



ADMINISTRATIVE SERVICES COMMITTEE

Agenda

Wednesday, October 22, 2014
3:30 pm

Madison Avenue Meeting Room
500 SW Madison Avenue

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| Discussion/ Possible Action | I. Recreational Marijuana Tax (Attachment) |
| Discussion/ Possible Action | II. Livability Code/Neighborhood Outreach Program Review (Attachment) |
| Information | III. Other Business |

Next Scheduled Meeting

Wednesday, November 5, 2014 at 3:30 pm
Madison Avenue Meeting Room, 500 SW Madison Avenue

Agenda

- Livability Code/Neighborhood Outreach Program Review
- Status of Renaming Advisory Boards, Commissions and Committees Update
- Council Policy Reviews and Recommendations:
94-2.08, "Council Liaison Roles"

M E M O R A N D U M

To: Administrative Services Committee

From: Jim Brewer, Deputy City Attorney

Date: October 15, 2014

Subject: Draft Ordinance Establishing Tax on Marijuana Sales

Attached to this memorandum for the Committee's review is a draft ordinance that purports to establish a tax on marijuana sales in the City, and a draft resolution establishing a tax rate of 0% for both medical marijuana and recreational marijuana, should Measure 91 pass in the November election. Because the measure contains language that likely preempts local taxes, the Administrative Services Committee and the Council should view this draft ordinance, should it be enacted, as a place-keeper that is not intended to be enforced unless the legislature makes substantial changes in the text of the measure and permits local government to tax marijuana sales. Even then, the City Council should be cautious about enforcing the ordinance as long as marijuana is illegal under federal law.

ORDINANCE 2014-_____

AN ORDINANCE RELATING TO A TAX ON THE SALE OF MARIJUANA AND MARIJUANA INFUSED PRODUCTS, AMENDING CORVALLIS MUNICIPAL CODE CHAPTER 8, TO INCLUDE A NEW MUNICIPAL CODE SECTION 8.15

THE CITY OF CORVALLIS ORDAINS AS FOLLOWS:

Section 1. Corvallis Municipal Code Chapter 8 is hereby amended to include a new Section 8.15, establishing a tax on the sale of marijuana and marijuana infused products, as set out as follows:

CHAPTER 8.15

TAXATION OF MARIJUANA AND MARIJUANA INFUSED PRODUCTS

- 8.15.010 Purpose**
- 8.15.020 Interpretation and Definitions**
- 8.15.030 Levy of Taxes**
- 8.15.040 Deductions**
- 8.15.050 Seller Responsible for Payment of Tax**
- 8.15.060 Penalties and Interest**
- 8.15.070 Failure To Report and Remit Tax -Determination of Tax by Finance Director**
- 8.15.080 Appeal**
- 8.15.090 Refund**
- 8.15.100 Variances**
- 8.15.110 Notification and Coordination with State Agencies**
- 8.15.120 Unauthorized Alterations and Enforcement**
- 8.15.130 Audit of Books, Records or Persons**
- 8.15.140 Forms and Regulations**
- 8.15.150 Severability**
- 8.15.160 Savings**

SECTION 8.15.010 Purpose.

For the purposes of this Chapter, every person who sells marijuana, medical marijuana or marijuana-infused products in the City of Corvallis is exercising a taxable privilege. The purpose of this Chapter is to impose a tax upon the retail sale of marijuana, medical marijuana, and marijuana-infused products.

SECTION 8.15.020 Interpretation and Definitions.

When not clearly otherwise indicated by the context, the following words and phrases as used in this chapter shall have the following meanings:

- A. "Finance Director" means the City Finance Director for the City of Corvallis or his/her designee.
- B. "Gross Taxable Sales" means the total amount received in money, credits, property or other consideration from sales of marijuana, medical marijuana and marijuana-infused products that is subject to the tax imposed by this chapter.

- C. "Marijuana" means all parts of the plant of the Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin, as may be defined by Oregon Revised Statutes as they currently exist or may from time to time be amended. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted there from), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.
- D. "Oregon Medical Marijuana Program" means the office within the Oregon Health Authority that administers the provisions of ORS 475.300 through 475.346, the Oregon Medical Marijuana Act, and all policies and procedures pertaining thereto.
- E. "Person" means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or any group or combination acting as a unit, including the United States of America, the State of Oregon and any political subdivision thereof, or the manager, lessee, agent, servant, officer or employee of any of them.
- F. "Purchase or Sale" means the retail acquisition or furnishing for consideration by any person of marijuana within the City and does not include the acquisition or furnishing of marijuana by a grower or processor to a seller.
- G. "Registry identification cardholder" means a person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, and who has been issued a registry identification card by the Oregon Health Authority.
- H. "Retail sale" means the transfer of goods or services in exchange for any valuable consideration and does not include the transfer or exchange of goods or services between a grower or processor and a seller.
- I. "Seller" means any person who is required to be licensed or has been licensed by the State of Oregon to provide marijuana or marijuana-infused products to purchasers for money, credit, property or other consideration.
- J. "Tax" means either the tax payable by the seller or the aggregate amount of taxes due from a seller during the period for which the seller is required to report collections under this chapter.
- K. "Taxpayer" means any person obligated to account to the Finance Director for taxes collected or to be collected, or from whom a tax is due, under the terms of this chapter.
- L. "Ordinance" means this Section 8.15 of the Corvallis Municipal Code.

SECTION 8.15.030 Levv of Tax.

- A. There is hereby levied and shall be paid a tax by every seller exercising the taxable privilege of selling marijuana and marijuana-infused products as defined in this chapter.
- B. The amount of tax levied shall be established by a City Council resolution.

SECTION 8.15.040 Deductions.

The following deductions shall be allowed against sales received by the seller providing marijuana:

- A. Refunds of sales actually returned to any purchaser;

- B. Any adjustments in sales which amount to a refund to a purchaser, providing such adjustment pertains to the actual sale of marijuana or marijuana-infused products and does not include any adjustments for other services furnished by a seller.

SECTION 8.15.050 Seller Responsible For Payment Of Tax.

- A. Every seller shall, on or before the last day of the month following the end of each calendar quarter (in the months of April, July, October and January) make a return to the Finance Director, on forms provided by the City, specifying the total sales subject to this chapter and the amount of tax collected under this chapter. The seller may request or the Finance Director may establish shorter reporting periods for any seller if the seller or Finance Director deems it necessary in order to insure collection of the tax and the Finance Director may require further information in the return relevant to payment of the tax. A return shall not be considered filed until it is actually received by the Finance Director. ·
- B. At the time the return is filed, the full amount of the tax collected shall be remitted to the Finance Director. Payments received by the Finance Director for application against existing liabilities will be credited toward the period designated by the taxpayer under conditions that are not prejudicial to the interest of the City. A condition considered prejudicial is the imminent expiration of the statute of limitations for a period or periods.
- C. Non-designated payments shall be applied in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the underlying tax until the payment is exhausted. Crediting of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to the underlying tax. If the Finance Director, in his or her sole discretion, determines that an alternative order of payment application would be in the best interest of the City in a particular tax or factual situation, the Finance Director may order such a change. The Finance Director may establish shorter reporting periods for any seller if the Finance Director deems it necessary in order to ensure collection of the tax. The Finance Director also may require additional information in the return relevant to payment of the liability. When a shorter return period is required, penalties and interest shall be computed according to the shorter return period. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by sellers pursuant to this chapter shall be held in trust for the account of the City until payment is made to the Finance Director. A separate trust bank account is not required in order to comply with this provision.
- D. Every seller required to remit the tax imposed in this chapter shall be entitled to retain five percent (5%) of all taxes due to defray the costs of bookkeeping and remittance.
- E. Every seller must keep and preserve in an accounting format established by the Finance Director records of all sales made by the dispensary and such other books or accounts as may be required by the Finance Director. Every seller must keep and preserve for a period of three (3) years all such books, invoices and other records. The Finance Director shall have the right to inspect all such records at all reasonable times.

SECTION 8.15.060 Penalties And Interest.

- A. Any seller who fails to remit any portion of any tax imposed by this chapter within the time required shall pay a penalty of ten percent (10%) of the amount of the tax, in addition to the amount of the tax.

- B. Any seller who fails to remit any delinquent remittance on or before a period of 60 days following the date on which the remittance first became delinquent, shall pay a second delinquency penalty of ten percent (10%) of the amount of the tax in addition to the amount of the tax and the penalty first imposed.
- C. If the Finance Director determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in subparagraphs A and B of this section.
- D. In addition to the penalties imposed, any seller who fails to remit any tax imposed by this chapter shall pay interest at the rate of one percent (1%) per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- E. Every penalty imposed, and such interest as accrues under the provisions of this section shall become a part of the tax required to be paid.
- F. Notwithstanding any other provision of this code to the contrary, all sums collected pursuant to the penalty provisions in paragraphs A and C of this section shall be distributed to the City of Corvallis General Fund to offset the costs of auditing and enforcement of this tax.
- G. Waiver of Penalties. Penalties and interest for certain late tax payments may be waived if the City Manager of the City of Corvallis or the designee of the City Manager determines, in writing, that to do so is in the best interest of the Public.

SECTION 8.15.070 Failure To Report and Remit Tax -Determination of Tax by Finance Director.

If any seller should fail to make, within the time provided in this chapter, any report of the tax required by this chapter, the Finance Director shall proceed in such manner as deemed best to obtain facts and information on which to base the estimate of tax due. As soon as the Finance Director shall procure such facts and information as is able to be obtained, upon which to base the assessment of any tax imposed by this chapter and payable by any seller, the Finance Director shall proceed to determine and assess against such seller the tax, interest and penalties provided for by this chapter. In case such determination is made, the Finance Director shall give a notice of the amount so assessed by having it served personally or by depositing it in the United States mail, postage prepaid, addressed to the seller so assessed at the last known place of address. Such seller may make an appeal of such determination to the City Manager or the City Manager's designee. The written appeal of the decision of the City Manager or City Manager's designee must be made and delivered to the City Recorder within 14 days, and the Appeal shall be to the City Council, as provided in Corvallis Municipal Code Section 1.11. If no appeal is filed, the lower determination is final and the amount thereby is immediately due and payable.

SECTION 8.15.080 Appeal.

Any seller aggrieved by any decision of the Finance Director with respect to the amount of such tax, interest and penalties, if any, may appeal to the City Manager. The appeal shall be filed within 30 days of the serving or mailing of the determination of tax due. The City Manager or the City Manager's designee shall determine whether the Finance Director's decision was arbitrary and capricious, and shall consider any records and evidence presented bearing upon the Finance Director's determination of the amount due, and make findings affirming, reversing or modifying the determination. Written appeal of the decision by the City Manager or the City Manager's designee shall be to the City Council as provided in Corvallis Municipal Code Section 1.11. The appeal shall be filed within 14 days of the decision of the City Manager. The findings of the City Council shall be final and conclusive, and shall be served upon the appellant in the

manner prescribed for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.

SECTION 8.15.090. Refunds.

- A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once, or has been erroneously collected or received by the City under this chapter, it may be refunded as provided in subparagraph B of this section, provided a claim in writing, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Finance Director within one year of the date of payment. The claim shall be on forms furnished by the Finance Director.
- B. The Finance Director shall have 20 calendar days from the date of receipt of a claim to review the claim and make a determination in writing as to the validity of the claim. The Finance Director shall notify the claimant in writing of the Finance Director's determination. Such notice shall be mailed to the address provided by claimant on the claim form. In the event a claim is determined by the Finance Director to be a valid claim, in a manner prescribed by the Finance Director a seller may claim a refund, or take as credit against taxes collected and remitted, the amount overpaid, paid more than once or erroneously collected or received. The seller shall notify Finance Director of claimant's choice no later than 15 days following the date Finance Director mailed the determination. In the event claimant has not notified the Finance Director of claimant's choice within the 15 day period and the seller is still in business, a credit will be granted against the tax liability for the next reporting period. If the seller is no longer in business, a refund check will be mailed to claimant at the address provided in the claim form.
- C. No refund shall be paid under the provisions of this section unless the claimant established the right by written records showing entitlement to such refund and the Finance Director acknowledged the validity of the claim.

SECTION 8.15.100 Actions to Collect.

Any tax required to be paid by any seller under the provisions of this chapter shall be deemed a debt owed by the seller to the City. Any such tax collected by a seller which has not been paid to the City shall be deemed a debt owed by the seller to the City. Any person owing money to the City under the provisions of this chapter shall be liable to an action brought in the name of the City of Corvallis for the recovery of such amount. In lieu of filing an action for the recovery, the City of Corvallis, when taxes due are more than 30 days delinquent, can submit any outstanding tax to a collection agency. So long as the City of Corvallis has complied with the provisions set forth in ORS 697.105, in the event the City turns over a delinquent tax account to a collection agency, it may add to the amount owing an amount equal to the collection agency fees, not to exceed the greater of fifty dollars (\$50.00) or fifty percent (50%) of the outstanding tax, penalties and interest owing.

SECTION 8.15.110 Violation Infractions and Misdemeanors.

- A. All violations of this chapter are punishable as set forth in CMC 1.01.120. It is a violation of this chapter for any seller or other person to:
 - 1) Fail or refuse to comply as required herein;
 - 2) Fail or refuse to furnish any return required to be made;
 - 3) Fail or refuse to permit inspection of records;
 - 4) Fail or refuse to furnish a supplemental return or other data required by the Finance Director;

- 5) Render a false or fraudulent return or claim; or
- 6) Fail, refuse or neglect to remit the tax to the city by the due date.

- B. Violation of subsections 1, 2, 3, 4 and 6 shall be considered Class A violations. Filing a false or fraudulent return shall be considered a Class A misdemeanor.
- C. The remedies provided by this section are not exclusive and shall not prevent the City from exercising any other remedy available under the law, nor shall the provisions of this section of this ordinance prohibit or restrict the City or other appropriate prosecutor from pursuing criminal charges under state law or City ordinance.

SECTION 8.15.120 Confidentiality.

Except as otherwise required by law, it shall be unlawful for the City, any officer, employee or agent to divulge, release or make known in any manner any financial information submitted or disclosed to the City under the terms of this chapter. Nothing in this section shall prohibit:

- A. The disclosure of the names and addresses of any person who is operating a licensed establishment from which marijuana is sold or provided; or
- B. The disclosure of general statistics in a form which would not reveal an individual seller's financial information; or
- C. Presentation of evidence to the court, or other tribunal having jurisdiction in the prosecution of any criminal or civil claim by the Finance Director or an appeal from the Finance Director for amount due the City under this chapter; or
- D. The disclosure of information when such disclosure of conditionally exempt information is ordered under public records law procedures; or
- E. The disclosure of records related to a business' failure to report and remit the tax when the report or tax is in arrears for over six months or the tax exceeds five thousand dollars (\$5,000). The City Council expressly finds and determines that the public interest in disclosure of such records clearly outweighs the interest in confidentiality under ORS 192.501(5).

SECTION 8.15.130 Audit of Books, Records or Persons.

The City, for the purpose of determining the correctness of any tax return, or for the purpose of an estimate of taxes due, may examine or may cause to be examined by an agent or representative designated by the City for that purpose, any books, papers, records, or memoranda, including copies of seller's state and federal income tax return, bearing upon the matter of the seller's tax return. All books, invoices, accounts and other records shall be made available within the City limits and be open at any time during regular business hours for examination by the Finance Director or an authorized agent of the Finance Director. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Finance Director may immediately seek a subpoena from the Corvallis Municipal Court to require that the taxpayer or a representative of the taxpayer attend a hearing or produce any such books, accounts and records for examination.

SECTION 8.15.140 Forms And Regulations.

A. The Finance Director is hereby authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment and collection of said medical marijuana tax and in particular and without limiting the general language of this chapter, to provide for:

- 1) A form of report on sales and purchases to be supplied to all vendors;

- 2) The records which sellers providing marijuana and marijuana-infused products are to keep concerning the tax imposed by this chapter.

SECTION 8.15.150 Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 8.15.160. Savings. Notwithstanding any amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

PASSED by the City Council this _____ day of _____, 2014.

APPROVED by the Mayor this _____ day of _____, 2014.

EFFECTIVE this _____ day of _____, 2014.

Mayor

ATTEST:

City Recorder

RESOLUTION 2014-_____

A RESOLUTION ESTABLISHING MARIJUANA TAX RATES

Minutes of the _____, Corvallis City Council meeting, continued.

A resolution submitted by Councilor _____.

WHEREAS, the City Council enacted Ordinance _____ on _____, 2014, with an effective date of _____, 2014, which shall be codified as Section 8.15 of the Corvallis Municipal Code; and

WHEREAS, Per Section 8.15.030 of the Corvallis Municipal Code, the City Council is to establish the amount of tax to be levied on the sale of marijuana by resolution,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CORVALLIS RESOLVES:

SECTION 1. Pursuant to Section 8.15.030 of the Corvallis Municipal Code, the City Council of the City of Corvallis establishes a tax rate of zero percent (0%) of the gross sale amount paid to the seller by a registry identification cardholder, as defined in to Section 8.15.020 of the Corvallis Municipal Code, effective the date of the resolution.

SECTION 2. Pursuant to Section 8.15.030 of the Corvallis Municipal Code, the City Council of the City of Corvallis establishes a tax rate of zero percent (0%) of the gross sale amount paid to the seller of marijuana and marijuana-infused products by individuals who are not purchasing marijuana under the Oregon Medical Marijuana Program, effective the date of this resolution.

Councilor

Upon motion duly made and seconded, the foregoing resolution was adopted, and the Mayor thereupon declared said resolution to be adopted.

MEMORANDUM

October 15, 2014

To: Administrative Services Committee

From: Ken Gibb, Community Development Director 

Re: Continued ASC Consideration of current livability code gaps and an expanded Livability Code Compliance and Neighborhood/Community Outreach Program

I. Issue

As discussed at the conclusion of the June 4, 2014 Administrative Services Committee meeting, Staff are providing follow-up information regarding suggestions/direction offered by the Committee as an outcome of that meeting.

II. Background

In ASC meetings up to and including the June 4 meeting, staff presented various program concept and element descriptions relative to implementation of a Corvallis Neighborhood Outreach/ Education and Property Maintenance Code Program. The initiative to work toward implementation of this Program arose from City Council direction, which was based on the work carried out in support of the Corvallis/OSU Collaboration project by that project's Neighborhood Livability Work Group and Steering Committee. The Program as envisioned through the Collaboration project would include an expanded education and outreach effort targeted at landlords, tenants, neighborhood residents, and other community members; enhanced coordination with OSU related to housing and community livability issues; and a comprehensive property maintenance code compliance program to be applied to all real property in the City to help address community and neighborhood livability conditions.

At the conclusion of the June 4 ASC meeting, staff were asked to prepare an overview of the livability compliance elements currently contained in various City code documents, and begin documenting the gaps among those codes that have been identified to date. This "bottom-up" approach to building a comprehensive community livability code document was favored by ASC over the original Collaboration-recommended approach, which was intended to begin the current consideration with a widely utilized comprehensive code document (the International Property Maintenance Code, or IPMC) and from it, eliminate provisions not needed in or applicable to Corvallis. The use of a property maintenance and livability code such as the IPMC would provide the benefit of a single, consistent approach to the administration of the City's code compliance work.

Also during the June 4 meeting, staff provided an overview of a proposed reorganization of code-related responsibilities within the Community Development Department, and described how this shifting of responsibilities would provide capacity to address currently outstanding code compliance cases. Both of these topics are discussed below.

III. Discussion

Reorganization and effort to address the currently open code compliance cases

In August a Community Development Department reorganization was initiated to bring the then Code Enforcement Supervisor (now Code Compliance Supervisor) position and a .5 FTE levy-supported Code Enforcement Officer (now Code Compliance Specialist) position from the Development Services Division to the new Housing and Neighborhood Services Division (HNS). An organizational chart of the current Housing and Neighborhood Services Division is attached. Within the HNS Division, these positions will focus generally on community livability-related code compliance work, and more specifically, on neighborhood livability and livability within residential settings. Responsibility for resolving open cases that fit these parameters has been shifted to HNS; there are currently approximately 160 such cases.

Open cases remaining in Development Services are primarily related to building code issues, and for the most part, to work without permits. To speed progress in addressing these cases, Development Services is moving forward to fill a vacant full time Building Safety Inspector position. In addition to filling this position, other current inspection staff will assist with this effort and as needed, contracted inspection services will be utilized. Finally, in recognition of the ongoing case load associated with building code compliance issues, staff are developing new approaches to resolving these types of cases. There are currently approximately 670 open cases remaining in Development Services (although as has been noted in past discussions, many individual addresses have multiple open cases because each code discipline, e.g., electrical, plumbing, and structural, has been set up with its own individual case).

In order to determine to which division past and future cases should be assigned, a broad line is being drawn under which, building code-related issues aside, the Housing and Neighborhood Services Division will focus on issues occurring in a residential, neighborhood setting, and Development Services will focus on issues in non-residential areas. Examples of the types of issues each division will address are included in the table below.

Development Services Division	Housing and Neighborhood Services Division
Work without permits (commercial and residential)	Solid waste, furniture
Planning conditions of approval – current/open projects	Home-based businesses
Unapproved use of space/illegal occupancy (all uses)	Residential over-occupancy
Land Development Code – (non-residential zones)	Land Development Code (residential zones)
LDC – Natural Features (non-residential zones)	LDC – Natural Features (residential zones)
Vision clearance – non-residential driveways	Vision clearance – residential driveways
Parking on unapproved surfaces (non-residential)	Parking on unapproved surfaces (residential)
Erosion control/grading (all uses)	Historic resource alterations (residential)
Dangerous buildings (all uses)	Inoperative/unlicensed vehicles (residential)
	Rental Housing Code compliance

The reorganization efforts described above are being implemented under current operating budgets. Within that budget structure, current rental housing-related (non-Code) information and referral work with landlords, tenants and others involved in the rental housing market is continuing; as time and resources allow, HNS is also increasing coordination efforts with OSU's Office of Community Outreach with a focus on student-related community livability issues. Within the limits of funding and staff resources, as the current livability code review process is completed, and as the City Council finishes its review of neighborhood initiatives proposed through its Public Participation Task Force, HNS staff will evaluate opportunities to expand

outreach and education efforts to include neighborhoods and other groups interested in community livability.

Continuing consideration of community livability issues and code compliance responses

The Housing and Neighborhood Services Division currently works with the community seeking compliance relative to elements of three separate City codes: the Corvallis Municipal Code, the Land Development Code, and the Rental Housing Code. Other work groups and/or departments are responsible for gaining compliance with other codes such as the Building Code and Fire Code. These codes taken together cover a wide variety of community livability issues. However, as has been discussed in prior reports to ASC on this topic, the Corvallis Collaboration process, various community members, and City staff have identified a number of livability issues for which the City currently has no code authority. These issues, or “code gaps,” have been outlined in both narrative and pictorial formats in staff reports for ASC’s meetings of February 5 and 25, and March 5 of this year. Electronic copies of the outline materials provided to date are being included in the electronic packet for the October 22 ASC meeting.

The attached “Current Corvallis Code Authority, Gaps and Potential Resolution” document continues this discussion. Its format provides as requested the City’s current code authority across various livability issues, identifies current gaps in that authority, and identifies approaches that could be pursued to expand or improve code authority to close those gaps.

IV. Requested Action

Staff request Administrative Services Committee direction in regard to your consideration of closing the current gaps in the City’s livability code authority. While many options for this consideration exist, general options include:

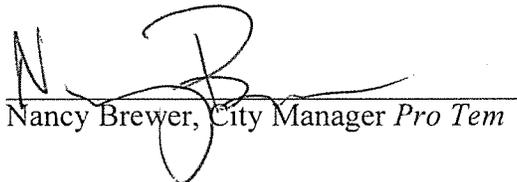
1. Provide direction as to additional information you would like to receive in order to continue toward a recommendation for the City Council to adopt code provisions that would address all or most of the identified gaps.
2. Provide direction as to additional information you would like to receive in order to continue toward a recommendation for Council, but for a more limited set of code authority enhancements.

With regard to either of the foregoing actions, direction as to whether current code authority should remain in multiple sources as is, or be combined into a single code document, is requested.

3. Provide direction to end or table discussion of this topic if the ASC determines that existing code gaps do not rise to a level requiring action.

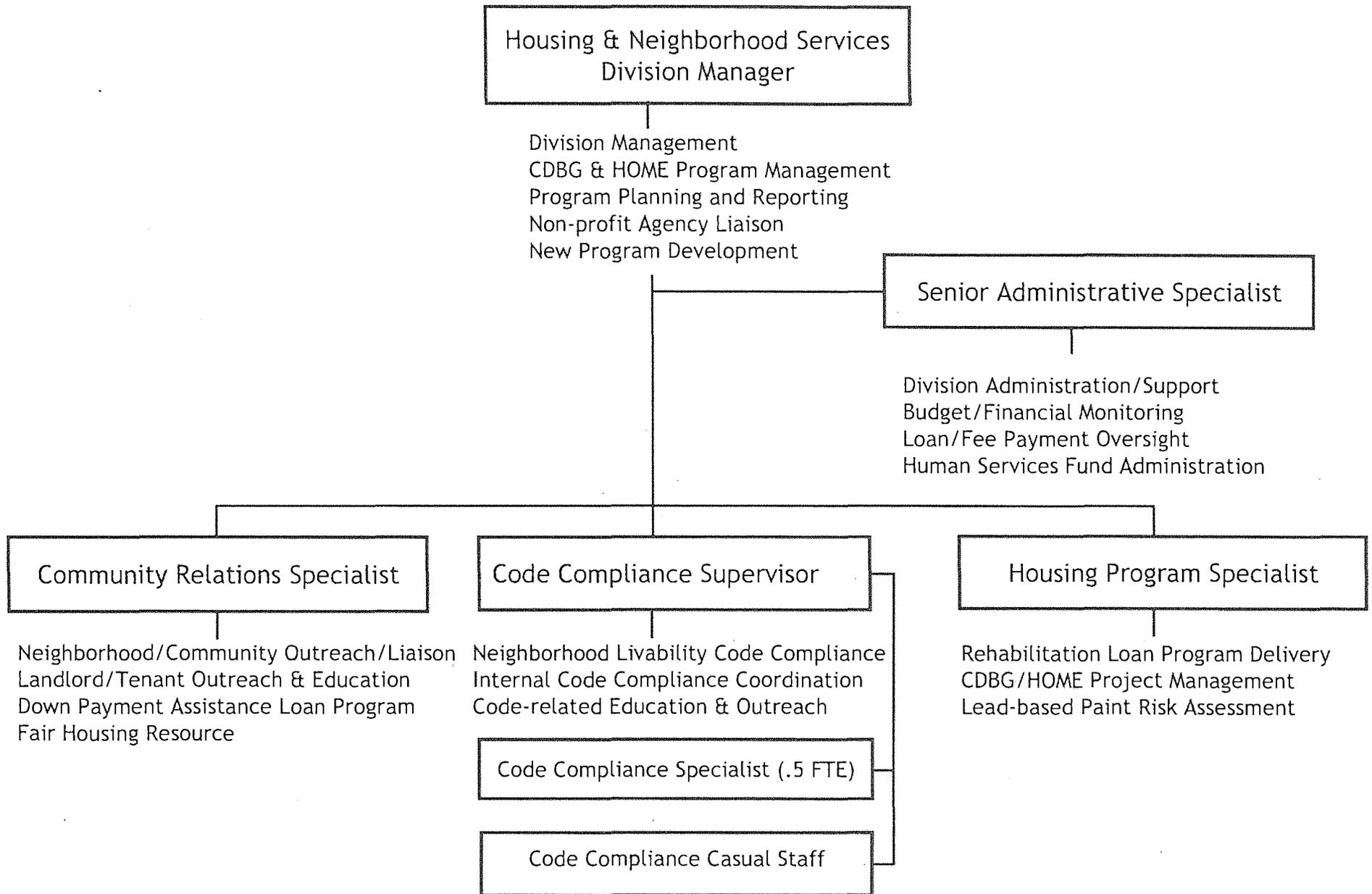
Staff are prepared to move forward as directed by the Committee, with the understanding that the Committee may wish to provide such direction at a subsequent meeting.

Review and Concur:


Nancy Brewer, City Manager Pro Tem

Attachments: Housing and Neighborhood Services Division organization chart
Current Corvallis Code Authority, Gaps and Potential Resolution

Housing and Neighborhood Services Division Organizational Structure/Functions



Current Corvallis Code Authority, Gaps and Potential Resolution

Prepared for Administrative Services Committee Consideration on October 22, 2014

The Housing and Neighborhood Services Division currently works with the community seeking compliance relative to elements of three separate City codes: the Corvallis Municipal Code, the Land Development Code, and the Rental Housing Code. These codes cover a wide variety of community livability issues. However, as has been discussed in prior reports to ASC on this topic, the Corvallis Collaboration process, various community members, and City staff have identified a number of livability issues for which the City currently has no code authority. These issues, or “code gaps,” have been outlined in both narrative and pictorial formats in staff reports for ASC’s meetings of February 5 and 20, March 5, and April 9 of this year.

Some of the gaps are general in nature while others stem from either specific interior conditions or exterior conditions. The discussion that follows outlines the City’s current code authority in general terms, reiterates the code gaps within those three subtypes, and suggests ways to resolve those gaps. Where reference is made to the Collaboration process as the source for having identified a gap, that identification is based on the Neighborhood Livability Work Group’s discussion of and recommendation that the City implement the International Property Maintenance Code (IPMC). The IPMC has been outlined for the ASC in previous meetings.

General Code Authority, Gaps and Potential Resolution

General administrative or condition standards, gaps and possible means of resolving those gaps include:

Administration

Current: Each of the three codes (Municipal, Land Development and Rental Housing) with livability compliance elements has its own administrative provisions (e.g., the means by which the code is implemented and compliance is achieved).

Gap: Inconsistencies exist among the three codes in regard to notices, compliance actions, penalties and appeals processes. Implementing three codes with separate sets of administrative procedures may result in a compliance process that is relatively complex for City staff to navigate, and that is confusing for community members to understand.

Resolution: Integrating the City’s livability code elements into a single code document, with one set of administrative procedures, would simplify compliance work for both staff and the community.

General Maintenance

Current: Building codes prescribe methods and materials for the construction and alteration of structures, and for establishing approved occupancy of a space, but do not require maintenance of structures following completion or alteration.

Gap: Because there are no code provisions for the maintenance of structures, the first opportunity the City has to address conditions of decay does not occur until a building must be deemed dangerous and unfit for occupancy.

Resolution: The Collaboration process recommended that the City develop and implement maintenance standards to prevent a structure’s decay to the point it must be deemed dangerous. Potential standards are included in the Exterior Conditions discussion that follows.

Occupancy Limits

Current: The Land Development Code stipulates by its definition of family that not more than five unrelated adults may occupy a dwelling unit. (LDC Chapter 1.6)

Gap: While the number of unrelated adults in a dwelling unit is limited, there are no standards that specify how much space each must have for sleeping, eating or living. In addition, the definition of “dwelling unit” varies between the Land Development Code and the Rental Housing Code.

Resolution: The Collaboration process recommended adoption of provisions for minimum square footage allocation requirements to establish maximum occupancy of a dwelling unit, based on the standards of the IPMC. Implementation of a single livability code would bring a consistent definition to the term “dwelling unit” as that term is applied for purposes of livability code compliance.

Fire Safety

Current: Provisions of state and local Fire Codes pertain primarily to triplex and larger residential structures; however, OFC Chapter 11 provides for the maintenance of ingress and egress paths of travel in all existing buildings. The Rental Housing Code (CMC 9.02.090) requires smoke detectors in all rental units, including one- and two-family structures.

Gap: There are no maintenance standards for door locks that are operable without keys or special knowledge from the egress side of a doorway, for maintenance of emergency escape openings, or for maintenance of fire-resistant surfaces and assemblies.

Resolution: Adopt specific code language requiring clear, unobstructed paths of travel for the purpose of safe ingress/egress in all structure types; provision of door locks that are operable from the egress side without keys or special knowledge; maintenance of emergency escape openings and fire-resistant surfaces and assemblies.

Interior Conditions Code Authority, Gaps and Potential Resolution

Existing interior code standards, code gaps and possible means of resolving those gaps include:

Lighting

Current: Under state and local Fire Code, multi-family and commercial structures are subject to Fire Code inspections of common areas for adequate lighting of exit discharge paths

Gap: The City receives complaints regarding a lack of adequate lighting in halls, stairways or basements in all occupancy types where the cause is something more than a burned out light bulb. There are no code standards or provisions for the maintenance of adequate interior lighting in one- or two-family dwellings.

Resolution: Develop standards requiring the maintenance of adequate interior lighting of exit discharge paths in all structures/all occupancies.

Ventilation

Current: There are no code standards for operational performance or the maintenance of ventilation systems.

Gap: Inadequate/non-functioning kitchen, bathroom and clothes dryer ventilation systems contribute to mold growth and surface degradation. In addition, incorrect or inadequate clothes dryer ventilation contributes to fire hazard potential.

Resolution: The Collaboration process recommended adoption of standards and performance criteria for the maintenance of interior ventilation systems.

Electrical Systems

Current: Fire Code has limited maintenance authority, applicable to fire hazards or the unsafe use or installation of electrical devices. The Dangerous Building Code (Corvallis Municipal Code 9.01) pertains to the disconnection and abatement of hazardous utilities and equipment.

Gap: There is no requirement for the replacement of compromised electrical system components, which is a common occurrence following water exposure by leaks or flooding. There is no requirement in existing structures for bathrooms, kitchens and other water-containing or producing rooms to have ground fault circuit interrupt outlets.

Resolution: The Collaboration process recommended adoption of standards for replacement of electrical equipment and devices if exposed to water, with some exceptions.

Plumbing Systems

Current: The Rental Housing Code (CMC 9.02.090) requires that plumbing systems be installed and maintained safe and sanitary, free of leaks. Oregon Plumbing Code (OPC 303.0) states that all discharge of liquid wastes must be done via an approved drainage system in compliance with OPC provisions.

Gap: There is no applicable definition or standard water system performance, specifically, for “hot” water.

Resolution: The Collaboration process recommended adoption of a measurable standard for water system performance.

Interior Sanitation

Current: Solid Waste provisions under CMC 4.01 prohibit the accumulation of solid waste. Rat Harborage provisions under CMC 4.02 prohibit conditions that contribute to rodent harborage. Excessive (very unsanitary/unsafe) conditions of sanitation are addressed by the Dangerous Building Code (CMC 9.01).

Gap: There are no provisions for the maintenance of sanitary conditions in common areas of multifamily structures, or for interiors of all dwelling types (owner or renter occupied). There are no standards requiring the maintenance or repair of bathroom and kitchen surfaces, making it difficult to prevent them from becoming unsanitary.

Resolution: The Collaboration process recommended adoption of standards for sanitary conditions in dwelling units, and for the assignment of responsibilities between landlords and tenants for the maintenance of sanitary conditions in rental dwelling units.

Heating

Current: The Rental Housing Code (CMC 9.02.090) calls for a permanent source of heat with the ability to provide 68F temperature in all habitable rooms.

Gap: There is no requirement for heat in bathrooms or work spaces.

Resolution: The Collaboration process recommended adoption of measurable, minimum heating performance standards for work spaces, habitable rooms, bathrooms and toilet rooms.

Security

Current: The Rental Housing Code (CMC 9.02.090) calls for working locks on windows and doors.

Gap: There is no specific requirement for properly functioning door knobs/latches, or standards for adequate door/window hardware. Often, door knobs for entrance doors are in the form of an interior-type door knob lockset or some other inadequately safe and effective for, and, with a hasp-type lock rather than a locking door knob or deadbolt.

Resolution: The Collaboration process recommended adoption of requirements for doors and door hardware to be maintained to a level sufficient to provide security for occupants, and for deadbolts.

Exterior Conditions Code Authority, Gaps and Potential Resolution

Existing exterior code standards, code gaps and possible means of resolving those gaps include:

Weather and Water Proofing

Current: The Rental Housing Code (CMC 9.02.090) requires the prevention of water leakage into living areas of rental units.

Gap: There are no requirements for the prevention of air leakage under, through or around windows or doors, and no requirements that would prevent water leakage into non-living areas such as basements. There are no requirements for non-renter occupied structures to maintain roofs, walls, windows and doors in a weatherproof condition.

Resolution: The Collaboration process recommended adoption of requirements for building openings, roofs and exterior walls to be sound, in good repair, and weather tight in order to prevent wind, rain, and other elements from entering a structure regardless of structure type or occupancy.

Exterior Sanitation

Current: Municipal Code (CMC 4.01.050) prohibits accumulation of solid waste if it will become unsightly or will putrefy; responsibility for compliance falls to the person or persons in charge or possession of a property. Land Development Code (Chapter 3.0 and Article 4) provide for districting and zone development standards regulating the location of vehicle junk yards. Nuisances Affecting Public Health and Safety are identified under CMC 5.04.040 and CMC 5.04.050.

Gap: Complaints have been received from community and neighborhood residents regarding possible unsanitary, or “junked” property conditions that turn out to be inadequate/improper storage of personal possessions. Examples of such possessions include furniture manufactured for indoor use, yard maintenance equipment and supplies, and serviceable vehicle tires.

Resolution: The Collaboration process recommended adoption of requirements that all exterior property and premises be maintained in clean and sanitary condition.

Solid Waste Removal

Current: Municipal Code solid waste provisions (CMC 4.01.050) stipulate that the person in possession, charge or control of a property shall provide containers for the containment of solid waste, and that they must be utilized.

Gap: Municipal Code provisions do not stipulate who is responsible for solid waste removal, just that all persons are required to dispose of solid waste before it becomes offensive. This leads to complaints of over-accumulation of contained and uncontained solid waste.

Resolution: The Collaboration process recommended designation of assignments of responsibility between landlords and tenants for the provision, containment, and removal of solid waste from the premises.

Accessory Building Maintenance

Current: The Dangerous Building Code (CMC 9.01) contains provisions for the abatement of buildings once they become unsafe.

Gap: There currently are no maintenance requirements for accessory structures on properties of all occupancy types. There are no requirements that decks, stairs and handrails at one- or two family structures be maintained in a safe condition.

Resolution: The Collaboration process recommended adoption of requirements that primary and accessory structures of all occupancy types be maintained sound and in good repair, and that exterior surfaces be maintained. It also recommended the adoption of requirements that decks, stairs and handrails be maintained in a safe condition in all structure and occupancy types.

Lighting

Current: There are no requirements for the maintenance of exterior lighting in areas such as parking lots or walkways in and around apartment buildings.

Gap: A lack of adequate lighting has been reported as both a security and a personal safety concern.

Resolution: The Collaboration process recommended the adoption of standards for the maintenance of exterior lighting in the described circumstances.

Graffiti

Current: There are prohibitions against defacing public property (CMC 5.03.090.020) and against damaging or tampering with private property (CMC 5.03.090.030).

Gap: There are currently no code provisions for the abatement of graffiti where it occurs on either public or private property.

Resolution: The Collaboration process recommended adoption of requirements that require prompt abatement of graffiti-defaced property as an obligation of the affected property owner. The process also recommended consideration of a collaborative abatement program with involvement of stakeholders, paint companies, and community volunteers.

Property Maintenance Code Coverage/Gaps by General Category

Code Coverage *	IPMC	Exist Rental Housing Code	Municipal Codes	Fire Code	Building Code
Occupancy Limits	Area Basis		LDC Flat Number		
Fire Safety	All Occupancies; all Systems	Smoke Detectors		Triplex +	
Building Alteration	Complaint Based			Occasional Inspection, Triplex+	Complaint Basis
Interior Maintenance	All Occupancies; safe, sound, good repair	Plumbing, Heat, Security; Structurally Sound	Sanitation	Limited to Fire Hazard Conditions	**
Light	All Occupancies; all spaces				
Ventilation	All Occupancies; all habitable space				
Electrical System	All elements safe; dwellings 3-wire service only			Limited to Fire Hazard Conditions	**
Plumbing System	All Elements; to approved systems; no leaks or obstructions; H & C	Installed and maintained; no leaks or obstructions	Connected to approved discharge		
Heating	68 F. @ center/ 2' in from exterior all habitable, work spaces, bath & toilet rooms	68 F. @ center all habitable rooms			
Sanitation	All Spaces; clean, sanitary & good repair		No Public Nuisance		**
Security	Egress-type Deadbolt, windows, basement hatch	Door Locks, window latches			
Exterior Maintenance	Structurally Sound & Good Repair; sanitary; vacant lots		Solid Waste Removal	Limited to Fire Hazard Conditions	**
Weather & Water Proofing	Weather proof from wind, water, snow	Only water infiltration			
Exterior Sanitation	All Areas; clean & sanitary		Rat Harborage Abatement		
Solid Waste Removal	Required for All Occupancies		Removal Required, but not Service	Limited to Fire Hazard Conditions	
Accessory Bldg Maintenance	All				**

* Coverage under general categories; not intended as an all-inclusive summary
 ** Enforcement under the Dangerous Building Code is applicable to buildings already in failure mode, beyond routine maintenance

City of Corvallis Current Code Gap Examples

Occupancy Limits

- **GAP:** Land Development Code applies a limit of not more than five unrelated adults in a dwelling unit without considering numbers or sizes of bedrooms/other living areas.
- The Property Maintenance Code (PMC) would tie occupancy limitations directly to quantifiable space provisions (areas of bedrooms, living room, egress, etc).

Fire Safety

- **GAP:** Common example, occupants of 1-2 Family dwellings have accumulations of personal possessions that obstruct or negate egress from a building in the event of a fire.
- **GAP:** Current provisions of International Fire Code only pertain to tri-plex and larger dwelling units.
- **GAP:** Current Rental Housing Code provisions only pertain to providing and maintaining smoke detectors
- PMC requires “a safe, continuous and unobstructed path of travel... from any point in a building to the public way” in all building types.

Building Alteration

- **GAP:** Not anticipated assuming building permits are obtained and licensed contractors perform the work.

INTERIOR MAINTENANCE

Light

- **GAP:** Common complaint that hall, stairway, or basement lights in 1-2 Family dwellings are not functional (due to something more than just a burned bulb). Often occurs in conjunction with water intrusion complaints. Also occurs in commercial rental spaces.
- PMC requires provision and maintenance of lighting in these spaces at all times.

Ventilation

- **GAP:** Clothes drier not ducted to the exterior resulting in a fire hazard, most frequently regarding 1-2 Family dwellings.
- **GAP:** Bath or kitchen fan present but very poorly functioning due to age or damage, allowing damp conditions and promoting mold growth.
- PMC provides standard for condition, and could be augmented with performance criteria.

Electrical System

- **GAP:** Common concern in residential and commercial properties when a roof leaks or a basement floods and submerges or otherwise affects electrical system components.
- PMC calls out these conditions for replacement of components exposed to water, with some exceptions.

Plumbing System

- **GAP:** Bathroom floors have torn or badly patched vinyl, or soft/spongy subfloors.
- **GAP:** Hot water is cold or is not “hot.”
- PMC requires that walking surfaces be maintained in sound condition and good repair, and provides a measureable standard for hot water.

Heating

- **GAP:** Current Rental Housing Code applicable only to habitable spaces (bedrooms, living/dining rooms, kitchens) – no requirement for heat in bathrooms/toilet rooms.
- PMC sets minimum heat requirements for habitable rooms, bathrooms and toilet rooms

Sanitation

- **GAP:** Interior hallways, foyers, laundry rooms in apartment buildings cluttered and unsanitary; single family owner- and renter-occupied dwellings with unsanitary conditions. Only addressed currently through application of the dangerous building code.
- PMC requires and assigns responsibility to keep clean and sanitary.

Security

- **GAP:** Entrance doors with “working locks” provided in form of door knob lock, but for which the latch does not engage the strike with sufficient overlap to keep the door closed; and, with no deadbolt.
- **GAP:** Current Rental Housing Code calls for working locks with no provisions for the achievement of a level of security.
- PMC requires doors and hardware be maintained sufficient to provide security for the occupants and possession, and specifically call out deadbolts.

EXTERIOR MAINTENANCEWeather & Water Proofing

- **GAP:** Large gap under exterior doors for air intrusion.
- **GAP:** No weather stripping on door jamb.
- **GAP:** Drafty windows/windows with gaps.
- **GAP:** Basement exterior doors or windows that allow water to leak into non-living areas.
- **GAP:** Current Rental Housing Code requires prevention of water leakage, but only applicable to habitable spaces/living areas; not applicable to unoccupied basements, attics, storage areas, etc.
- PMC requires building exteriors and openings to be sound, in good repair, and weather tight.

Exterior Sanitation

- **GAP:** Property in outdoor areas that appears to be trash but turns out to be stored personal possessions.
- PMC requires all exterior property and premises to be clean and sanitary.

Solid Waste Removal

- **GAP:** Owner tells tenant trash on property is not their problem; tenant maintains that trash was present when they took possession, so is not their problem.
- PMC identifies and assigns responsible party.

Accessory Bldg Maintenance

- **GAP:** Detached garages, storage sheds deteriorating, fences falling down.
- PMC requires all accessory structures to be maintained sound and in good repair.

General Topics

- **GAP:** Owner occupied roofs, walls, windows not weatherproof.
- **GAP:** Deteriorated decks, stairs and handrails at 1-2 Family or owner occupied structures.
- **GAP:** Site lighting failed or inadequate to light exterior premises such as parking lots and walkways.
- PMC requires prevention of water intrusion through exterior surfaces, maintenance of stairs, decks and railings, and maintenance of hazard-free conditions.



BRIEFING:

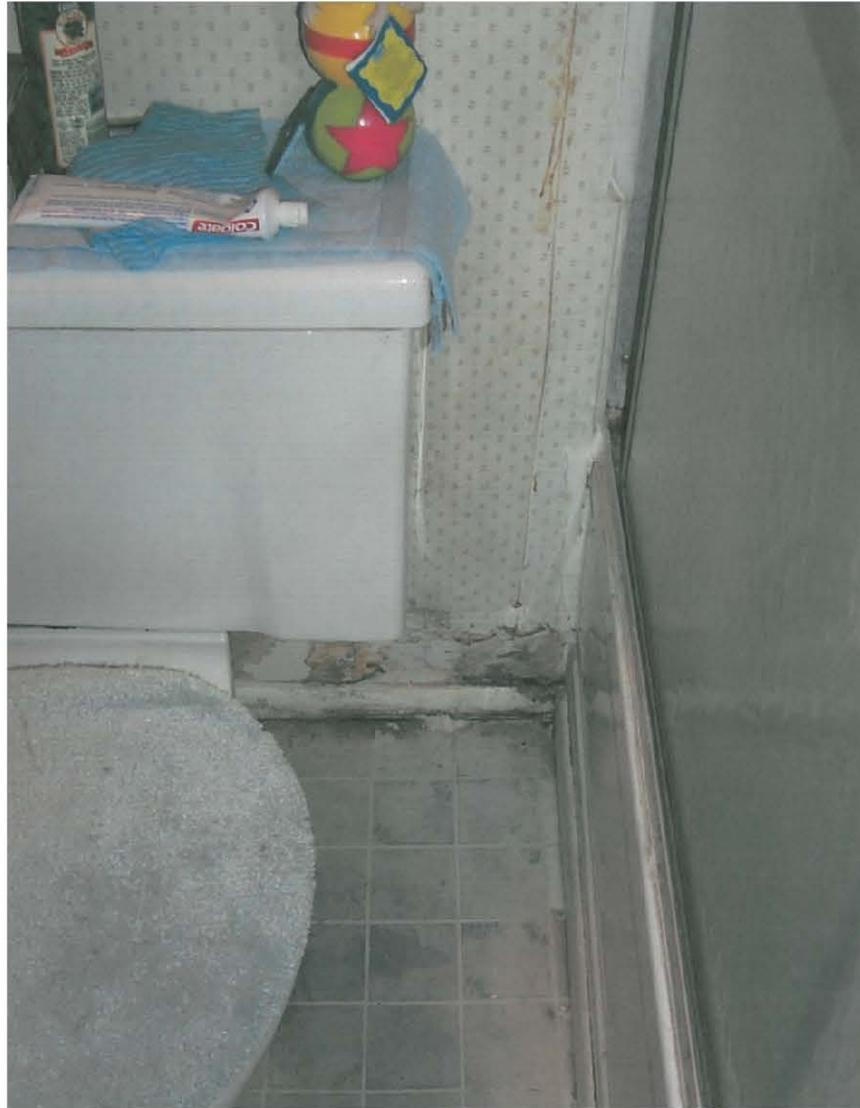
Examples of Gap Coverage by the Proposed Corvallis Property Maintenance Code

*Corvallis Administrative Services Committee
March 5, 2014*

Interior Maintenance Gaps: General Maintenance



Interior Maintenance Gaps: General Maintenance



Interior Maintenance Gaps: General Maintenance



Interior Maintenance Gaps: General Maintenance (and exterior weatherproofing)



Interior Maintenance Gaps: Electrical System



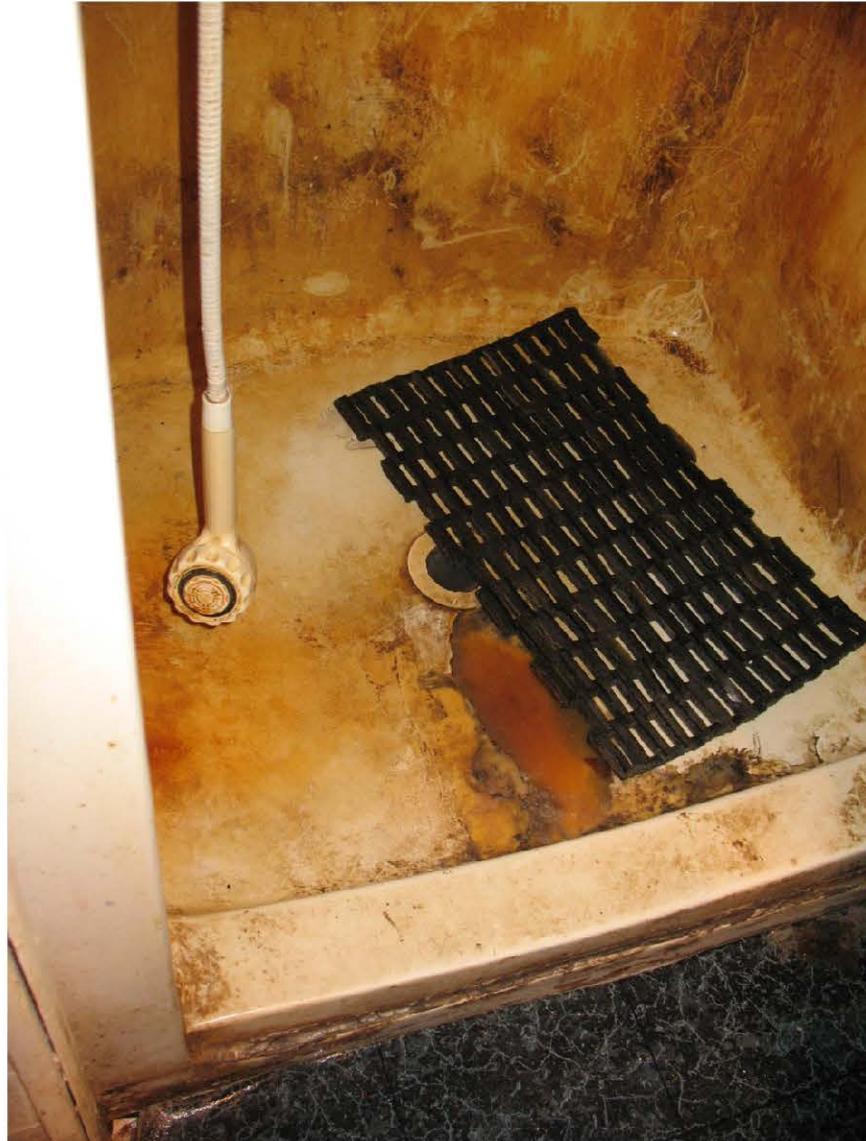
Interior Maintenance Gaps: Electrical System



Interior Maintenance Gaps: Plumbing System



Interior Maintenance Gaps: Plumbing System



Interior Maintenance Gaps: Plumbing System



Interior Maintenance Gaps: Sanitation (Rodent Harborage)



Interior Maintenance Gaps: Security

No deadbolt on left; no lockset/handle on right



Interior Maintenance Gaps: Security



Interior Maintenance Gaps: Security

No lockset or deadbolt (same door interior/exterior)



Exterior Maintenance Gaps: General Maintenance



Exterior Maintenance Gaps: General Maintenance



Exterior Maintenance Gaps: General Maintenance



Exterior Maintenance Gaps: General Maintenance



Exterior Maintenance Gaps: General Maintenance



Exterior Maintenance Gaps: General Maintenance



Exterior Maintenance Gaps: General Maintenance



Exterior Maintenance Gaps: General Maintenance



Exterior Maintenance Gaps: General Maintenance



Exterior Maintenance Gaps: General Maintenance



Exterior Maintenance Gaps: General Maintenance



Exterior Maintenance Gaps: General Maintenance



Exterior Maintenance Gaps: General Maintenance



Exterior Maintenance Gaps: General Maintenance



Exterior Maintenance Gaps: Weatherproofing



Exterior Maintenance Gaps: Weatherproofing



Exterior Maintenance Gaps: Solid Waste



Exterior Maintenance Gaps: Solid Waste



Exterior Maintenance Gaps: Solid Waste



Exterior Maintenance Gaps: Solid Waste



Exterior Maintenance Gaps: Accessory Buildings



Exterior Maintenance Gaps: Accessory Buildings



Exterior Maintenance Gaps: Accessory Buildings



Exterior Maintenance Gaps: Multiple Issues



Exterior Maintenance Gaps: Multiple Issues

