receive the notice of the proposed

assessment render the assessment void, but it shall remain a valid lien against the property.

9.02.120.07 – Abatement Procedures - Summary Abatement. The Director may summarily abate a situation involving a health, safety, or other nuisance which unmistakably exists and from which there is imminent danger to human life or to property. The abatement procedure provided by this chapter is not exclusive but is in addition to procedures provided by other laws.

9.02.120.08 – Receivership Authority. In addition to, and not in lieu of any other provision in this chapter, when the Director finds residential property in violation of this chapter, and believes that the violation is a threat to the public's health, welfare and safety, and that the owner has not acted in a timely manner to correct the violation, the Director may apply to a court of competent jurisdiction for the appointment of a receiver to perform an abatement pursuant to the Oregon Housing Receivership Act (ORS 105.420 to 105.455).

9.02.120.09 – Collections. Collection of abatement costs, fees and penalties may be, in addition to any other remedy provided for by law, pursued through a contract collection agency or small claims court or entered into the city's lien docket in the manner below as a lien for the entire amount placed against the real property.

1) Any cost of abatement, fine, assessment or civil penalty imposed pursuant to this chapter, which remains unpaid 30 days after the penalty is imposed (or after the fine, assessment or civil penalty has been affirmed on appeal), shall be filed as a lien against the lot, lots or parcels of land involved in the Municipal Lien Docket.

2) At the time of filing in the Municipal Lien Docket, notice shall be provided to the responsible person. If the responsible person is not the owner of the property shown in the electronic records of the Benton County Assessor on that date, then notice shall also be sent to the owner of the property. Failure to provide notice shall not in any way effect the validity of the lien. The notice shall state that the amounts imposed as penalties shall be payable and due, and that

the penalties shall be liens against the lots or parcels of land involved, respectively.

3) All such liens remaining unpaid after 30 days from the date of recording on the municipal lien docket shall become delinquent and shall bear interest at the rate of 10 percent per annum from and after that date. The liens shall be enforced in the manner provided for municipal liens in ORS Chapter 223 and shall have priority over all such other liens and encumbrances of any character.

4) Pursuant to this chapter, the City Council, as the legislative body of the city, elects to treat costs associated with the enforcement of property maintenance and livability standards, and any related fine, assessment or administrative civil penalties, as a routine obligation of property owners. Therefore, any municipal costs incurred in the abatement of any derelict structure or public nuisance and/or any fine, assessment or administrative civil penalty not paid within 30 days shall be an assessment and lien against the property where the building is located.

Section 9.02.130 – Appeals.

9.02.130.01 – Appeals Generally. Any person served a notice, order, interpretation or decision under authority of this chapter has the right of appeal from the notice, order, interpretation or decision to the Hearings Officer.

9.02.130.02 – Filing of Appeal.

1) *Appeal Period.* An appeal must be submitted to the Director within seven days, plus three days for mailing, from the date that the notice or order was issued.

2) *Appeal Fee.* Any appeal submitted under this chapter shall include a \$50.00 filing fee.

3) *Scope of Appeal.* Appeals may be filed regarding technical matters of notices or determinations, administrative orders, and interpretations and decisions made by the Director relative to this chapter.

4) *Form of Appeal.* An appeal must be in writing and include the following:

a) Name of person filing the appeal;

- b) Copy of the subject notice or order;
- c) Copy of the section of this chapter which is being appealed;
- d) A complete explanation of the appeal;
- e) An explanation of what is requested of the Hearings Officer.

9.02.130.03 – Appeal Procedure.

1) The Director shall confirm that the appeal meets the filing criteria as prescribed under CMC Sections 9.02.130.02(1-4), and that the person filing the request for an appeal has standing.

2) If the filing criteria have not been met, or if the filing party does not have standing, the person filing the appeal will be so notified and hearing before the Hearings Officer will not be convened. The Director, at his/her discretion, may extend the filing deadline by an additional three (3) days to allow a prospective appellant with standing to resubmit a request for an appeal that has been deemed incomplete. Only one extension may be granted.

3) If the filing criteria are met, the Director shall, within 30 days of the filing of the appeal, set the schedule for a hearing before the Hearings Officer. The hearing shall be held not later than 60 days after the filing of the appeal.

a) The appeal shall be conducted on the record.

b) Formal rules of evidence are not required.

c) The Hearings Office shall have the authority to hear appeals of orders, decisions or determinations made under authority of this chapter to determine whether the substance of the order, decision or determination was arbitrary and capricious.

d) The Hearings Officer shall not be empowered to waive requirements of this chapter.

e) The Hearings Officer shall issue a written finding and conclusion on the appeal within seven (7) days of the hearing, and shall provide a copy to the person filing the appeal and to the Director.

Section 9.02.140 – Penalties.

9.02.140.01 – Violation Penalties. Persons who violate a provision of this chapter or fail to comply with any of the requirements of this chapter or a directive of the Director authorized by this chapter shall be subject to the provisions of CMC 9.02.140.02 through CMC 9.02.140.04.060.

9.02.140.02 – Separate Violations.

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

2) The abatement of a nuisance or violation shall not constitute a penalty for violating this chapter but shall be an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate a nuisance or violation.

9.02.140.03 – Misdemeanors and Infractions.

9.02.140.03.010 – Imposition of Penalty. Any person who shall violate any of the provisions herein or fail to comply therewith or who shall violate or fail to comply with any order made hereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the Hearings Officer or by a court of competent jurisdiction within the time fixed herein shall severally for each and every such violation and noncompliance respectively be guilty of a misdemeanor or infraction, as designated under CMC 9.02.140.03.020, unless otherwise provided for by the provisions of this chapter.

1) All such persons shall be required to correct or remedy such violations or defects within a reasonable time, consistent with CMC 9.02.100.02, and, when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

2) Upon conviction of a misdemeanor offense, any person shall be liable for the fines and terms of imprisonment provided for under CMC 1.01.120(1-3).

3) Upon conviction of an infraction offense, any person shall be liable for the fines provided for under CMC 1.01.120(4-6) and CMC 9.02.140.03.020(1)(d).

9.02.140.03.020 – Classification of Offenses.

1) Violation of the provisions of this chapter shall be designated as follows:

a) Violation of CMC 9.02.090.06.030.01 through CMC 9.02.090.06.030.03 Solid Waste is a Class A misdemeanor.

b) Violation of CMC 9.02.120.01(2) Public Nuisances is a Class B misdemeanor.

c) Violation of CMC 9.02.090.07.010 through CMC 9.02.090.07.040 Fire Safety provisions; CMC 9.02.100.03 Failure to Obey; or CMC 9.02.110.02 Prohibited Habitation is a Class C misdemeanor.

d) Violation of every provision of this chapter not otherwise designated herein is deemed an infraction punishable upon conviction by a fine of not more or less than:

1] 1st offense shall be \$250<>\$100;

2] 2nd offense for violation of same provision of this chapter within 24 month period shall be \$500<>\$250;

3] 3rd offense for violation of same provision of this chapter within 24 month period shall be \$500<>\$500;

4] 4 or more offenses for violation of same provision of this chapter within 24 month period shall constitute a Class A misdemeanor.

2) *Declaration of Infraction.* Notwithstanding the designations provided for under paragraph 1) of this subsection, any violation of the provisions of this chapter may be declared to be an infraction pursuant to the procedure provided in CMC Section 5.03.160.

9.02.140.04 – Civil Penalties.

1) In addition to and not in lieu of any other means of enforcement or any other penalty provided by law, any person who shall violate a provision of this chapter or who shall fail to comply with any of the requirements thereof or an order of the Director may incur a civil penalty in an amount as specified in CMC 9.02.140.04.060, plus an administrative fee and any cost of service or recording.

2) All such persons incurring a civil penalty shall be required to correct or remedy such violations or defects within a reasonable time, consistent with CMC 9.02.100.02, and, when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

9.02.140.04.010 – Purpose. The purpose of a civil penalty is to provide an efficient, convenient, and practical system to enforce a violation of this chapter.

9.02.140.04.020 – Civil Penalty against Agents. Any person who acts as the agent of, or otherwise assists, a person who engages in an activity which would be subject to a civil penalty shall likewise be subject to a civil penalty.

9.02.140.04.030 – Procedure for Issuing Civil Penalty. A civil penalty shall be imposed under this section by issuance of a notice of civil money penalty. A civil penalty may be imposed for each day the violation continues or remains. The notice of civil money penalty shall be issued and served in accordance with the procedures specified within this subsection.

9.02.140.04.030.01 – *Notice of Civil Money Penalty.*

1) If a civil penalty is imposed, the Director shall issue a notice of civil money penalty to the person responsible for the code violation.

2) The notice of civil money penalty shall include:

a) reference to the applicable code provision(s);

b) a statement of the basis of the finding of a violation;

c) a statement of the amount of the civil money penalty;

d) a statement of the party's right to protest the civil penalty to a Hearings Officer; and,

e) a statement that a delinquent civil money penalty may become a lien against the property.

3) The notice of civil money penalty shall be served on the person responsible for the code violation by:

a) Personal service; or,

b) posted in a conspicuous place in, on or about the structure or premises affected by such notice; or,

c) sent by US first class mail or US certified mail, return receipt requested, to the person's last known address;

1] failure of the recipient to sign for the certified mail shall not make the notice void;

2] notice served by mail shall be deemed received three days after the date mailed to an address within Oregon or seven days to an address outside of Oregon;

3] notice served by mail shall be concurrently posted in a conspicuous place in, on or about the structure or premises affected by such notice.

9.02.140.04.030.02 – *Courtesy Notice to Owner*. If the subject violation relates to real property and the person responsible for the violation is not the owner of the property, an informational copy of the notice of civil money penalty shall be sent to the owner of the property by first class mail, at the owner's address as reflected on the most recent tax rolls of the county assessor, at the same time as service on the person responsible.

9.02.140.04.040 – Protest of Civil Penalty.

1) A person issued a notice of civil money penalty may protest the existence of a violation or the circumstances involved in the presence of a violation that resulted in imposition of a civil penalty to a Hearings Officer.

2) An appeal request must be submitted to the City Recorder within seven days, plus three days for mailing, from the date of service of the notice of civil money penalty.

a) After a hearing in which the Hearings Officer determines that a violation did or does exist, the Hearings Officer may uphold or reduce the original penalty imposed after considering reasonable mitigating factors as determined by the Hearings Officer.

1] The Hearings Officer may not reduce the civil money penalty by any amount if a violation has not been corrected by the responsible party and inspected by the city.

2] The civil money penalty imposed by the Hearings Officer shall not be less than the minimum amount specified under CMC 9.02.140.04.060(1).

9.02.140.04.050 – Collection of Civil Penalty.

1) The civil penalty shall become final upon expiration of the time for filing a protest or, if a protest is filed and the Hearings Officer affirms the civil penalty, the civil penalty shall become final upon issuance of the Hearings Officer's decision.

2) The civil penalty shall be delinquent if not paid within 30 days from the date the civil penalty becomes final.

a) A late payment charge shall begin to accrue from the date of delinquency.

b) If the civil penalty is imposed on the owner of the property where the violation occurred, and is delinquent, the notice of civil money penalty and a late payment charge shall be entered in the docket of city liens in the manner provided under CMC 9.02.120.09.

1] Failure to pay may result in foreclosure in any manner provided by ORS 223.505 to 223.650 or otherwise provided by law.

2] An error in the name of the owner shall not void the lien, nor shall a failure of the owner to receive the notice render the lien void, but it shall remain a valid lien against the property.

9.02.140.04.060 – Amount of Civil Penalty.

The Director is authorized to impose civil penalties in the amounts as follows, and the Hearings Officer may allow reductions consistent with CMC 9.02.140.04.040(2)(a) and operational guidelines in the amounts as follows:

1) Violation of a provision of this chapter may be subject to a civil penalty in an amount no less than \$50.00 and not exceeding \$5,000.00 per offense, or in the case of a continuing offense, not more than \$1,000.00 for each day of the offense;

2) In imposing a penalty authorized by this section, the Director shall consider:

a) The person's past history in taking all feasible steps or procedures necessary or appropriate to correct the violation;

b) Any prior violations of statutes, rules, orders, and permits;

c) The gravity and magnitude of the violation;

d) Whether the violation was repeated or continuous;

e) Whether the cause of the violation was an unavoidable accident, negligence, or an intentional act;

f) The violator's cooperativeness and efforts to correct the violation; and,

g) Any relevant rule of this or other city code.

(Ordinance 2015-20 §2, 11/16/2015)

ORDINANCE 2015-20 – EXHIBIT B

Ordinance 2015-20 does not have an Exhibit B.

Ordinance 2015-20 – EXHIBIT C

Section 8.03.300.065 Rental Housing Program Fees.

For the purpose of offsetting costs to the City associated with the operation of a Rental Housing Program, there is hereby imposed an annual fee, to be set by the City Council, for each dwelling unit covered by a rental agreement. The total annual fee for fraternities, sororities, and other similar group living structures will be calculated based on the occupancy capacity of each structure divided by the U.S. Census-determined average household size of renter-occupied units, multiplied by the annual per-unit fee.

- 1) The following unit types, while subject to the requirements of Chapter 9.02, shall be exempt from the fee payment requirements of this Section: rentals with a recorded deed restriction requiring the units to be rented affordably to households at or below 50% of the Area Median Income; rentals under contract with a public agency that requires the rental to be inspected at least annually and verifies that the dwelling is rented to a low income household; and rentals designated as senior or disabled housing by a public agency.
- 2) The landlord is responsible for paying the annual fee upon written or electronic request. The Director shall adopt and implement policies and procedures which include multiple written or electronic communications with landlords before assessing a penalty. The penalty established below is necessary to offset the actual cost of these procedures when payment of the annual fee is not timely or when payment of the annual fee is not made.
- 3) Policy regarding penalties. Facilitating collaborative solutions to landlord/tenant relationship conflicts, and providing education for landlords and tenants with respect to their respective rights and responsibilities, is of great importance within the City of Corvallis. The costs of this program are intended to be somewhat offset by the annual fees, but the City Council also desires to not greatly increase the cost of renting residential property within the City. The City Council has balanced raising the amount of the annual fee in order to offset the cost of the program against the desire for landlords to pay the annual fee in a timely manner, and finds that an artificially lower annual fee that encourages timely payment is more likely to provide funding that offsets the costs of this essential program than is a higher fee which would capture all the

administrative costs of collection. The City finds that staff charged with administration of this program spend a grossly disproportionate portion of their time attempting to collect fees or to collect untimely fees from a relatively few landlords. The City Council finds that relatively low penalties for failing to pay the annual fee or for failing to pay the annual fee in a timely manner, encourages some landlords to fail to make payments or to make late payments. The City Council finds that relatively low penalties therefore result in an unfair apportionment of the cost of providing this essential program to other landlords and taxpayers, and threatens the City's ability to provide the service for the low annual fee.

- 4) Failure to pay the fee as requested will subject the landlord to the following actions:
 - a) A penalty fee of \$100.00 will be assessed to the landlord for each unpaid per unit fee if the annual fee is not paid by the date specified in the written or electronic request for payment.
 - b) The City will initiate appropriate action to collect the fees due and all costs associated with these actions will be assessed to the landlord.
 - c) Appropriate action may include placing a lien on the property.
- 5) The fees applicable to units of rental housing, defined as any dwelling unit covered by a rental agreement, and not otherwise exempt under subsection 1), above, shall be \$13.00 per unit per fiscal year for the period beginning July 1, 2015, and shall increase by \$1.00 per unit per fiscal year in every odd-number year thereafter.
(Ord. 2015-20 § 3, 11/16/2015; Ord. 2011-15 §2, 10/03/2011; Ord. 2007-25 §1, 11/19/2007; Ord. 2002 §10, 7/15/2002; Ord. 98-34 §1, 09/08/1998)