



ADMINISTRATIVE SERVICES COMMITTEE

Agenda

**Wednesday, September 23, 2015
1:00 pm**

**Madison Avenue Meeting Room
500 SW Madison Avenue**

An opportunity for public comment will be provided at this meeting

Discussion/**Possible Action** I. Arts Percentage for Municipal Building Construction (Attachment)

Discussion/**Possible Action** II. Livability Code (Attachment)

Discussion/**Possible Action** III. Other Business

Next Scheduled Meeting

Wednesday, October 7, 2015 at 1:00 pm
Madison Avenue Meeting Room, 500 SW Madison Avenue

Agenda

- Visit Corvallis Fourth Quarter Report
- Council Policy Review and Recommendation: 2.02, "Council Process" (includes one-year review of PPTF recommendations on advisory board and commission changes, such as annual reports and sunset reviews)
- Council Policy Review and Recommendation: 3.02, "City Compensation Policy"
- Fourth Quarter Operating Report

TO: Administrative Services Committee for September 23, 2015
 FROM: Karen Emery, Director Parks and Recreation *KE*
 DATE: September 15, 2015
 THROUGH: Mark W. Shepard, P.E., City Manager *MWS*
 SUBJECT: Municipal Code One Percent For Art



Action Requested:

Staff recommends Administrative Services Committee (ASC) review the proposed policy and recommend City Council amend the Corvallis Municipal Code Section 2.10 to require municipal construction or alteration, contain an appropriation of one percent of project cost for art.

Discussion:

Percent-for-art ordinances encumber a percentage (usually .5% to 2%) of Capital Improvement Projects to municipal buildings for the commissioning of public artworks. Art work can be sited in, on, or adjacent to the building or project being constructed or may be placed in a reserve to allow for funding to accrue to an amount appropriate to commission a work of art.

The City Ordinance for the Arts and Culture Advisory Board (ACAB) outlines that ACAB shall advise the Council in matters pertaining to Arts and Culture, ensuring that Arts and Culture are a civic priority. ACAB has identified that while the Corvallis Comprehensive Plan, Policy 5.4.12 states *The City shall set aside a percentage of the cost of municipal buildings for public art and cultural enrichment*, an ordinance has not been adopted to implement this policy.

The ACAB, with the support of staff, have drafted an ordinance to give ASC a starting place for this discussion. This is a draft only and a final version will be completed once staff has received input from ASC.

Highlights of the proposed ordinance are:

1. Municipal construction and/or alteration pertains to City of Corvallis projects only;
2. Construction and/or alteration projects must be over \$500,000 to apply;
3. Construction projects that are underway upon adoption of this ordinance are excluded;
4. Indirect construction or alteration costs, such as inspection fees, professional services, advertising, furnishings, soil testing, construction permits, and legal fees are excluded;
5. Alteration projects in which more than 75 percent of the project cost represents improvements to mechanical or electronic systems are excluded; and
6. Projects for construction or alteration of motor pools, heating plants, maintenance sheds, roads, bridges, sewer lines, water lines, wastewater treatment plant, water treatment plants, or pump stations are excluded. The cost of sewer service lines and water service lines as associated with a building project are not excluded.

ACAB reviewed the ordinances of the following government entities in developing the draft ordinance:

Agency	Percent Dedicated	Minimum Project Budget
State of Oregon	1.0%	\$100,000
City of Albany, Oregon	1.0%	\$500,000
City of Portland, Oregon	2.0%	\$50,000
City of Ashland *	0.5%	\$25,000

*City of Ashland also funds art through transient occupancy taxes.

Budget Impact:

This ordinance will raise the cost of construction and alteration projects of qualifying City facilities by 1%.

DRAFT
ORDINANCE 2015-xx

AN ORDINANCE CREATING CORVALLIS MUNICIPAL CODE CHAPTER 2.XX REQUIRING ONE PERCENT OF THE MONIES FOR CONSTRUCTION OR ALTERATION OF CITY BUILDINGS BE USED FOR THE ACQUISITION AND INSTALLATION OF ART.

WHEREAS, the City Council recognizes the responsibility of the City of Corvallis to foster culture and the arts in Corvallis; and

WHEREAS, the City of Corvallis Comprehensive Plan, Policy 5.4.12 states “The City shall set aside a percentage of the cost of municipal buildings for public art and cultural enrichment”;

THE CITY OF CORVALLIS ORDAINS:

Section 1: Section 2 of the Corvallis Municipal Code is hereby amended as follows:

Section 2.11.010: One Percent for Art

- 1) Appropriations for the construction or alteration of any building not expressly excluded below, of the City of Corvallis, shall contain an appropriation of one percent of the cost of the construction or alteration for the acquisition and installation of works of art that may be an integral part of the building or may be capable of display in other public spaces or City of Corvallis buildings.
- 2) When it would not be appropriate to place works of art in a given City building, or if artwork placed in that building could not be viewed by the general public, the funds required in subsection 1 of this section will be used to purchase works of art for placement public spaces, in other City buildings, or facilities that are open to the public.

Section 2.10.020: Exclusions

The provisions of this section shall not apply to:

- 1) Any construction, physical plant rehabilitation, improvement or remodeling project that has an estimated cost of less than \$500,000.
- 2) Indirect construction or alteration costs, such as inspection fees, professional services, advertising, furnishings, soil testing, construction permits, and legal fees.
- 3) Alteration projects in which more than 75 percent of the project cost represents improvements to mechanical or electronic systems.
- 4) Projects for construction or alteration of motor pools, heating plants, parking lots, maintenance sheds, roads, bridges, sewer lines, water lines, wastewater treatment plant, water treatment plants, or pump stations.
- 5) Construction projects initiated before fiscal year 2016-17.

Section 2.10.030: Acquisitions

- 1) The Arts and Culture Advisory Board, through the Public Art Selection Subcommittee shall solicit proposals for suitable works of art and shall make a recommendation to City Council.
- 2) To the extent reasonable, the Arts and Culture Advisory Board shall consult with appropriate resident groups and the affected City department or departments. Architects are encouraged to incorporate art into their designs.
- 3) The effected Department shall contract for and purchase selected works of art for each City building constructed or altered after fiscal year 2016-17. The 1% allocation will include all costs to manage the artwork acquisition and installation as well as the purchase and delivery.
- 4) The effected Department shall be solely responsible for the acceptance, placement, and maintenance of all works of art acquired pursuant to this section.
- 5) Title to all works of art acquired pursuant to this chapters vests with the City of Corvallis.

TO: Administrative Services Committee for meeting of September 23, 2015
 FROM: Kent Weiss, Interim Community Development Director *KW*
 THROUGH: Mark W. Shepard, P.E., City Manager *MWS*
 SUBJECT: Corvallis Livability Code



Action Requested

Community Development staff request that the Administrative Services Committee (ASC) consider a draft Corvallis Livability Code, provide direction for modification(s) to the Code, and consider recommending adoption of the Code by City Council.

Discussion

The last meeting of the ASC on the topic of the Corvallis Livability Code, on August 5, consisted entirely of public comment. At the conclusion of the meeting ASC directed staff to continue formatting the Code language into ordinance form, and provide the formatted draft to the Corvallis City Attorney for review.

The draft Livability Code has been adapted into ordinance format, the City Attorney's Office (CAO) has completed their initial substantive review of the document in that format, and modifications resulting from that review have been incorporated. The "clean" version of the draft Code that reflects City Attorney recommendations is attached as Exhibit 1; a "redline/strikeout" version of that CAO-modified draft Code is attached as Exhibit 2.

During the August 5 ASC meeting and in subsequent communications the Committee has heard some particular concerns about three Code provisions or concepts. Those concerns relate to the appeals processes, provisions for notice to responsible parties, and the concept of "grandfathering." Discussions of each of those concerns follows.

Appeals. The Livability Code as drafted includes two appeals avenues. Appeals of a technical nature (e.g., water temperature, ventilation system performance) would be heard by the City's Board of Appeals. The Board currently hears technical matter appeals related to the Building Code, the Fire Code, and the Rental Housing Code. Appeals of administrative provisions and of civil penalty matters would be heard by a hearings officer.

ASC has received testimony suggesting that this system would be too complicated. If the Committee would prefer a single avenue for appeals, staff would recommend using a hearings officer to hear all appeals. Of the two alternative approaches, if a single approach is desired, the hearings officer approach would allow for more timely consideration of matters under appeal. What might be lost is the technical expertise of building and building performance matters that the construction experts on the Board of Appeals bring, but it does not seem that technical matters under the Livability Code will have the complexity of such matters under the Building Code or Fire Code. It is staff's perspective that one appeal process using the hearings officer approach will likely suffice.

Exhibit 3a includes example Code language that would result in using a hearings officer to hear all appeals of the Livability Code.

Notice to Responsible Party. As written the Livability Code calls for communications regarding Code violations to go to the party responsible for the violation. The Code's performance and condition standards designate the responsible party for each type of violation and thus, who the City would communicate with about resolving a violation. For renter-occupied properties, the City would communicate with a tenant about a violation for which he or she is responsible, first with a correction

notice and then, if there is no correction, with a notice of violation. If the violation was not corrected following issuance of the notice of violation a citation would be issued, and the owner and landlord, if known, would be notified.

In order to provide earlier notice to an owner and known landlord, the Code could be modified to call for notification of those parties if a violation is not corrected by the end of the time period stipulated in the initial notice of correction. Staff would not recommend providing notice to the owner or landlord at the time the initial notice of correction is issued given that 1) correction notices are generally effective in achieving resolution with no need for a notice of violation, and 2) the staff time required to provide notice to all parties, whether they are responsible for the violation or not, when a correction notice is issued would create unnecessary inefficiencies in the use of staff time. That staff time would be better used to investigate and address Code violations.

Exhibit 3b includes language that reflects providing earlier notice to rental property owners and, if known, property managers/landlords. In this example language the owner and landlord/manager would be notified if a violation was not corrected by a tenant by the end of the time period stipulated in the correction notice, thus necessitating issuance of a notice of violation.

“Grandfathering.” During meetings with the Livability Code Departmental Advisory Committee staff clarified that the term and concept of “grandfathering” does not exist as a technical exemption in the Code. The closest thing to “grandfathering” the Code contains are provisions that conditions that have been maintained to a prior building code, and that meet current Livability Code standards, need not be modified or brought into compliance with current building code. Certain conditions that require only minor repairs and are not subject to permitting under the building code (e.g., replacement of a broken pane of glass in an existing window) could also be returned to their prior condition. In that situation it could be concluded that the concept of “grandfathering” applies. But the Livability Code does include standards that have not been and are not currently required by building code (e.g., deadbolt locks, heat in bathrooms). In those situations, “grandfathering” would not override the requirements to provide locks and heat.

Alternatives

Staff have provided Livability Code language that has been reviewed by the CAO and modified to incorporate their recommendations. The versions provided do not reflect the potential changes to the appeals and noticing processes described above. At this point ASC could:

1. Direct staff to modify the CAO-reviewed Livability Code and bring back that modified version for a final ASC review and public comment, or;
2. Direct staff to forward the Livability Code as presented here, or with ASC-directed modifications, to the full City Council with an ASC recommendation for adoption.

Recommendation

Staff recommend that the ASC consider the Livability Code as presented with this staff report, and direct staff to make any desired modifications. Staff have no preference regarding bringing the Code back for a final ASC consideration or taking a modified Code directly to the City Council for its consideration.

Attachments:

- Exhibit 1: Clean version of City Attorney-modified Livability Code ordinance
- Exhibit 2: Redline/strikeout version of City Attorney-modified Livability Code ordinance
- Exhibit 3a: Example language to address public comments about appeals
- Exhibit 3b: Example language to address public comments about and noticing
- Exhibit 4: Public comments received via City Council e-mails or mail/e-mails to staff

EXHIBIT 1

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 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 property 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 property, 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 property any condition which makes such property 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 property that are plainly enclosed to create privacy and prevent access by unauthorized persons, the following steps shall be taken:

1) *Occupied Property.* If any structure on the property 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 Property.*

a) If the property is unoccupied, the Director shall contact the property owner, or other persons having charge or control of the property, and request entry. If entry is refused, the Director may attempt to obtain entry by obtaining an administrative warrant.

b) If structures on the property are unoccupied, the Director shall first make a reasonable attempt to locate the owner or other persons having charge or control of the property 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 property, the Director may attempt to obtain entry by obtaining an administrative warrant; or,

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

a) The Director shall notify the owner of the property's condition and order the owner, or other persons having charge or control of the property, to immediately secure the premises against the entry of unauthorized persons.

b) If the property is not secured within fifteen (15) days from the date notice is sent, the Director may secure the property as provided in CMC 9.02.110.05.

4) *Hazardous Conditions.*

a) If the Director believes that a hazardous condition exists, the Director may immediately secure the property as provided in CMC 9.02.110.05.

b) Following the summary abatement to secure the premises, the Director shall notify the owner, or other persons having charge or control of the property, of the condition of the property 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 property 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 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 property, or there is probable cause to believe that a condition of nonconformity with any provision of this chapter exists with respect to the designated property, or an investigation is reasonably believed to be necessary in order to discover or verify the condition of the property 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 property 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 property to remove any person or obstacle and to assist the Director or representative of the department inspecting the property in any way necessary to complete the inspection or abatement.

9.02.070.05.040 – Execution of Administrative Warrant.

1) *Occupied Property*. Except as provided in section (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 property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request.

2) *Unoccupied Property*. 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 property 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, following the standards of Appendix A of this chapter, 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, 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 and 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 naturesscaped 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, per the provisions in CMC Section 2.19.150;

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, per the provisions in CMC Chapter 5.05, Dutch Elm Disease;

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 waste in accordance with the provisions of CMC Chapter 4.01;

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.

9.02.100.02 – 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 CLCCMC 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 and occupants 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 notice shall be 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 9.02.130.04.

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 provided by CMC Chapter 2.06, and a lien for the entire amount placed against the real property.

Section 9.02.130 – Appeals.

9.02.130.01 – Appeals Generally. Any person upon whom a notice, order, interpretation or decision is served under this chapter shall have the right of appeal from the notice, order, interpretation or decision to the Board of Appeals.

9.02.130.02 – Board of Appeals.

1) In order to hear and decide appeals of orders, decisions or determinations made by the Director relative to the application and interpretation of this chapter, there shall be and is hereby created a Board of Appeals consisting of members who are qualified by experience and training to pass on matters pertaining to this chapter and who are not employees of the jurisdiction.

2) The Housing & Neighborhood Division Manager shall be an ex officio member of and shall act as secretary to the board but shall have no vote on any matter before the board.

3) The Board of Appeals shall be appointed by the Mayor and shall meet as required to carry out its duties.

4) The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the Director.

5) The Board of Appeals shall have no authority relative to interpretation of the administrative provisions of this chapter, nor shall the board be empowered to waive requirements of this chapter.

9.02.130.03 – 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 of 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, orders, 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 Board of Appeals.

9.02.130.04 – Appeal Procedure.

1) The Director shall confirm that the appeal meets the filing criteria as prescribed under CMC Sections 9.02.130.03(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 Board of Appeals 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 Board. 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 Board shall issue a written finding and conclusion on the appeal 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, the Board of Appeals 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)(a).

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 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 Chapter 2.06 and may be recorded with the County Recorder. When entered in the city lien docket, the cumulative amounts shall constitute a lien upon the property subject to a finding of a violation of this chapter.

1] The lien shall be enforced in the same manner as liens for local improvement districts. 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.

EXHIBIT 2

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 – IntentPurpose. ~~This~~ The purpose of this chapter shall be construed 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 to secure and ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises; to prevent deterioration of existing housing; to preserve and enhance the quality of life in residential neighborhoods; and, to prevent or reduce urban blight by establishing minimum property maintenance and livability standards. 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 herein.

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; ~~fixing~~ assigning the responsibility of owners and occupants; and, ~~for~~ 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 ~~This chapter applies~~ 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 ~~herein~~ established by this chapter other than with respect to conditions that constitute imminent or incipient hazards, as those terms are ~~herein~~ 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 tThis 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 Director-City Manager is hereby authorized to administer and enforce all of the provisions of this chapter. The authority of the Director-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 the other city codes.

2) This chapter shall be liberally construed to the end that the Director-City Manager shall not be required to personally perform the administrative or enforcement duties and functions that are the responsibilities -of for which she or he is held responsiblethe 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 property 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. ~~The following process set out below, the~~ Director may enter property, 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 property any condition which makes such property 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 property that are plainly enclosed to create privacy and prevent access by unauthorized persons, the following steps shall be taken:

1) *Occupied Property.* If any structure on the property 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 Property.*

a) If the property is unoccupied, the Director shall contact the property owner, or other persons having charge or control of the property, and request entry. If entry is refused, the Director may attempt to obtain entry by obtaining an administrative warrant.

b) If structures on the property are unoccupied, the Director shall first make a reasonable attempt to locate the owner or other persons having charge or control of the property 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 property, the Director may attempt to obtain entry by obtaining an administrative warrant; or,

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

a) The Director shall notify the owner of the property's condition and order the owner, or other persons having charge or control of the property, to immediately secure the premises against the entry of unauthorized persons.

b) If the property is not secured within fifteen (15) days from the date notice is sent, the Director may secure the property as provided in CMC 9.02.110.05.

4) *Hazardous Conditions.*

a) If the Director believes that a hazardous condition exists, the Director may immediately secure the property as provided in CMC 9.02.110.05.

b) Following the summary abatement to secure the premises, the Director shall notify the owner, or other persons having charge or control of the property, of the condition of the property 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 An administrative warrant ~~shall be issued~~ 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 property 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 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 property, or there is probable cause to believe that a condition of nonconformity with any provision of this chapter exists with respect to the designated property, or an investigation is reasonably believed to be necessary in order to discover or verify the condition of the property 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 property 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 property to remove any person or obstacle and to assist the Director or representative of the department inspecting the property in any way necessary to complete the inspection or abatement.

9.02.070.05.040 – Execution of Administrative Warrant.

1) *Occupied Property.* Except as provided in section (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 property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request.

2) *Unoccupied Property.* 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 property 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.

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

~~9.02.080.02 Where terms are not defined in this chapter and are defined in the Corvallis land development code or the state building, plumbing or mechanical codes, such terms shall have the meanings ascribed to them as in those codes.~~

~~9.02.080.03 Terms not otherwise defined in this chapter or in the Corvallis land development code or the state building, plumbing or mechanical codes shall have ordinarily accepted meanings.~~

9.02.080.034 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."

9.02.080.045 – 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, following the standards of Appendix A of this chapter, 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 ~~that department head's~~ 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, 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 and 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, per the provisions in CMC Section 2.19.150;
- 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, per the provisions in CMC Chapter 5.05, Dutch Elm Disease;
- 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 waste in accordance with the provisions of CMC Chapter 4.01;

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 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.

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.

9.02.100.02 – 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) ~~shall cause~~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 CLCCMC 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 and occupants 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 notice shall be 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 9.02.130.04.

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 provided by CMC Chapter 2.06, and a lien for the entire amount placed against the real property.

Section 9.02.130 – Appeals.

9.02.130.01 – Appeals Generally. Any person upon whom a notice, order, interpretation or decision is served under this chapter shall have the right of appeal from the notice, order, interpretation or decision to the Board of Appeals.

9.02.130.02 – Board of Appeals.

1) In order to hear and decide appeals of orders, decisions or determinations made by the Director relative to the application and interpretation of this chapter, there shall be and is hereby created a Board of Appeals consisting of members who are qualified by experience and training to pass on matters pertaining to this chapter and who are not employees of the jurisdiction.

2) The Housing & Neighborhood Division Manager shall be an ex officio member of and shall act as secretary to the board but shall have no vote on any matter before the board.

3) The Board of Appeals shall be appointed by the Mayor and shall meet as required to carry out its duties.

4) The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the Director.

5) The Board of Appeals shall have no authority relative to interpretation of the administrative provisions of this chapter, nor shall the board be empowered to waive requirements of this chapter.

9.02.130.03 – 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 of 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, orders, 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 Board of Appeals.

9.02.130.04 – Appeal Procedure.

- 1) The Director shall confirm that the appeal meets the filing criteria as prescribed under CMC Sections 9.02.130.03(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 Board of Appeals 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 meeting of hearing before the Board within 30 days of the filing of the appeal. The hearing shall be held not later than 30-60 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 Board shall issue a written finding and conclusion on the appeal 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 ~~shall~~ violate a provision of this chapter or ~~shall~~ fail to comply with any of the requirements ~~thereof 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 herein 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, the Board of Appeals 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)(a).

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 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 Chapter 2.06 and may be recorded with the County Recorder. When entered in the city lien docket, the cumulative amounts shall constitute a lien upon the property subject to a finding of a violation of this chapter.

1] The lien shall be enforced in the same manner as liens for local improvement districts. 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.
-

EXHIBIT 3A

Section 9.02.130 – Appeals.

9.02.130.01 – Appeals Generally. Any person ~~upon whom served~~ a notice, order, interpretation or decision ~~is served under~~ under authority of this chapter ~~shall have~~ has the right of appeal from the notice, order, interpretation or decision to the ~~Board of Appeals~~ Hearings Officer.

9.02.130.02 – Board of Appeals.

~~1) In order to hear and decide appeals of orders, decisions or determinations made by the Director relative to the application and interpretation of this chapter, there shall be and is hereby created a Board of Appeals consisting of members who are qualified by experience and training to pass on matters pertaining to this chapter and who are not employees of the jurisdiction.~~

~~2) The Housing & Neighborhood Division Manager shall be an ex officio member of and shall act as secretary to the board but shall have no vote on any matter before the board.~~

~~3) The Board of Appeals shall be appointed by the Mayor and shall meet as required to carry out its duties.~~

~~4) The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the Director.~~

~~5) The Board of Appeals shall have no authority relative to interpretation of the administrative provisions of this chapter, nor shall the board be empowered to waive requirements of this chapter.~~

9.02.130.023 – 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 of 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 Board of Appeals Hearings Officer.

9.02.130.034 – Appeal Procedure.

1) The Director shall confirm that the appeal meets the filing criteria as prescribed under CMC Sections 9.02.130.023(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 Board of Appeals 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 Board 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.

ee) The Board 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.

EXHIBIT 3B

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 code. 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 code.

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.

EXHIBIT 4

Dear Mr. Shepard:

Are We Talking About Old Couches?

Those left out or left behind by students on porches and curbside? If yes, then we should put regulations in place to address that specific problem. If there are gaps in current regulations that allow for unsafe and unsanitary residences and rentals that pose a threat to public health and safety, then lets fix those specific gaps. Instead, we are inviting overregulation creep into our housing inventory with the proposed Livability Code.

The proposed code covers everything from lighting and ventilation to deadbolts and rat infestations. The code describes when a hole or crack has reached problem stage! Holes in walls, floors, ceilings, cabinets cannot be more than 4 inches in diameter and crack are limited to ½ inch.

My husband doesn't appreciate me reminding him of holes and ½ inch cracks and I suspect he won't appreciate the city doing so either.

We all want a beautiful and livable community and rules and regulations exist to make it so. Let's not create yet another cost to homeowners or landlords. Rent increases will ultimately occur as a result of implementation of this far reaching code. As administrative costs to the city are passed on to landlords those increased expenses will pass to tenants who are already finding it difficult to secure affordable housing in Corvallis.

Kathy Powell

Weiss, Kent

From: Holzworth, Carla on behalf of City Manager
Sent: Thursday, September 03, 2015 4:17 PM
To: Shepard, Mark; Weiss, Kent
Subject: FW: Proposed Livability Code concerns
Attachments: Competitively Pricing Corvallis 8-6-15 - WVMLS.pdf; Corvallis - Absorption Rates July 2015.pdf

From: Patty Brown [<mailto:pbrown@valleybrokers.com>]
Sent: Wednesday, September 02, 2015 1:51 PM
To: Ward 9; Ward 4; Ward 6; City Manager
Cc: Patty Brown
Subject: Proposed Livability Code concerns

Dear Councilors Brauner, Bull, Hirsch and City Manager Shepard,

I will not be able to attend the Chamber Lunch Forum on September 16th yet wanted to share some of my questions and concerns about the City of Corvallis' proposed Livability code:

1. Where may I review the most up to date version of the proposed code? Please forward a link or pdf. Thank you.
2. It appears the code is geared towards creating in essence a citywide HOA with a very concerning, overreaching scope. Clarifications in terminology, scope and enforcement need to be made. This Livability Code is viewed by many as invasive and controlling of individual homeownership rights. I can appreciate wanting to insure safe living conditions for residents yet think the current proposal overreaches the city's role. Code enforcement needs clearly defined boundaries.
3. Per the luncheon summary – "The Draft Code applies to the exterior of nearly all structures in the City of Corvallis, as well as the interior of rental units." What is "nearly all" and who gives permission for the city code enforcers to be onsite, especially when tenants are involved? Will trespassing be an issue?
4. There is confusion on whether or not the proposed livability code is complaint based or not. If it is not complaint based that is a very scary big brother tactic that will have significant consequences for our city, which already struggles with a negative reputation in the code enforcement department. And concerns about "targeting" property owners comes into play.
5. Corvallis is a very expensive community to live in, whether you own a property or rent one. Lack of affordability and inventory is causing many buyers to look outside Corvallis for their housing needs. Our housing and rental inventory is extremely lean with both housing prices and rental prices climbing. This is great for sellers and landlords, but really tough on affordability for buyers and renters. I have attached 2 market data stats for you to review that highlight our inclining market. (new ones will be available in a week) My concern is the livability code's impact on costs for all parties, especially if the city's enforcement boundaries are vaguely broad and the grandfathering clause is not explicitly clarified.
 - a. What happens to those owners who cannot afford to implement the code changes required by the livability code?
 - i. Penalties? Liens? Collection fees? (Costs management and implementation concerns as well)
 - b. From the real estate perspective will the city be jumping into the middle of transactions and causing deals to tank?
 - i. What about a first time homebuyer who does not have the immediate financial means to correct or update any code issues?
 - ii. Or the older seller who has lived in the house 50 years and does not have the financial capability, or stamina, to update to meet current livability code requirements? (Even though the house met code when built – grandfathered?)

6. Does a homeowner have to allow access to their property to a code enforcement inquiry? If so, what are the consequences if they do not allow access?
7. What is the budget and proposed costs to implement and fund this new code? We need clearly defined measures before we chew off more than we can afford or city staff can handle. Who's feeding the beast?

These are just a few of my concerns, especially from the real estate side. I drive around this city daily and see countless properties that are not livable, and which have been in that condition (& deteriorating) for years. It would be nice to see these unsafe eyesores dealt with first before the city spends more funds on a broad, overreaching plan that I think will hurt our city in the long run. With the University we promote diversity and entrepreneurial spirit, yet we are growing closer to becoming the elite Aspen of Oregon with a city that the average Oregonian cannot afford to live in.

Kind regards,

Patty

**Patty Brown, REALTOR®, ABR®, Previews® Property Specialist
Coldwell Banker Valley Brokers**

Life is an Adventure that is Homeward Bound

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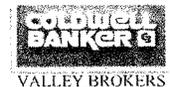
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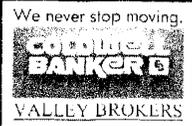
Patty Brown is a licensed real estate broker in the great state of Oregon. [Oregon Real Estate Agency Disclosure Pamphlet](#)

Competitively Pricing Your Property

Residential in Corvallis Per WVMLS

	February 2015	March 2015	April 2015	May 2015	June 2015	July 2015
Avg. Sales Price	\$302,147	\$304,225	\$303,881	\$306,151	\$307,394	\$310,033
Avg. Price Per Sq. Ft.	\$157	\$158	\$158	\$160	\$161	\$162
Avg. Days On Market	101	100	99	96	92	91
Currently Active	99	117	112	127	124	122





Absorption Rates For Corvallis As of 8/7/2015

***Includes all single-family residential properties on less than two acres as reported by Willamette Valley MLS.

Corvallis

Price Range	Active Listings as of 8/7/2015	Sold Listings Last 6 Mos.	Average Sold Per Month	Months of Inventory	Avg. Days on Market Solds
\$0 - \$99,999	*	*	*	*	*
\$100,000 - \$149,999	1	1	0.17	6.00	21
\$150,000 - \$199,999	11	23	3.83	2.87	80
\$200,000 - \$249,999	4	85	14.17	0.28	82
\$250,000 - \$299,999	14	76	12.67	1.11	70
\$300,000 - \$349,999	12	60	10.00	1.20	85
\$350,000 - \$399,999	12	35	5.83	2.06	105
\$400,000 - \$449,999	8	26	4.33	1.85	104
\$450,000 - \$499,999	5	19	3.17	1.58	93
\$500,000 - \$599,999	11	7	1.17	9.43	74
\$600,000 - \$699,999	3	5	0.83	3.60	91
\$700,000 +	8	2	0.33	24.00	37
	89	339		1.58	77

Typically: > 6 months of inventory = Buyer's Market
 < 6 months of inventory = Seller's Market

Patty Brown, REALTOR[®], ABR[®]
 Coldwell Banker Valley Brokers
 1109 NW 9th Street, Corvallis, OR 97330

Cell: 541-990-7593 PBrown@ValleyBrokers.com

Weiss, Kent

From: Lady Skinner [bammaid@hotmail.com]
Sent: Saturday, September 05, 2015 12:26 PM
To: Ward 9; Ward 4; Ward 6; Weiss, Kent; City Manager
Subject: Livability Code

As a long time (fifty years) property owner, builder, landlord, I have one six unit apartment building in Corvallis at SW fifth & B streets . It appears to me that the proposed livability document as written would create a layer of enforcement issues that might be handled in a simpler manner and at less cost to the city.

I would recommend that the complaint from the tenant be sent to the city and the owner or his representative and the first action on the complaint be between the owner or his representative and the tenant. The results of this meeting be sent to the city for any future action if needed. If the tenant does not agree or accept this action, then an inspection by the city could follow. If the landlord can not reach an agreement with the tenant a fee could be charged to both the landlord and the tenant to cover the first actual inspection by the city. Depending on wording of the livability code a fee could be charged to the tenant on the first inspection by the city or on a second or succeeding inspection. The first complaint would not cost either the landlord or the tenant anything and the city would be a neutral handling agent and tell both the landlord and the tenant to work it out. This action between the tenant and the landlord should come first to bring the two parties together to attempt to reconcile the problem without cost to the city.

Rollin Tom Skinner
Carolyn C Skinner

Re: Livability Code.

Dear ASC Committee Members:

My name is Eileen Maxfield. I am representing myself as a rental property owner who advises and works with contractors and property managers. As a concerned citizen the following testimony and communications represent my strongly desired improvements to the proposed Livability Code

In my 20 plus years as a Corvallis landlord, I have observed first hand the negligence and violations in rental dwelling where my children's friends have lived. These include cardboard 'repaired' windows, no heat, unsafe wiring, no access to fuse box and most serious, raw sewage from a broken pipe in the upstairs unit. From these examples and other behaviors, I welcome a Livability Code.

During the August hearing, testimony came from student representatives, tenants, affordable housing advocates, real estate brokers, property managers, and property owners. Certainly perspectives varied and the common message was wanting Corvallis to provide safe, livable and reasonably priced diverse housing. Most of the proposed code performs those desired purposes. However, upon learning that no adjustments had been made to the proposed code after that hearing, I am deeply concerned.

My biggest concern: creating buy-in between as many stakeholders as possible. Any statement of requirements has the potential for an adversarial dynamic. A code with penalties for violations makes the adversarial nature more pronounced. Please direct staff to make changes reflecting 3 areas of concerns. These changes will promote cooperation as well as minimize and mitigate conflict.

- 1) Once a complaint is evaluated by city staff, property *managers and property owners must be notified* of the decision to investigate. Any livability issue involving my property I need to know about to proactively correct. Providing timely notification to all parties; tenants, property managers and property owners allows the quickest resolution of problems.
- 2) All parties need an appeals process conducted by a neutral third party. Timeliness and clarity are essential when penalties are involved. Other Oregon jurisdictions have a trained Hearing Officer to process disputes. Any appeals of the Hearing Officer should proceed to the Circuit Court in Benton County.
- 3) At the August hearing Mr. Brauner understood the purpose of a grandfather clause and its importance. Has the code language been modified to accept any rental unit which currently meets the Building Code in affect at the time of its construction or most recent remodel?

My understanding is this code will be reviewed in a year. Starting with smaller steps promotes and builds good will among owners and allows for problem areas to be addressed in future code improvements.

A core group of property managers and owners are working together to change the 'us versus them' attitudes in our community. With mutual cooperation and collaboration we can make the Livability Code work effectively!

Thank you for your service. We all want positive changes for Corvallis.

Yours

Eileen Maxfield

Emails sent to:

Councilor Hal Brauner (ward9@citymanager.corvallisoregon.gov)

Councilor Barbara Bull (ward4@citymanager.corvallisoregon.gov)

Councilor Joel Hirsch (ward6@citymanager.corvallisoregon.gov)

Kent Weiss, Community Development Director (Kent.Weiss@citymanager.corvallisoregon.gov)

Mark Shepard, City Manager (city.manager@citymanager.corvallisoregon.gov)

Althea Madison (Lbrhaoregon@gmail.com)

Dawn Duerksen, RPMG (info@duerksenrentals.com)

Weiss, Kent

From: Sue Napier
Sent: Wednesday, September 09, 2015 10:34 PM
To: Weiss, Kent; Ward 9; Ward 6; City Manager
Subject: Livability Code concerns

Hello ASC Committee Members,

I am Susan Napier and I've been a landlord and property owner in Corvallis since the early 1970's. This livability code really concerns me.

The livability code seems like a citywide HOA. I've owned properties in other counties that were part of an HOA. One grumpy person made life miserable for everyone with continuous complaints and judgements. With this livability code, the anonymous nature of the complaint driven process is concerning. I read that the complaint created the a situation where the staff had the "**right to enter a property based upon suspicion of a violation.**" That seems highly problematic.

Does this livability code arrange for the **landlord to be notified immediately**? Is it true that a complaint is investigated before the landlord is involved? If it is an issue affecting rented property, the landlord's response to **notice of a problem should solve most issues before City staff would be involved and have the expense of investigation.** This would certainly reduce costs.

If a situation reaches a point where the property owner and the staff disagree on a situation, what is the **totally neutral appeal process available to the property owner**? Appeals cannot be decided by a staff member or someone appointed by City staff, or someone in any way connected to the city staff. My mother would have said, that is putting the fox in charge of the hen house!

Realtor input seems to indicate problems with the way Corvallis will be perceived by buyers. Our real estate is expensive compared to other cities and rents are already extremely high. This livability code is going to contribute to to that problem. How will this program costs be handled? Will there be another expense added to the water bills to burden all citizens of Corvallis equally? Will it be funded by putting a new burden on my renters?

Please carefully reevaluate the livability code. Please consider the problems my quick review has noticed and many other areas of that need to be addressed. The city should enforce the rules and laws that already exist instead of adding another expensive bureaucratic program.

Susan Napier
15080 Fall River Drive Bend

September 9, 2015

ASC Committee Members and
Councilors Hal Brauner,
Barbara Bull and Joel Hirsch
Kent Weiss, AIC Community Development Director
Mark Shepard, City Manager

LIVABILITY CODE

My name is Liz Ortman. I am representing myself as a rental property owner, and I have the following comments and /or concerns with three issues of the proposed Livability Code:

NOTICE: The complaint process is not collaborative and appears initial complaints are not given to property owners until after City staff investigates. This is not acceptable to me. This is not in the best interested of rental property owners as well as owner-occupied property owners. Property owners need immediate notice of the problem to begin immediate response to the problem.

APPEALS: The present Code calls for three decision makers - all related to the Developmental Services Department (Department Head, Appeals Board and Hearings Officer), as responsible parties to charge a citizen with a violation. The decision maker in the dispute between the Development Department and the citizens should not be solely the responsibility of the Development Department. There should be an independent/neutral Hearings Officer.

GRANDFATHERING: Single family homes (I also reside in my own home in Corvallis, as well as renting out two single family homes in Corvallis), that are maintained within the standards of health and safety acceptable at the time of construction and occupancy should be deemed rentable in Corvallis. If it is maintained to existing code, it should be rentable. Furthermore, older homes should not be unduly burdened to meet stringent requirements of a livability code that was not in effect at the time the property was constructed.

Existing properties should not be required to be brought up to current building codes, or beyond current building codes, in order to meet the requirements of the Livability Codes.

Concise and clear language in the Code and how it will affect current properties that were built according to Code at the time they were constructed and continue to be maintain needs to be included in the Code.

As a property owner not only as someone who resides in a single family home, but also rents out single family homes in Corvallis, I find significant language missing in the Livability Code. I am concerned that if these issues are not identified, addressed and acted on, the proposed Code will further drive up rental and home prices in order to make them "livable" by the new standards.

Thank you for your continued efforts to a successful Livability Code we can all work with.

LIZ A. ORTMAN,
CITIZEN
819 NW 33rd STREET
CORVALLIS, OR 97330

Weiss, Kent

From: Holzworth, Carla on behalf of City Manager
Sent: Thursday, September 10, 2015 5:10 PM
To: Weiss, Kent; Shepard, Mark
Subject: FW: Corvallis Livability Code

From: Anne Johnson [mailto:ajohnson@valleybrokers.com]
Sent: Thursday, September 10, 2015 4:08 PM
To: Ward 9; Ward 4; Ward 6; City Manager; opinion@gtconnect.com
Subject: RE: Corvallis Livability Code

To Whom It May Concern:

The Corvallis City Officials cannot assume that every homeowner has the ability to pay for home repairs.

I have met several Corvallis homeowners who live paycheck to paycheck or Social Security check to Social Security check. Their homes have deferred maintenance because the homeowner doesn't have the funds available to pay for repairs and/or the process of repairing their home is overwhelming to them. They don't know where to begin or who to trust.

If we add home repairs to declining health issues (either their own or those of other family members), these same homeowners could be forced to choose between health care, food and home repairs. It doesn't matter that the community may have means available for them to make the repairs. The homeowners are living so close to the edge that they are simply unable to deal with the repairs. The requirement to complete the paperwork alone is often more than they can process because of stress. How frightening for them to have a city official knock on their door to tell them their property is non-compliant with Corvallis Livability Codes and they have to repair the property.

The City will need to hire more than code enforcement officials. They'll need to hire counselors also. If it's decided to have Mediators, will the Mediators provide a step-by-step means of resolution for the home owner or leave the home owner to try to figure out the maze of contractors and home repairs? If the repairs aren't completed within a specific timeline, will there be fines? Will these regulations leave some of our homeowners open to contractor fraud?

Examples of valid exceptions to the Internal Security code for all households might be:

- There is an adult with Alzheimer's in the home, or
- There is a child who escapes from the home.

The current draft of Livability Codes is too broad, doesn't allow for exceptions, enforcement, funding or defined grandfathered properties. They don't take into consideration the potential for unintended consequences. The suggested gap closures are vague and don't define sources to fund repairs for those living on the edge.

Please return the draft to committee to remove the broad strokes, allow for exceptions, funding and clarify grandfathered properties. And please remember that life doesn't bless all families with a middle to upper class income, even in Corvallis.

Thank you for taking the time to read my opinion on this matter.

Sincerely,

Anne Johnson, REALTOR®
 Coldwell Banker Valley Brokers
 A real estate professional licensed in Oregon
 Cell phone: 541 905-5156

Email: ajohnson@valleybrokers.com
Webpage: valleybrokers.com/ajohnson

Here are some bullet points to discuss. We have had extensive testimony on these three points – Notice, Appeals and Grandfathering. Following the two and a half (2 ½) pages of bullet points is a form of email, with email addresses, and several alternative ways of using the bullet points.

Feel free to use your own words to address some or all of the following issues. Especially use your own words to express why you are asking for what changes you are requesting be made.

The points that need to be addressed are indicated below:

There are three (3) issues to which I call your attention concerning the proposed Livability Code:

NOTICE: This is going to be a City code with penalties for violations – an adversarial process.

- Corvallis' complaint process is not collaborative.
- It appears initial complaints are not given to property owners until after City staff have investigated. While legally permissible, this is not collaborative.
- Enforcement works best when parties have common goals.
- Property owners and City staff both want habitable safe housing.
- Immediate Notice to Ultimately Responsible Party (Owner): Citizens of this community, Corvallis City Council, its staff, and property owners expect a collaborative process in governing our community. A current example of the expected successful collaboration is how the Municipal Code noise violations in our neighborhoods are currently being addressed, in contrast to the prior non-collaborative process. Collaborating property owners, the professional property managers, and the Corvallis Police Department have dramatically reduced the second special response notice problem. This collaboration is only possible because the City Police Department agreed, upon request, to give property owners and property managers (ultimately responsible parties), actual, prompt notice of violations on their properties. This actual prompt notice involves the ultimately responsible parties in the situation and the solution from the beginning.
- Clarifying the notice provisions: At present, it appears City staff is not required to give notice to the property owner until staff issues a Notice of Violation relating to the property. This is simply not in the best interest of Corvallis rental housing. It places rental property owners (business owners) and owner-occupied property owners in an adversarial relationship with City staff. One of staffs' responses is they will administratively implement procedures with escalating consequences. This is simply a disservice to property owners and possibly too much discretion for staff.
- Property owners need immediate notice of what is happening on their property so they can collaborate and work with their tenants and City staff.

APPEALS: Our country has a judicial system that is independent from the Executive and Legislative branches of government. The judicial system is separate and independent. The present

Code calls for three (3) decision makers – Department Head, Appeals Board, and Hearings Officer. This is not fair to the citizens being charged with a violation of the City Code by the Developmental Services Department. The City department which has filed the Notice of Violation (NOV) of a City Code should not be the decision maker, nor should it select the decision maker in the dispute between the Development Department and the citizen who has been charged . It is unfair for the District Attorney and Police Department to select the judges that will decide disputes with citizens.

- Appeals cannot be effective without an independent Hearings Officer.
- Disputes between property owners and staff require a neutral decision maker.
- All appeals of City staff actions should be heard by a neutral, independent appeals hearing officer. Portland and Salem both have such a position.
- Appeals from the Hearings Officer should go to the state Circuit Court in Benton County.
- Appeals Process: In disputes between staff and property owners, the decision maker should not be a staff member, nor should the decision maker be appointed by City staff or the Community Development Department.
- A neutral, trained, decision maker should examine staff's complaint, investigation results, and other contemporaneous, relevant evidence, along with the property owner's response, investigation results, and other relevant evidence produced by the Appellant Citizen. Then the neutral decision maker should reach a timely, prompt decision.
- We do not need an Appeals Board of volunteers appointed or approved by City staff.
- The Appeals Board process is time-consuming and it is not easy to obtain a reasoned result.
- We need a prompt, neutral decision maker to make a timely decision, which should be appealable to the Benton County Circuit Court.

GRANDFATHERING

- Single family homes that are maintained to the standard of health and safety acceptable at time of construction and occupancy should be rentable in Corvallis. This is a significant part of our affordable housing stock.
- If a single-family home or duplex is maintained to existing code, it should be rentable.
- Grandfathering provisions – §9.02.12 – Properties, including older homes with unique characteristics, which were built under preexisting codes, should not be unduly burdened to meet the stringent requirements of a livability code that was not in effect at the time the property was constructed.
- **The “grandfathering” clauses provided in Section 9.02.12 are not true “grandfather” clauses if they require properties to be brought up to current building codes, or beyond the current building codes, in order to meet the requirements of the Livability Code.** Here, name your examples.

- The proposed “grandfathering clauses” in Chapter 1, §9.02.12 need further clarification.
- My understanding of the reasoning for omission of a “grandfathering” clause is because there is not currently a maintenance code and therefore no properties can be “grandfathered” under it. I simply disagree.
- A new rule that is not applicable in certain circumstances due to preexisting facts and situations is the very definition of a “grandfathering clause.”
- I am asking for clear and concise language in the Code for how it will affect current properties that were built according to Code at the time they were constructed and continue to be properly maintained.
- I am concerned that requiring significant changes be made to properties under the proposed Code will further drive up rental and home prices. Corvallis simply cannot afford to increase rental and home prices any more than they already are.

Conclusion

- Traditional concepts of fairness, opportunity to be heard, and collaborations between City staff and citizens compel close scrutiny, at this time, of these three (3) issues in the staff proposed Livability Code.

DATE **Sept. 12, 2015**

Councilor Hal Brauner (ward9@council.corvallisoregon.gov)
Councilor Barbara Bull (ward4@council.corvallisoregon.gov)
Councilor Joel Hirsch (ward6@council.corvallisoregon.gov)
Kent Weiss, Community Development Director (Kent.Weiss@corvallisoregon.gov)
Mark Shepard, City Manager (city.manager@corvallisoregon.gov)

Re: Livability Code

Dear ASC Committee Members:

My name is **Cynthia Higginbotham** am representing myself as a rental property owner, who advises and works with contractors and property managers, and as a concerned citizen. I agree with the following testimony and communications to you and staff.

ALTERNATIVE #1:

There are three (3) issues to which I call your attention concerning the proposed Livability Code: 1) Notice – Corvallis’ complaint process is not collaborative. It appears initial complaints are not given to property owners until after City staff have investigated. While legally permissible, this is not collaborative. Enforcement works best when parties have common goals. Property owners and City staff both want habitable safe housing; 2) Appeals cannot be effective without an independent Hearings Officer. Disputes between property owners and staff require a neutral decision maker; 3) Grandfathering – Single family homes that are maintained to the standard of health and safety acceptable at time of construction and occupancy should be rentable in Corvallis. This is a significant part of our affordable housing stock.

1. Immediate Notice to Ultimately Responsible Party: Citizens of this community, Corvallis City Council, its staff, and property owners expect a collaborative process in governing our community. A current example of the expected successful collaboration is how the Municipal Code noise violations in our neighborhoods are currently being addressed, in contrast to the prior non-collaborative process. Collaborating property owners, the professional property managers, and the Corvallis Police Department have dramatically reduced the second special response notice problem. This collaboration is only possible because the City Police Department agreed, upon request, to give property owners and property managers (ultimately responsible parties), actual, prompt notice of violations on their properties. This actual prompt notice involves the ultimately responsible parties in the situation and the solution from the beginning.

2. Appeals: All appeals of City staff actions, and decisions with a Municipal Code basis, should be heard by a neutral, independent appeals hearing officer. Portland and Salem both have such a position. Appeals from the Hearings Officer should go to the state Circuit Court in Benton County.

3. Grandfathering: If a single-family home or duplex is maintained to the then-existing code, it should be rentable.

Conclusion: Traditional concepts of fairness, opportunity to be heard, and collaborations between City staff and citizens compel close scrutiny, at this time, of these three (3) issues in the staff proposed Livability Code.

ALTERNATIVE #2:

I am asking City Council ASC to: 1) Create a collaborative process in the new proposed livability code. 2) Direct staff to incorporate the following concepts in the Corvallis Livability Code. These concepts are: A) Notice provisions to ultimately responsible person; B) independent hearings officer for appeals of any staff and property owner dispute and after issuance of any notice of violation (NOV) regarding the property; and C) Grandfathering of older structures to preserve the City's housing diversity.

ALTERNATIVE #3:

The three (3) issues most in need of attention by the Administrative Services Committee members are:

1. Clarifying the notice provisions – City staff is not required to give notice to the property owner until staff issues a Notice of Violation relating to the property. This is not in the best interest of Corvallis rental housing. It places rental property owners (business owners) and owner-occupied property owners in an adversarial relationship with City staff. One of staffs' responses is they will administratively implement procedures with escalating consequences. This is simply a disservice to property owners and possibly too much discretion for staff. Property owners need immediate notice of what is happening on their property, so they can collaborate and work with their tenants and City staff.

2. Grand fathering provisions – §9.02.12 – Properties, including older homes with unique characteristics, which were built under preexisting codes, should not be unduly burdened to meet the stringent requirements of a livability code that was not in effect at the time the property was constructed. **The “grandfathering” clauses provided in Section 9.02.12 are not true “grandfather” clauses if they require properties to be brought up to current building codes, or beyond the current building codes, in order to meet the requirements of the Livability Code.** Here are two examples:

A. *Current Building Code*: The current building code does not require a building to be built with heat in the kitchen or bathroom. However, under the proposed Livability Code, rentals are required to provide and maintain “permanent heating facilities capable of maintaining a year-round room temperature of not less than 68°F (20°C) in all habitable rooms and bathrooms.” (§9.02.65) If a property owner later decides to rent their home, must they now be required to install a permanent source of heat in the kitchen and bathroom before it can be rented? Our understanding is that the answer is yes, they do. As an aside, the definition of habitability (§9.02.55(cc)) includes kitchens.

B. *Preexisting Building Code:* Many older homes do not have the physical or fiscal capability to have a ventilation system or source of heat in a bathroom or kitchen. If the property owner decides to rent the home, would the Livability Code require that they make these upgrades in order to rent it? Our understanding is that the answer is yes, they do. This is not acceptable. It especially impacts older citizens who intend to use their homes as a source of income during their retirement years.

The proposed “grandfathering clauses” in Chapter 1, §9.02.12 need further clarification. A distinction was made during one of the LCDAC meetings between the “grandfathering clauses” applying to provisions that currently fall under the “building code,” but not provisions that fall under the “maintenance code.” Our understanding of the reasoning for this is because there is not currently a maintenance code and therefore no properties can be “grandfathered” under it. I simply disagree. A new rule that is not applicable in certain circumstances due to preexisting facts and situations is the very definition of a “grandfathering clause.”

I am asking for clear and concise language in the Code for how it will affect current properties that were built according to Code at the time they were constructed and continue to be properly maintained. I am concerned that requiring significant changes be made to properties under the proposed Code will further drive up rental and home prices. Corvallis simply cannot afford to increase rental and home prices any more than they already are.

3. Appeals Process – In disputes between staff and property owners, the decision maker should not be a staff member, nor should the decision maker be appointed by City staff or the Community Development Department. A neutral, trained, decision maker should examine staff’s complaint, investigation results, and other contemporaneous, relevant evidence, along with the property owner’s response, investigation results, and other relevant evidence produced by the Appellant Citizen. Then the neutral decision maker should reach a timely, prompt decision.

We do not need an Appeals Board of volunteers appointed or approved by City staff. This process is time-consuming and it is not easy to obtain a reasoned result. We need a prompt, neutral decision maker to make a timely decision, which should be appealable to the Benton County Circuit Court.

WILLAMETTE



Association of REALTORS®

September 15, 2015

To: City of Corvallis Administrative Services Committee

From: Holly Sears, Government Affairs Director
Willamette Association of REALTORS®
willamettevalleygad@gmail.com, 503-931-0876

Re: Livability Code Proposal

On behalf of the approximately 350 members of the Willamette Association of REALTORS®, thank you for the opportunity to comment regarding the proposed Livability Code. As you know, we have followed this process closely over the last three years and have given input on several occasions. As you prepare to deliberate on the Livability Code next week, we would like to reiterate the following points for your consideration. Attached to this letter for your reference is a copy of the August 5, 2015 testimony (Attachment A), submitted jointly with Jerry Duerksen and Carl Carpenter, which outline these essential points in further detail.

1. **True Grandfathering Clause:** Ensuring that the grandfathering clauses provided in the draft Code are true grandfathering clauses that do not unduly burden older properties built under pre-existing code.
2. **Uncomplicated and Fair Appeals Process:** Ensuring that the appeals process is easy to understand and completely independent of the enforcing party.
3. **Timely Notice to the Ultimately Responsible Party:** Ensuring that timely written notice of all complaints on property be immediately given to tenants, professional managers and the owner of record.
4. **Conduct a Comprehensive Cost Analysis:** Ensuring that the proposed Code undergo a cost analysis to determine whether it can be properly carried out under current budget restraints.

Thank you for the opportunity to assist in this effort and for the consideration of our comments

#####

Willamette Association of REALTORS®
541-924-9267 Phone 541-924-9268 Fax Email: realtors@waor.org

(Representing Members in Benton and Linn Counties)

ATTACHMENT A

August 5, 2015

To: City of Corvallis Administrative Services Committee

From: Carl Carpenter, Homeport Property Management, Inc.
homeport.property.management@gmail.com

Jerry Duerksen, Duerksen & Associates, Inc.
jerry@duerksenrentals.com

Holly Sears, Willamette Association of Realtors®
willamettevalleygad@gmail.com

Re: Livability Code Proposal

First, we would like to thank you for the opportunity to be part of the Livability Code Departmental Advisory Committee (LCDAC) and be able to provide not only feedback on the language itself, but also input on how property owners will be affected by the proposed Code. The new Livability Code, if adopted, will not live in isolation but will *affect every single piece of property in Corvallis: renter-occupied residential, owner-occupied residential, commercial property, and even vacant land*. With that in mind, we would like to highlight some points for your consideration that we feel deserve your time and attention as you move forward.

“Grandfathering” Provisions

Properties, including older homes with unique characteristics, which were built under preexisting codes, should not be unduly burdened to meet the stringent requirements of a livability code that was not in effect at the time the property was constructed. **The “grandfathering” clauses provided in Section 9.02.12 are not a true “grandfather” clause if it requires properties to be brought up to current building code, or beyond the current building code, in order to meet the requirements of the Livability Code.** Here are two examples:

- *Current Building Code:* The current building code does not require a building to be built with heat in the kitchen or bathroom. However, under the proposed Livability Code, rentals are required to provide and maintain “permanent heating facilities capable of maintaining a year-round room temperature of not less than 68°F (20°C) in all habitable rooms and bathrooms.” (Section 9.02.65) If a property owner later decides to rent their home, must they now be required to install a permanent source of heat in the kitchen and bathroom before it can be rented? Our understanding is that the answer is yes, they do.
 - As an aside, the definition of habitability (Section 9.02.55(cc)) includes kitchen. Our recollection from the LCDAC discussions are that kitchen would be removed because it went beyond the scope of the direction provided by the Administrative Services Committee in the matrix. Therefore, we are requesting that it be removed.

- *Preexisting Building Code:* Many older homes do not have the physical or fiscal capability to have a ventilation system or source of heat in a bathroom or kitchen. If the property owner decides to rent the home, would the Livability Code require that they make these upgrades in order to rent it? Our understanding is that the answer is yes, they do.

The proposed “grandfathering clauses” in Chapter 1, Section 9.02.12 need further clarification. A distinction was made during one of the LCDAC meetings between the “grandfathering clauses” applying to provisions that currently fall under the “building code” but not provisions that fall under the “maintenance code.” Our understanding of the reasoning for this is because there is not currently a maintenance code and therefore no properties can be “grandfathered” under it. We simply disagree. A new rule that is not applicable in certain circumstances due to preexisting facts and situations is the very definition of a “grandfathering clause.”

We are asking for clear and concise language in the Code for how it will affect current properties that were built according to Code at the time they were constructed and continue to be properly maintained. We are concerned that requiring significant changes be made to properties under the proposed Code will further drive up rental and home prices. Corvallis simply cannot afford to increase rental and home prices any more than they already are.

Appeals Process

The appeals process laid out in the proposed Livability Code is a complicated process. According to information received at the LCDAC meetings, “administrative” matters will be appealed to a City-contracted, neutral Hearings Officer and “technical” matters will be appealed to the Board of Appeals. This could be very confusing for a person who does not have experience with the distinction between “technical” and “administrative” matters. We ask you to consider the elimination of the Board of Appeals. Create an independent-contract Hearings Officer position to hear all appeals between the City, citizens, and/or business owners, totally independent of the Enforcement Department for all appeals. This approach will be less complicated for residents and staff to understand and will allow the final decision making to be made completely independent of vested interests on both sides of the issue.

We would like you to consider the addition of the following to the appeals process:

- Make the entire complaint and enforcement action file available to the ultimately responsible party at both the time of investigating the complaint and service the NOV (notice of violation).
- Notice of appeal be filed within thirty (30) days of receipt of code enforcement officer’s written complaint (NOV), if possible. Some complaints involve many professionals whose opinion cannot be obtained within thirty (30) days. An extension of the thirty (30) days can be requested by the appellant. This extension request can be for the amount of time required to document the information the Hearings Officer will need.
- Completion of the appeals process in three (3) weeks or less from the receipt of the appeal.
- Burden of proof on the code enforcement officer.
- If the Hearings Officer finds in favor of the ultimately responsible party, the appeals fee be refunded back to the ultimately responsible party.
- Once the code enforcement officer serves complaint on ultimately responsible party and receives written notice of appeal, no changes or amendments can be made to the first complaint, except dismissal.

- Hearings Officer decisions only be based on the evidence presented at the hearing and the facts based on evidence.

Notice to the Ultimately Responsible Party

We respectfully ask you to consider timely written notice of all complaints regarding any property immediately be given to tenants, professional managers and the owner of record. Collaboration is the best process for maintaining a safe and healthy environment for our City.

The Ultimately Responsible Party (the licensed professional property manager and/or the property owner and/or tenants) should be promptly and effectively notified of any complaint concerning a property that requires the City to inspect the property. The Ultimately Responsible Party should be promptly notified in time to participate in the inspection of a specific property. In addition, the Ultimately Responsible Party should be promptly notified of any enforcement action the City is proposing. With today's technology, contact information is easily accessible to the City, in either the City's rental housing fee records, or the County tax records.

A current example of successful collaboration is how noise violations in neighborhoods are currently being addressed. The Corvallis Police Department agreed, upon request, to give property owners and property managers (ultimately responsible parties) prompt notice of noise violations on their properties. This prompt notice involves the ultimately responsible party in the situation and the solution from the beginning and has reduced the second special response notice problem dramatically.

Comprehensive Cost Analysis

Implementing a new code of this magnitude is certain to have a cost impact associated with it. We want to encourage that the proposed Code undergo a cost analysis to determine whether the new Code will affect the housing market/cost to homeowners and whether the City will be able to enforce the new provisions without raising or implementing new fees. And, if new fees become necessary, it is essential that there is a public process that allows for the opportunity for public input regarding the fees.

In closing, we are engaged in this process because we want to make Corvallis a more vibrant, healthy and livable community by assisting in the implementation of policies that strive to "build and maintain affordable housing" as stated in the Council's Housing Development goal adopted earlier this year. We want to thank you for the opportunity to assist in this effort and for the consideration of our comments.

Sincerely yours,

Carl Carpenter, Homeport Property Management, Inc.
Jerry Duerksen, Duerksen & Associates, Inc.
Holly Sears, Willamette Association of Realtors®

RECEIVED

SEP -8 2015

9/2/15

Kent Weiss,

Community Development
Planning Division

As a Corvallis rental property owner, may I please express my feelings on 3 pending Corvallis development issues.

1. The Corvallis complaint process proposed is not collaborative.
2. The appeals cannot be effective without an Independent Hearings Officer.
3. Grandfathering in of older homes in the city should make them rentable.

Thank you for your consideration.

Ray Hewitt
3870 SW Nizer Ave.
Corvallis, OR 97333
PH: 541-753-4530