



ADMINISTRATIVE SERVICES COMMITTEE

Agenda

**Wednesday, October 21, 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. Livability Code (Attachment)

- Discussion/**Possible Action** II. Majestic Theatre Fourth Quarter Financial Report (Attachment)

- Discussion/**Possible Action** III. Council Policy Review and Recommendation: 4.14, "Use of City Hall Plaza" (Attachment)

- Information IV. Other Business

Next Scheduled Meeting

Wednesday, November 4, 2015 at 1:00 pm
Madison Avenue Meeting Room, 500 SW Madison Avenue

Agenda

- First Quarter Operating Report

TO: Administrative Services Committee for Meeting of October 21, 2015
FROM: Kent Weiss, Interim Community Development Director
DATE: October 9, 2015
THROUGH: Mark W. Shepard, P.E., City Manager
SUBJECT: Draft Livability Code Ordinance and Final Draft Code Language



Action Requested:

Staff request that the Administrative Services Committee (ASC) review the attached draft Livability Code ordinance, final draft Livability Code language, and final draft Rental Housing fee language. Following that review staff request that the ASC deliberate on the materials provided, and forward the Livability Code ordinance and supporting Municipal Code language as presented or with final amendments for consideration by the full City Council.

Discussion:

At the conclusion of its September 23, 2015 meeting, ASC directed staff to make suggested edits to Code language, and to create and return with a draft ordinance to enact the Corvallis Livability Code. That draft ordinance, attached as Attachment 1, reflects the changes that will be applied to the Corvallis Municipal Code to support Livability Code enactment.

Additional attachments include Exhibit A, which provides Livability Code Language as it would exist in the Corvallis Municipal Code (CMC) after passage of the above-referenced ordinance, and Exhibit B, which outlines the calculation methodology for and amount of the annual fee charged to rental property owners to support the operation of the City's Rental Housing Program.

Mechanically, the ordinance in Attachment 1 will do several things, including:

1. Repeal the current CMC Section 9.02, Rental Housing Code;
2. Enact a replacement CMC Section 9.02, Livability Code;
3. Amend CMC Section 8.03.300.065, Fees, to retain calculation methodology that had been included within the Rental Housing Code in Section 9.02;
4. Establish a period of 180 days following the effective date of the ordinance after which enforcement of the Livability Code will begin; and
5. Require a one-year Livability Code review by the City Council, followed by reviews every three years.

In early discussions with the Administrative Services Committee and the advisory groups that have assisted in developing the Livability Code it was presumed that portions of some sections outside of CMC 9.02, Rental Housing Code, would also be repealed in conjunction with the adoption of the Livability Code. The sections discussed included CMC Title 4, Sanitation, specifically Chapters 4.01, Solid Waste, and 4.02, Rat Eradication; the Livability Code addresses both solid waste and rat harborage. However, following further discussion with the City Attorney and others in the organization, staff have concluded that because other City departments may still wish to take enforcement action on solid waste and rat harborage/eradication issues either within their areas of jurisdiction, or during a time when Community Development staff are not available, it is best to leave those sections in place as currently written.

Finally, during the September 23 ASC meeting additional background information on operating protocols and administrative guidelines was requested. Attached as Attachment 2 is a set of operating protocols developed to guide staff in the development of the Livability Code, and provide an outline for the creation of the Code's administrative guidelines. A rough draft version of those administrative guidelines is attached as Attachment 3.

Recommendation:

Staff recommend that the Administrative Services Committee forward the attached ordinance, with its supporting Livability Code and Rental Housing Program Fee language, to the full City Council for consideration and adoption.

Attachments: Attachment 1, draft ordinance
Exhibit A, Livability Code language
Exhibit B, Rental Housing Program Fee language
Attachment 2, Livability Code implementation protocols
Attachment 3, draft administrative guidelines

ORDINANCE 2015-__

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

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

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

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

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

THE CITY OF CORVALLIS ORDAINS AS FOLLOWS:

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

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

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

Section 4. Enforcement Date. The provisions of Municipal Code Chapter 9.02, Corvallis Livability Code, as enacted under Section 2 of this Ordinance, shall not be

enforceable for a period of 180 days following the effective date established by the Corvallis Charter for this ordinance.

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

PASSED by the City Council this _____ day of _____, 2015.

APPROVED by the Mayor this _____ day of _____, 2015.

EFFECTIVE this _____ day of _____, 2015.

Mayor

ATTEST:

City Recorder

Chapter 9.02 – LIVABILITY CODE

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

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

Section 9.02.030 – Application of other Laws.

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

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

2) *Conflicts.*

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

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

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

Section 9.02.040 – Scope. This chapter establishes minimum requirements and standards for the protection of structures and premises from the elements, life

safety and other hazards, and for their safe and sanitary maintenance; assigning the responsibility of owners and occupants; and, establishes the processes and standards for the administration of this chapter, its administration, enforcement, appeals and penalties.

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

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

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

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

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

Section 9.02.070 – Administration.

9.02.070.01 – Responsibility.

1) The City Manager is hereby authorized to administer and enforce all of the provisions of this chapter. The authority of the City Manager to enforce the provisions of this chapter is independent of and in addition to the authority of other city officials to enforce the provisions of other city codes.

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

9.02.070.02 – Appointments.

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

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

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

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

9.02.070.03 – Complaint Based Response.

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

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

3) Anonymous complaints will not be accepted.

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

9.02.070.04 – Inspections.

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

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

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

9.02.070.05.010 – Administrative Warrant.

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

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

2) *Unoccupied Premises.*

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

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

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

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

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

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

4) *Hazardous Conditions.*

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

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

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

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

9.02.070.05.020 – Grounds for Issuance of Administrative Warrants.

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

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

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

9.02.070.05.030 – Procedure for Issuance of Administrative Warrant.

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

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

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

9.02.070.05.040 – Execution of Administrative Warrant.

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

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

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

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

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

Section 9.02.080 – Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27) *Habitable*. Suitable for human habitation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

g) any bulk solid waste; and,

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

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

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

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

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

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

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

44) *Must.* Mandatory

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

60) *Shall.* Mandatory.

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

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

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

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

65) *Unoccupied.* Not legally occupied.

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

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

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

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

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

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

Section 9.02.090 – Standards.

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

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

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

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

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

9.02.090.05.010 – Lighting of Accessible Means of Egress.

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

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

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

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

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

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

9.02.090.05.020 – Ventilation.

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

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

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

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

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

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

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

9.02.090.05.030 – Electrical System.

9.02.090.05.030.01 – *Equipment Exposed to Water.*

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

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

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

9.02.090.05.030.02 – *Circuit Protection.*

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

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

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

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

9.02.090.05.040 – Plumbing System.

9.02.090.05.040.01 – *General.*

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

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

9.02.090.05.040.02 – *Hot Water.*

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

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

2) Exceptions:

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

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

9.02.090.05.050 – Interior Sanitation.

9.02.090.05.050.01 – *General.*

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

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

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

9.02.090.05.050.03 – *Landlord Responsibilities.*

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

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

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

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

9.02.090.05.060 – Heat in Bathrooms and Habitable Rooms.

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

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

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

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

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

9.02.090.05.070 – Window and Door Security.

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

9.02.090.05.070.02 – *Entrance Doors*.

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

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

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

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

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

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

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

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

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

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

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

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

9.02.090.06.010.02 – *Exterior Walls and Exposed Surfaces.*

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

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

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

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

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

9.02.090.06.010.03 – *Windows and Doors.*

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

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

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

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

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

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

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

1) All glazing materials shall be maintained free from cracks and holes.

2) Glazing with holes, cracks, or that is partially or wholly missing shall be replaced within thirty (30) calendar days of the incident that caused the defect.

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

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

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

9.02.090.06.020.01 – *Responsibilities*.

1) The owner of every property shall maintain the structures, premises and all common areas of the exterior property in compliance with these requirements.

2) The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

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

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

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

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

9.02.090.06.020.06 – *Thickets that Conceal Hazards.*

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

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

9.02.090.06.020.07 – *Trash and Debris.*

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

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

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

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

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

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

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

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

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

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

9.02.090.06.020.08 – *Storage of non-Trash Items.*

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

1) Accumulations of wood pallets;

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

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

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

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

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

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

8) All other non-trash items which:

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

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

9.02.090.06.030 – Solid Waste Removal.

9.02.090.06.030.01 – *General.*

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

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

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

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

9.02.090.06.030.03 – *Landlord Responsibilities.*

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

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

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

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

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

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

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

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

9.02.090.06.040.02 – *Foundations and Structural Members.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9.02.090.07 – Fire Safety.

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

9.02.090.07.020 – Unobstructed Path of Travel.

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

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

9.02.090.07.030 – Fire-Resistive Assembly; Maintenance.

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

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

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

Section 9.02.100 – Enforcement.

9.02.100.01 – Enforcing Compliance.

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

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

9.02.100.01.010 – Initial Contacts.

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

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

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

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

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

9.02.100.01.020 – Notice of Violations.

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

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

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

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

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

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

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

9.02.100.02 – Compliance Period for Required Abatement Response.

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

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

a) lack of heat, per CMC 9.02.090.05.060;

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

c) lack of hot water, per CMC 9.02.090.05.040.02;

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

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

9.02.100.03 – Failure to Obey Order of Director.

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

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

Section 9.02.110 – Derelict Structures.

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

9.02.110.02 – Prohibited Habitation.

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

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

9.02.110.03 – Order to Vacate Buildings or Structures.

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

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

9.02.110.04 – Removal of Placard Prohibited.

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

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

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

9.02.110.05 – Temporary Safeguards.

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

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

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

9.02.110.06 – Abatement of Derelict Structure by Remediation.

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

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

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

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

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

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

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

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

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

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

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

a) In a condition unfit for human habitation; or,

b) In a condition that is an incipient hazard, based on the number and extent of the following factors:

1] Dilapidation;

2] Disrepair;

3] Structural defects noted by the Building Official;

4] Defects increasing the hazards of fire, accident or other calamity, such as parts standing or attached in such manner as to be likely to fall and cause damage or injury;

5] Uncleanliness or infestations of pests;

6] Condition of sanitary facilities;

7] The presence of a public nuisance; and,

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

Section 9.02.120 – Public Nuisances.

9.02.120.01 – Public Nuisance Prohibited.

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

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

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

9.02.120.02 – Notice to Person Responsible.

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

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

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

3) *Method of Service.*

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

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

b) Failure of the owner(s) or occupant(s) to receive such notice or an error in the name or address of the owner(s) or occupant(s) shall not render the notice void and in such case the service shall be deemed sufficient.

4) *Effective Date of Notice.* All notices served pursuant to this section shall be considered served on the date of personal service or as of the date of mailing, if not personally served.

9.02.120.03 – Action by Responsible Party. Within the time specified for achieving compliance, as provided for under CMC 9.02.100.02, the responsible party or person in charge of the property on whom the notice has been served or posted shall remove the nuisance or shall request an appeal hearing in accordance with CMC 9.02.130.01 through CMC 9.02.130.03.

9.02.120.04 – Recording a Violation.

1) The city may record a notice of violation issued under this section with the County Recorder.

2) Failure to record a notice of violation shall not affect the validity of the notice as to persons who receive the notice.

3) When the property is brought into compliance, a satisfaction of notice of violation shall be recorded if a notice of violation had been recorded against the property.

9.02.120.05 – Abatement Procedures - by the City.

1) If, within time prescribed under CMC 9.02.100.02, the violation has not been corrected the Director may cause the violation to be corrected.

2) The Director shall keep an accurate record of the expense incurred while physically correcting the violation and shall include therein a 15 percent charge for administrative overhead.

3) The Director or a person authorized by the Director may enter upon the subject property to abate the nuisance only upon obtaining consent of the person in possession or in charge of the property; or upon obtaining an administrative abatement warrant pursuant to CMC 1.15 or CMC 9.02.070.05.

9.02.120.06 – Abatement Procedures - Assessment of Costs.

1) After abatement by the city, the Finance Director, by first class mail, shall forward to the owner(s) and occupant(s) a notice stating:

a) The total cost of correction, including the administrative overhead; and,

b) That the costs and administrative overhead as indicated will be assessed to and become a lien against the property unless paid within thirty days from the date of the notice.

2) If the costs and administrative overhead are not paid within thirty days of the billing date, the Director shall thereafter file with the Hearings Officer an itemized statement of costs and overhead, including an additional administrative fee in an amount of ten percent of the actual cost of correction to cover the additional expenses involved in collecting the unpaid balance.

3) Upon filing of such statement of costs and overhead required under paragraph 2) of this subsection, the City Recorder shall set the matter for prompt public hearing before the Hearings Officer and cause notice thereof to be served via certified mail to the owner(s) and occupant(s), consistent with the procedures under CMC 9.02.110.06(1)(a).

4) After the hearing, the Hearings Officer shall declare the correctness of such statement and shall declare those as may be accordingly validated to be a lien upon the property.

5) An error in the contents or service of any notice shall not void the assessment nor will a failure of the owner to receive the notice of the proposed

assessment render the assessment void, but it shall remain a valid lien against the property.

9.02.120.07 – Abatement Procedures - Summary Abatement. The Director may summarily abate a situation involving a health, safety, or other nuisance which unmistakably exists and from which there is imminent danger to human life or to property. The abatement procedure provided by this chapter is not exclusive but is in addition to procedures provided by other laws.

9.02.120.08 – Receivership Authority. In addition to, and not in lieu of any other provision in this chapter, when the Director finds residential property in violation of this chapter, and believes that the violation is a threat to the public's health, welfare and safety, and that the owner has not acted in a timely manner to correct the violation, the Director may apply to a court of competent jurisdiction for the appointment of a receiver to perform an abatement pursuant to the Oregon Housing Receivership Act (ORS 105.420 to 105.455).

9.02.120.09 – Collections. Collection of abatement costs, fees and penalties may be, in addition to any other remedy provided for by law, pursued through a contract collection agency or small claims court or entered into the city's lien docket in the manner below as a lien for the entire amount placed against the real property.

1) Any cost of abatement, fine, assessment or civil penalty imposed pursuant to this chapter, which remains unpaid 30 days after the penalty is imposed (or after the fine, assessment or civil penalty has been affirmed on appeal), shall be filed as a lien against the lot, lots or parcels of land involved in the Municipal Lien Docket.

2) At the time of filing in the Municipal Lien Docket, notice shall be provided to the responsible person. If the responsible person is not the owner of the property shown in the electronic records of the Benton County Assessor on that date, then notice shall also be sent to the owner of the property. Failure to provide notice shall not in any way effect the validity of the lien. The notice shall state that the amounts imposed as penalties shall be payable and due, and that

the penalties shall be liens against the lots or parcels of land involved, respectively.

3) All such liens remaining unpaid after 30 days from the date of recording on the municipal lien docket shall become delinquent and shall bear interest at the rate of 10 percent per annum from and after that date. The liens shall be enforced in the manner provided for municipal liens in ORS Chapter 223 and shall have priority over all such other liens and encumbrances of any character.

4) Pursuant to this chapter, the City Council, as the legislative body of the city, elects to treat costs associated with the enforcement of property maintenance and livability standards, and any related fine, assessment or administrative civil penalties, as a routine obligation of property owners. Therefore, any municipal costs incurred in the abatement of any derelict structure or public nuisance and/or any fine, assessment or administrative civil penalty not paid within 30 days shall be an assessment and lien against the property where the building is located.

Section 9.02.130 – Appeals.

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

9.02.130.02 – Filing of Appeal.

1) *Appeal Period.* An appeal must be submitted to the Director within seven days, plus three days for mailing, from the date that the notice or order was issued.

2) *Appeal Fee.* Any appeal submitted under this chapter shall include a \$50.00 filing fee.

3) *Scope of Appeal.* Appeals may be filed regarding technical matters of notices or determinations, administrative orders, and interpretations and decisions made by the Director relative to this chapter.

4) *Form of Appeal.* An appeal must be in writing and include the following:

a) Name of person filing the appeal;

- b) Copy of the subject notice or order;
- c) Copy of the section of this chapter which is being appealed;
- d) A complete explanation of the appeal;
- e) An explanation of what is requested of the Hearings Officer.

9.02.130.03 – Appeal Procedure.

1) The Director shall confirm that the appeal meets the filing criteria as prescribed under CMC Sections 9.02.130.02(1-4), and that the person filing the request for an appeal has standing.

2) If the filing criteria have not been met, or if the filing party does not have standing, the person filing the appeal will be so notified and hearing before the Hearings Officer will not be convened. The Director, at his/her discretion, may extend the filing deadline by an additional three (3) days to allow a prospective appellant with standing to resubmit a request for an appeal that has been deemed incomplete. Only one extension may be granted.

3) If the filing criteria are met, the Director shall, within 30 days of the filing of the appeal, set the schedule for a hearing before the Hearings Officer. The hearing shall be held not later than 60 days after the filing of the appeal.

a) The appeal shall be conducted on the record.

b) Formal rules of evidence are not required.

c) The Hearings Office shall have the authority to hear appeals of orders, decisions or determinations made under authority of this chapter to determine whether the substance of the order, decision or determination was arbitrary and capricious.

d) The Hearings Officer shall not be empowered to waive requirements of this chapter.

e) The Hearings Officer shall issue a written finding and conclusion on the appeal within seven (7) days of the hearing, and shall provide a copy to the person filing the appeal and to the Director.

Section 9.02.140 – Penalties.

9.02.140.01 – Violation Penalties. Persons who violate a provision of this chapter or fail to comply with any of the requirements of this chapter or a directive of the Director authorized by this chapter shall be subject to the provisions of CMC 9.02.140.02 through CMC 9.02.140.04.060.

9.02.140.02 – Separate Violations.

1) Each day's violation of a provision of this chapter constitutes a separate offense.

2) The abatement of a nuisance or violation shall not constitute a penalty for violating this chapter but shall be an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate a nuisance or violation.

9.02.140.03 – Misdemeanors and Infractions.

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

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

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

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

9.02.140.03.020 – Classification of Offenses.

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

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

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

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

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

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

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

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

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

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

9.02.140.04 – Civil Penalties.

1) In addition to and not in lieu of any other means of enforcement or any other penalty provided by law, any person who shall violate a provision of this chapter or who shall fail to comply with any of the requirements thereof or an order of the Director may incur a civil penalty in an amount as specified in CMC 9.02.140.04.060, plus an administrative fee and any cost of service or recording.

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

9.02.140.04.010 – Purpose. The purpose of a civil penalty is to provide an efficient, convenient, and practical system to enforce a violation of this chapter.

9.02.140.04.020 – Civil Penalty against Agents. Any person who acts as the agent of, or otherwise assists, a person who engages in an activity which would be subject to a civil penalty shall likewise be subject to a civil penalty.

9.02.140.04.030 – Procedure for Issuing Civil Penalty. A civil penalty shall be imposed under this section by issuance of a notice of civil money penalty. A civil penalty may be imposed for each day the violation continues or remains. The notice of civil money penalty shall be issued and served in accordance with the procedures specified within this subsection.

9.02.140.04.030.01 – *Notice of Civil Money Penalty.*

1) If a civil penalty is imposed, the Director shall issue a notice of civil money penalty to the person responsible for the code violation.

2) The notice of civil money penalty shall include:

a) reference to the applicable code provision(s);

b) a statement of the basis of the finding of a violation;

c) a statement of the amount of the civil money penalty;

d) a statement of the party's right to protest the civil penalty to a Hearings Officer; and,

e) a statement that a delinquent civil money penalty may become a lien against the property.

3) The notice of civil money penalty shall be served on the person responsible for the code violation by:

a) Personal service; or,

b) posted in a conspicuous place in, on or about the structure or premises affected by such notice; or,

c) sent by US first class mail or US certified mail, return receipt requested, to the person's last known address;

1] failure of the recipient to sign for the certified mail shall not make the notice void;

2] notice served by mail shall be deemed received three days after the date mailed to an address within Oregon or seven days to an address outside of Oregon;

3] notice served by mail shall be concurrently posted in a conspicuous place in, on or about the structure or premises affected by such notice.

9.02.140.04.030.02 – *Courtesy Notice to Owner*. If the subject violation relates to real property and the person responsible for the violation is not the owner of the property, an informational copy of the notice of civil money penalty shall be sent to the owner of the property by first class mail, at the owner's address as reflected on the most recent tax rolls of the county assessor, at the same time as service on the person responsible.

9.02.140.04.040 – Protest of Civil Penalty.

1) A person issued a notice of civil money penalty may protest the existence of a violation or the circumstances involved in the presence of a violation that resulted in imposition of a civil penalty to a Hearings Officer.

2) An appeal request must be submitted to the City Recorder within seven days, plus three days for mailing, from the date of service of the notice of civil money penalty.

a) After a hearing in which the Hearings Officer determines that a violation did or does exist, the Hearings Officer may uphold or reduce the original penalty imposed after considering reasonable mitigating factors as determined by the Hearings Officer.

1] The Hearings Officer may not reduce the civil money penalty by any amount if a violation has not been corrected by the responsible party and inspected by the city.

2] The civil money penalty imposed by the Hearings Officer shall not be less than the minimum amount specified under CMC 9.02.140.04.060(1).

9.02.140.04.050 – Collection of Civil Penalty.

1) The civil penalty shall become final upon expiration of the time for filing a protest or, if a protest is filed and the Hearings Officer affirms the civil penalty, the civil penalty shall become final upon issuance of the Hearings Officer's decision.

2) The civil penalty shall be delinquent if not paid within 30 days from the date the civil penalty becomes final.

a) A late payment charge shall begin to accrue from the date of delinquency.

b) If the civil penalty is imposed on the owner of the property where the violation occurred, and is delinquent, the notice of civil money penalty and a late payment charge shall be entered in the docket of city liens in the manner provided under CMC 9.02.120.09.

1] Failure to pay may result in foreclosure in any manner provided by ORS 223.505 to 223.650 or otherwise provided by law.

2] An error in the name of the owner shall not void the lien, nor shall a failure of the owner to receive the notice render the lien void, but it shall remain a valid lien against the property.

9.02.140.04.060 – Amount of Civil Penalty.

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

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

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

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

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

c) The gravity and magnitude of the violation;

d) Whether the violation was repeated or continuous;

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

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

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

(Ordinance 2015-____ §2, __/__/____)

Section 8.03.300.065 Rental Housing Program Fees.

For the purpose of offsetting costs to the City associated with the operation of a Rental Housing Program, there is hereby imposed an annual fee, to be set by the City Council, for each dwelling unit covered by a rental agreement. The total annual fee for fraternities, sororities, and other similar group living structures will be calculated based on the occupancy capacity of each structure divided by the U.S. Census-determined average household size of renter-occupied units, multiplied by the annual per-unit fee.

- 1) The following unit types, while subject to the requirements of Chapter 9.02, shall be exempt from the fee payment requirements of this Section: rentals with a recorded deed restriction requiring the units to be rented affordably to households at or below 50% of the Area Median Income; rentals under contract with a public agency that requires the rental to be inspected at least annually and verifies that the dwelling is rented to a low income household; and rentals designated as senior or disabled housing by a public agency.
- 2) The landlord is responsible for paying the annual fee upon written or electronic request. The Director shall adopt and implement policies and procedures which include multiple written or electronic communications with landlords before assessing a penalty. The penalty established below is necessary to offset the actual cost of these procedures when payment of the annual fee is not timely or when payment of the annual fee is not made.
- 3) Policy regarding penalties. Facilitating collaborative solutions to landlord/tenant relationship conflicts, and providing education for landlords and tenants with respect to their respective rights and responsibilities, is of great importance within the City of Corvallis. The costs of this program are intended to be somewhat offset by the annual fees, but the City Council also desires to not greatly increase the cost of renting residential property within the City. The City Council has balanced raising the amount of the annual fee in order to offset the cost of the program against the desire for landlords to pay the annual fee in a timely manner, and finds that an artificially lower annual fee that encourages timely payment is more likely to provide funding that offsets the costs of this essential program than is a higher fee which would capture all the

administrative costs of collection. The City finds that staff charged with administration of this program spend a grossly disproportionate portion of their time attempting to collect fees or to collect untimely fees from a relatively few landlords. The City Council finds that relatively low penalties for failing to pay the annual fee or for failing to pay the annual fee in a timely manner, encourages some landlords to fail to make payments or to make late payments. The City Council finds that relatively low penalties therefore result in an unfair apportionment of the cost of providing this essential program to other landlords and taxpayers, and threatens the City's ability to provide the service for the low annual fee.

- 4) Failure to pay the fee as requested will subject the landlord to the following actions:
 - a) A penalty fee of \$100.00 will be assessed to the landlord for each unpaid per unit fee if the annual fee is not paid by the date specified in the written or electronic request for payment.
 - b) The City will initiate appropriate action to collect the fees due and all costs associated with these actions will be assessed to the landlord.
 - c) Appropriate action may include placing a lien on the property.
- 5) The fees applicable to units of rental housing, defined as any dwelling unit covered by a rental agreement, and not otherwise exempt under subsection 1), above, shall be \$13.00 per unit per fiscal year for the period beginning July 1, 2015, and shall increase by \$1.00 per unit per fiscal year in every odd-number year thereafter.
(Ord. 2015-_____ § 3, ___/___/___; Ord. 2011-15 §2, 10/03/2011; Ord. 2007-25 §1, 11/19/2007; Ord. 2002 §10, 7/15/2002; Ord. 98-34 §1, 09/08/1998)

Corvallis Livability Code Implementation Protocols (as of 10/08/2015)

1. As recommended to the City Council by the Collaboration Corvallis Steering Committee, the Corvallis Livability Code will operate using a complaint-based approach rather than an inspection-based approach:
 - Anonymous complaints will not be accepted.
 - Complainants must identify themselves, but may request to remain confidential. Confidentiality will be maintained to the extent legally possible.
2. Complaints for properties that are renter-occupied:
 - The Livability Code will pertain to interior and exterior conditions.
 - Intended time frame for and type of response by Code Compliance staff will be determined based on the potential severity of the complaint description:
 - Life/safety/dangerous building issues will receive priority response (ex: dangerous wiring, no smoke detectors).
 - Next priority - health/ livability issues with a targeted 48-hour response (ex: lack of water/hot water, complete lack of heat, rodent harborage).
 - Other issues will receive a targeted 7- to 10-day response (ex: inadequate heat, exterior door locks).
 - Tenant complainants will be asked if they have contacted their landlord, and if not Code Compliance staff will suggest that they do. Such contact will not be a required precursor to the filing of a complaint.
3. Complaints for owner-occupied residences, commercial, and other building/property types:
 - The Livability Code will only pertain to exterior conditions and dangerous building provisions for these use types.
 - Follow timeframes above for exterior life/safety/dangerous building compliance responses.
 - In-person staff response for life/safety, dangerous building, or health issues.
 - For other exterior-related issues that do not meet Livability Code standards but have not yet reached a point of structural deterioration, send a letter noting the reported complaint, providing the applicable Code standard, and providing direction/instruction to reach compliance within a stated timeframe.
4. Scope of investigations:
 - Investigations of complaints regarding specific, limited conditions would not be used as an opportunity to conduct comprehensive property inspections; complaints alleging a broader scope of concerns may require a correspondingly broad response.
 - Issues of a life/safety nature that are identified in the course of a complaint investigation would be addressed.
5. Achieving compliance:
 - In situations that receive in-person responses but are not deemed to be dangerous buildings Code compliance will be achieved through a series of violation notices. Example of possible scenario:

- First notice (correction notice) directs compliance and a call for inspection within a stated timeframe.
- Second notice (notice of violation) to be provided if there is no call for inspection or if mitigation is determined to be incomplete. Second notice will 1) direct compliance and call for inspection within a stated timeframe, and 2) state City's intent to initiate legal action if compliance is not achieved within that timeframe.
- If no call for inspection or failure to comply with second notice, initiate legal action.

6. Progressive enforcement

- In addition to other legal remedies, utilize civil penalties as a means to gain compliance and discourage recurrence of a violation.
- Amount of civil penalty to be based on factors pertinent to the violation and party responsible, including:
 - Prior violations at property/by responsible party
 - Prior history of responsible party in resolving violations
 - Severity of violation
 - Level of responsible party intent to violate

7. Appeals:

- Code compliance system to provide an avenue for appeal of a determination of violation.
- Appeal process will consider appeals of technical and administrative matters.
- Appeals will be heard by a Hearings Officer.

Examples
Operational Guidelines & Compliance Processes
Housing & Neighborhood Services Division
Corvallis Livability Code

The following guidelines are established for clarifying HNS Staff interpretation of processes, terms and phrases that are utilized within the Corvallis Livability Code (CLC). These are operating guidelines. The intention is to provide guidance for the equitable, prudent, and consistent application of Staff discretion in the face of a wide range of situations and circumstances. Some of the clarifications are made by providing an explanation of a codified definition or code specific term, which are also operating guidelines intended for the same purpose.

Administration

1. **Section 9.02.7 Director:** The CLC prescribes the responsibility for implementation and enforcement of the CLC to the position of the Director. The term 'Director' is defined within the CLC. The term is utilized within the code to designate the obligation or opportunity for the performance of an administrative action to occur in the routine enforcement or interpretation of the code. As defined and when read in conjunction with CLC Section 9.02.7, the term establishes specific assignment of those responsibilities to the position of the Community Development Director. However, both the definition and the provisions of CLC Section 9.02.7 stipulate that the Director may appoint staff for the express purpose of administering and enforcing the code and that a designee may be appointed to exercise all the powers of the Director, with respect to the CLC.
2. **Extension from Abatement Deadline; General:** The responsible party may request an extension of the deadline for resolution of the full abatement requirements:
 - a. The request must be submitted to HNS in writing;
 - b. The request must be received by HNS prior to expiration of the established deadline;
 - c. The request must explain the extenuating circumstances and be supported by relevant documentation;
 - d. The request must include the name and phone number of the contractor(s) who is engaged in or who is under agreement for performing the abatement work.

Staff may extend the deadline for up to seven calendar days from the date of the established deadline if the reason for the lack of completion of the required abatement is due to repairs being in-progress; or, is due to unavoidable difficulty coordinating schedules with appropriate trade professionals. Staff will make direct contact with the contractor(s) to confirm reports of progress or that work is pending.

3. **Section 9.02.14 Extreme Hardship:** As provided for under CLC Section 9.02.14, an owner or occupant may make application to the Director for a modification or variance of the provisions of the code when adherence to the code provisions would result in an extreme hardship. The process contemplates circumstances that are more severe than just a financial impact. Similarly, this is not a process for seeking an extension, a stay or an appeal of an abatement order as those matters are addressed under separate processes. Requests for a modification or variance of a code provision are only applicable in situations when the strict application of the code standard is unachievable but the deficient condition might be mitigated through other means.

Applications for a modification or variance of the provisions of the code must:

- a. Be submitted to the Director in writing;
- b. Be received by the Director prior to expiration of the established deadline;
- c. Clearly and fully explain the specific circumstances of the extreme hardship;

- d. Be supported by relevant documentation such as statements or reports from qualified professionals, where applicable;
- e. Clearly and fully explain how the deficient condition could be mitigated by other means while still meeting the spirit and intent of the law;
- f. Demonstrate explicitly how the public health, safety and welfare would be assured under a modification or variance of the code.

In recognition that requirements to achieve code compliance may affect unanticipated financial hardship on property owners, Staff will provide to all property owners, concurrent with service of a Notice of Violation for any condition requiring repair or alteration of a structure, published information explaining existing rehabilitation assistance loan programs.

Scope of Investigations

1. Livability Code compliance responses will be complaint driven. Complainants must identify themselves, but may request to remain confidential. Anonymous complaints will not be accepted.
2. The scope of any site investigation shall be limited to the specific subject matter of the complaint, as it was filed; however, life and safety concerns observed in the course of investigation shall be documented by Staff and promptly reported to the Supervisor.
3. If, in the course of Staff conducting a site investigation, the party who filed the complaint under investigation requests expansion of the scope of the investigation to include additional elements that do fall under the Program purview, such party shall complete and sign the "Request to Expand Scope of Investigation" section on the Field Investigation Checklist, CC-FORM-2;
 - o Before proceeding under a field expanded scope, Staff shall confirm the authority of the requesting party to provide consent to access the specific location;
 - o Staff may decline to proceed with a request for field expanded scope.
4. If, in the course of Staff conducting a site investigation, the party who filed the complaint under investigation requests expansion of the scope of the investigation to include additional elements that do not fall under the Program purview, Staff will direct the party to the pertinent resource(s), if available.

On-site Investigation

1. Site visits: Prior to staff visiting a property for the purpose of performing an investigation into a livability code issue filed by a tenant-complainant that pertains to elements of the structure or amenities of a dwelling, staff shall:
 - determine that the reported issue is covered by the City's livability code;
 - attempt to inquire of a tenant-complainant if they have communicated the concern to their landlord, and, if the tenant-complainant has not, recommend that they do so following a prepared script.
2. Staff shall obtain and document consent to enter upon private property in accordance with CC-POL-2 & CC-POL-3, utilizing CC-FORM-1
3. Staff shall obtain or seek to obtain photographs of the relevant matter under investigation in accordance with CC-POL-1
4. Under no circumstances will staff be on-site without the presence of a tenant-complainant, or such party's agent.

5. For routine complaint matters, the inspection shall occur during normal business hours.
6. Staff shall not enter a private dwelling unit if only a minor person is present.

Compliance Actions

1. Preference is for Staff to provide a written correction notice in the field for confirmed violations at Single Family and Duplex structure properties when any documented offense is attributable to an occupant as the responsible party, and the occupant is accessible.
 - o Correction notices shall include:
 - o Address of subject matter location;
 - o Name, if known, of responsible party or of person with whom the correction notice is left;
 - o Applicable code citation by section number;
 - o Brief explanation of the conditions of violation;
 - o Statement of specific corrective action;
 - o Deadline for compliance, consistent with CC-POL-9; and
 - o Name of Staff providing correction notice.
2. Staff shall provide a Notice of Violation to responsible party for all confirmed violations at all properties that are other than Single Family and Duplex structure properties, and in situations involving a landlord or property owner as the responsible party pertaining to any building occupancy or property use type .
 - a. Exception: In the event that the property owner, Landlord, or person responsible for the property is present at the location at the time of the staff inspection and confirmation of a violation, staff will provide a correction notice, as described above, to such person(s).
3. Staff shall provide a Notice of Violation to responsible party for all confirmed violations at all properties, regardless of type or use, when noncompliance with a field issued correction notice is confirmed.
4. A Notice of Violation shall be processed in accordance with CLC 9.02.26 and CC-PRO-3, utilizing applicable CC-FORM.
5. Notwithstanding a deadline established under a field issued correction notice, a deadline for compliance with an initial Notice of Violation shall be established consistent with CC-POL-9 and CLC 9.02.26(d)(i).
6. Upon confirmation of noncompliance with a Notice of Violation:
 - o Staff shall prepare a Final Notice of Violation and Civil Money Penalty to responsible party;
 - o Staff shall submit a report, including the Case Record documentation and the prepared Final Notice of Violation and Civil Money Penalty, to Supervisor for review;
 - o A Final Notice of Violation shall be processed in accordance with CC-PRO-3, utilizing applicable CC-FORM;
 - o Final Notice of Violation will:
 - o State that the prior deadline has elapsed
 - o State that the matter may be referred to the CAO for prosecution after 10 business days, unless otherwise provided for per CLC.
 - o Notice of Civil Money Penalty established consistent with CC-POL-11 shall be provided concurrent with Final Notice of Violation.
 - o Supervisor shall review Staff report and either sign-off approval or provide written direction for alternative Staff follow-up.

7. When staff issue a correction notice under Items #2, 3 & 6 of this section and if a property manager or a neighborhood association has an email address on file with HNS Housing Program, staff will send to the listed email account, for either or both entity, a link to the electronic archive containing the copy of the Notice of Violation.
8. Staff may issue a citation for infraction or misdemeanor offenses at any time after confirmation of an offense of the code;
 - o Staff shall submit a report, including the Case Record documentation and the prepared Final Notice of Violation and Civil Money Penalty, to Supervisor for review;
 - o Supervisor shall review Staff report and case documentation, shall engage in any additional research or investigation at discretion, and shall submit a cover memo report to Manager recommending proceeding with or tabling the matter;
 - o Manager shall provide Supervisor direction in writing whether to proceed or to table the matter;
 - o If issuance of citation is directed, Supervisor shall coordinate with CAO and CPD.
9. Staff may seek assistance of CAO for initiation of legal proceedings at any time after confirmation of an offense of the code.
 - o Staff shall submit a report, including the Case Record documentation and the prepared Final Notice of Violation and Civil Money Penalty, to Supervisor for review;
 - o Supervisor shall review Staff report and case documentation, shall engage in any additional research or investigation at discretion, and shall submit a cover memo report to Manager recommending proceeding with or tabling the matter;
 - o Manager shall provide Supervisor direction in writing whether to proceed or to table the matter
 - o If proceeding with matter is directed, Supervisor shall coordinate with Senior Staff, City Manager, Manager and CAO for further action.

Interior Conditions

1. **Measuring Light Levels:** Light levels may be measured in Footcandles or in Lux and may be reported concurrently or interchangeably.
 - i. **1 Lux = 0.0929 FC**
 - ii. **1 FC = 10.76 Lux**

Staff will confirm the amount of light present at any given location by use of a standard light level meter (light meter) with one light sensitive cell that measures the incident light. Staff will make a reading by exposing the light meter sensor to the desired environment at the location, and will log the reading displayed. All readings will be recorded by notation specifically describing the location at which the reading was made, the distances from walls, corners, floors, and any unusual horizontal or vertical projections. For readings that report a deficient light level, per code standards, staff will make three additional readings within three feet of the location with 90 degree body rotations around an axis using the bearing of the initial reading as '0' for each reading.

2. **The Means:** This term applies to level of requirement imposed on the Landlord regarding illumination in structures containing dwelling units and in dwelling units. The standard pertains to illumination of Accessible Means of Egress, which, in the context of this term, are located within dwelling units (illumination of common areas is addressed under separate standard). In evaluating conformance with the standard, Staff shall evaluate situations to determine if the Landlord has provided components of the electrical system sufficient for an

occupant to obtain the minimum levels of illumination. A variety of installations and configurations could provide *the means* for adequate lighting under the standard, including switch controlled light fixtures and, in some rooms and spaces, switch controlled outlets. It is understood that permanently installed light fixtures will be provided in hallways, stairways, toilet rooms or compartments, kitchens, bathrooms, laundry rooms, and boiler rooms and furnace rooms; however, it is assumed that occupants will provide lamps or other portable fixtures to meet their artificial lighting needs when natural lighting does not exist in other rooms or spaces.

- 3. Reasonably Free from Dampness:** This term applies to maintaining humidity and moisture conditions at levels that are not conducive to decay, mold growth, or deterioration of a structure. The locations contemplated for which staff might need to evaluate compliance with the standard include structures containing dwelling units, their basements and attics. In evaluating the conditions within each of the locations, Staff will observe surfaces of structural members, floor, wall and ceiling coverings, fixtures, appliances and furniture for the presence of *active* mold, mildew or deterioration. Sensory indications that will facilitate such observations are odors; visual manifestations that might involve colors, textures or patterns; and tactile indications of slick or crumbling surfaces. Although significant effort might be required to access specific locations or surfaces, such as behind or beneath furniture or appliances and in attics, Staff will neither engage in, nor require, destructive measures to expose any enclosed or concealed space.
- 4. Peeling, chipping, flaking or abraded paint:** Pertains to the Landlord's responsibilities to maintain interior surfaces, including windows and doors, of any dwelling unit let that is rented, leased or let for occupancy. Such deficiencies shall be abated (repaired, removed or covered).
- 5. Approved:** This term appears in context where measures other than those specified in a code or standard may be considered in lieu of or as alternatives to the specified standard. Whenever this term is used, it intends that only the enforcing authority can accept a specific installation or component as complying with the code. In circumstances where such installations or components are encountered by Staff or proposed by any Landlord, Staff will take the matter under advisement prior to reaching a determination. Staff may rely on past practice; may consider the expertise of others, including certified specialty inspectors or plans examiners; and, may consider reports provided via a Landlord from private contractors licensed to perform work in the particular discipline or reports from architects or engineers licensed in the state of Oregon, if provided by a Landlord. Staff shall submit a summary of their evaluation, including a recommendation for acceptance or rejection of approval, to the Code Compliance Supervisor. The Code Compliance Supervisor shall review the Staff report and prepare a cover letter noting formal recommendation for acceptance or rejection of approval, which along with the Staff report shall be submitted to the HNS Division Manager for final determination
- 6. Capable of Producing 0.35 Air Changes per Hour:** This term applies to the provision of mechanical ventilation. The standard pertains to every bathroom and toilet room or compartment. In evaluating conformance to the standard, Staff shall first determine if the mechanical device is functioning properly. If the device does not appear to function properly, Staff shall require the Landlord to replace the mechanical device, in accordance with Oregon Mechanical Specialty Code, or to obtain and submit a performance evaluation confirming conformance with the standard, prepared by a Mechanical Contractor licensed in the state of Oregon. Indications that the device might not function properly could include sounds of grating or failing components; sounds or visible indications of slow revolution of exhaust fan or of obstructed exhaust ducting or discharge; excessive heat generation to touch on the device; and, odor of or visible indication of burnt electrical or mechanical components.

If the mechanical device appears to function properly, Staff shall refer to the manufacturer's specifications for the mechanical device, where available, to confirm the cubic feet per minute (*cfm*) of ventilation rated for the device. A calculation of the Air Changes per Hour will be calculated from the formula:

$$n = 60 q / V \quad \text{where}$$

$$n = \text{air changes per hour (1/h)}$$

$$q = \text{fresh air flow through the room (Cubic Feet per Minute, cfm)}$$

$$V = \text{volume of the room (Cubic Feet)}$$

7. **Exposed or Concealed:** This term applies to surfaces that are required to be free from material or conditions that are conducive to the growth of mold or mildew. The standard pertains to maintenance of a clean and sanitary condition within the interior of every structure containing a rented or leased dwelling unit. In this context, the term is understood to mean those surfaces within the dwelling unit that are accessible for observation without resort to destructive measures or the deconstruction of floor, wall and ceiling assemblies, affixed cabinets or installed plumbing fixtures. *Exposed* is understood to mean any surface that is accessible to observation without requiring alteration or manipulation of the circumstances encountered on the part of the observer. *Concealed* is understood to mean a surface that is obstructed from observation, such as due to doors (cabinet, closet and room), furnishings, appurtenances, or the personal possessions of the occupants, but for which the surface would otherwise be *exposed* for observation. In evaluating the interior of a dwelling under this term, Staff may engage in, or obtain assistance for, such efforts as opening cabinet and cupboard doors and drawers to observe the surfaces that are concealed within those compartments; opening closets and removing stored possessions; moving furniture; and, removing thumb screws or hasps from utility hatches or compartments and from mounted light fixtures and ventilation grilles intended for user maintenance access. Staff shall not engage in destructive measures or resort to the utilization of tools, other than their hands, in order to *expose* any *concealed* surface, nor shall they require others to implement such practices.
8. **Substantially Impervious to Water:** This term applies to floor surfaces in every toilet compartment, bathroom and kitchen. The standard pertains to maintenance of a clean and sanitary condition of floors in the listed locations, a condition which is clarified within the relevant Section to mean, in part, free from any material or condition that provides a surface conducive to the growth of mold or mildew. The presence of moisture within materials or on their surfaces is a prerequisite for conditions which are conducive for the growth of mold or mildew. Therefore, the intent of the standard is interpreted to specify a surface that provides a barrier to the passage of water and one that is itself nonabsorbent. In the context of this standard, *impervious* is understood to mean not allowing passage into or through, and *substantially* is understood to mean a state of being largely, but not wholly, that which is specified. The term is taken to mean that the floor surface does not absorb or allow water to pass through it, as nearly as can be determined.

In evaluating conformance of a floor surface to this standard, Staff will observe for indications that there is no discernible passage of water into or through the particular flooring material. Sensory indications that will facilitate such observations are: visible water staining of the floor material; visible heaving or expansion of substrate, particularly at junctures of floor material to fixtures or walls; tactile indications of saturation; and odors of mildew and mold when the growth of such organisms is not otherwise visible. In the absence of such sensory indications, conformance to the standard will be demonstrated if a particular floor material surface does not absorb, or allow to pass through it, a drop of water (1-2ml) within 10 minutes under ambient room conditions. Under no circumstance shall Staff damage or destroy the floor surface or floor

materials, or probe the floor surface with any tool other than their own fingers. Moisture meters will not be utilized by Staff for the purposes of confirming compliance or noncompliance with the standard.

Exterior Conditions

1. **Exterior Walls & Exposed Surfaces:** There are several aspects to be evaluated by staff in formulating a determination of any necessary abatement scope and the time allowed when the required protective coating of weather-resistant preservative on the exterior surfaces of a structure is less than substantially impervious to the adverse affects of weather. Notice of required corrective action shall be provided to the responsible party, either as a field inspection report or a notice of violation, stipulating the scope and the deadline for abatement. The responsible party may request an extension of the deadline for resolution of the full abatement requirements, as specifically described within these guidelines.

With respect to formulating a scope of abatement, staff will consider: (1)the degree of surface treatment degradation that has occurred such as number and size of delaminations, including depth of penetration into the substrate and the total affected area; (2) the relative aspect of exposure (south facing, under an eave or porch awning, rake or fascia board, bottom course, etc); (3) the sequencing of associated improvements or alterations; and, (4) the applicability or exhaustion of the use of temporary measures, consistent with CLC Section 9.02.73.

With respect to establishing timeframes for achieving abatement as scoped, staff will consider: (1) the time of year; (2) the scope of abatement; (3) the sequencing of associated improvements or alterations; and, (4) the extent of any adverse impacts already incurred. In general, deficiencies under the CLC Sec. 9.02.69(a & d) provisions that are confirmed in wet weather conditions will be directed to achieve abatement with accommodation for time that provides continuation into dry weather sufficient to allow achievement of drying, surface preparation and treatment application. It is anticipated that minor deficiencies confirmed during dry weather conditions will be directed to achieve abatement within the period of the dry weather season, unless specifically coordinated with the responsible party.

Outreach and Education

As the Livability Code is finalized and adopted by the Corvallis City Council a program of community education and outreach will be implemented by the Housing and Neighborhood Services Division. Areas of focus will include:

- Physical standards and maintenance requirements of the Livability Code;
- Options for filing complaints;
- Housing and Neighborhood Services Division approach to seeking code compliance;
- Penalty provisions and imposition guidelines.

TO: Administrative Services Committee for October 21, 2015
 FROM: Karen Emery, Director Parks and Recreation *KE*
 DATE: October 12, 2015
 THROUGH: Mark W. Shepard, P.E., City Manager *MWS*
 SUBJECT: Majestic Theatre Quarterly Review – 4th Quarter FY 14-15



Action Requested:

No action required, for information only.

Discussion:

At the November 17, 2014 meeting, City Council directed Parks and Recreation Department (PRD) staff to operate the Majestic Theatre for two years commencing January 1, 2015. It was stated that General Fund subsidy will be \$10,000 or less annually. Additionally, PRD staff is required to provide quarterly reports to Council on Majestic Theatre’s operational performance and new model findings.

The table below provides revenue and expenditures for Majestic Theatre’s fourth quarter of operations:

Income Statement - Parks & Recreation Department - Majestic Theatre Division						
	FY 14-15				FY 13-14	
	Amended Budget	June	FYTD	% of Amended Budget	June	FYTD
Revenue						
Licenses, Fees & Permits	\$0	\$0	\$12	0.00%	\$0	\$0
Charges for Services	106,230	19,907	174,761	164.51%	15,558	93,351
Intergovernmental	-	-	-	0.00%	-	-
Fines & Forfeitures	-	-	-	0.00%	-	-
Miscellaneous Revenue	99,270	5,906	35,919	36.18%	12,656	75,935
Total Revenue	\$205,500	\$25,813	\$210,692	102.53%	\$28,214	\$169,285
Operating Expenditures						
Personnel Services	\$99,190	\$23,323	\$100,395	101.21%	\$10,955	\$65,730
Non-Personnel Services	106,310	16,191	112,950	106.25%	14,963	89,779
Materials & Supplies	-	(9,197)	33,839	-	4,757	28,542
Services	106,310	19,983	61,059	-	7,872	47,230
Utility & Overhead	-	5,405	17,977	-	2,216	13,293
Training & Conference	-	-	75	-	119	714
Capital Outlay	-	-	-	0.00%	-	-
Total Operating	\$205,500	\$39,514	\$213,345	103.82%	\$25,918	\$155,508
Total Expenditures	\$205,500	\$39,514	\$213,345	103.82%	\$25,918	\$155,508
Use of Reserves: Endowment Interest	\$2,400	\$2,653	\$2,653	110.54%	\$0	\$0
Net Income (Loss)	\$2,400		\$0			\$13,777

*Data from Majestic Theatre Management, Inc. FY 13-14 financial statements; provided here for half-year comparison purposes only.

Revenue Highlights

Revenues ended at 102.53% of budget for the year. This was due to higher than anticipated revenue in Charges for Service resulting from the addition of several events that had not been planned when the original budget was created.

Expenditure Highlights

Operational expenditures ended at 103.82% of budget for the year. After the interest earnings from the endowment were applied, the year ended budget neutral.

The negative amount in Materials & Supplies for June is due to reallocating various building maintenance projects and one-time equipment expenditures to Parks and Recreation Department General Fund, as depicted in the adjacent table. The rationale for these adjustments was that the expenses should not be included in the operating budget as they were required to bring the theatre to a minimum level of safety and functionality after years of neglect. These repairs and facility improvements will not be recurrent and future improvements will be included in the Department's Building Maintenance plan. The Department re-prioritized its existing projects to accomplish what was necessary at the theatre.

Parks & Recreation Department Majestic Theatre Non-Majestic Division Expenditures	
	As of June 30, 2015
P&R / Administration-Computers	\$ 3,120
P&R / Special Projects-Maint & Equip	20,417
Total	\$ 23,538

Balance Sheet Highlights

Balance Sheet - Parks & Recreation Department Majestic Theatre Division	
	As of June 30, 2015
Assets	
Investments - Endowment	\$ 425,239
Investments - Endowment Interest	2,479
Receivables	1,413
Total Assets	\$429,131
Liabilities	
Accounts Payable	\$ -
Deferred Revenue	288
Other Liabilities	-
Total Liabilities	\$288
Net Position (Equity)	\$428,843

The endowment is currently \$425,239 which has earned \$2,643 in interest this year. This latter amount, when combined with FY 13-14 interest earnings previously reserved, leaves a 6/30/15 ending balance of \$2,479 after applying \$2,653 toward operating costs. Another item to highlight is the deferred revenue. This is income from ticket sales during the quarter for a show that will occur in the future. Although only \$288, it is important to be aware of deferred revenue in the event a show cancels, since this revenue will need to be refunded.

Update on New Model for Operations

With two quarters past, it is too early to determine a recommendation for operations of Majestic Theatre once Parks and Recreation Department's two year tenure expires, but the results so far are promising, despite the one-time costs required to redress the neglect of the previous decade. Thus far City management of the theatre has been well received and considered an improvement from previous administration with the focus being on community arts efforts and inclusion of as many user groups as possible.

Financially, the model is performing as expected, with dramatic gains in the Charges for Service revenue category (164.51%) that corresponds with the facility being used primarily for productions rather than rentals. Staff plans to continue to further develop programming for the theatre in FY15-16. A strategic giving campaign is planned for Fall 2016 with the goal of increasing contributions to the theatre by 100% in FY 15-16. Consequently it is expected that a supplemental budget will need to be adopted as the growth of operations exceeds the original budget. Additional staff has been hired to accommodate new programs developed by staff and a higher standard of service has been implemented to further improve operations, revenue, and user experience.

Staff continues to hold monthly public forums to stay in contact with the user base and has through these efforts generated an ad hoc stakeholder group. Additionally, Corvallis Community Theatre, an organization that had become inactive due to conflicts with former Majestic Theatre Management, has been re-established as Majestic Community Theatre and in a short period has garnered over 100 members to its ranks. This group is yet another stakeholder group that staff uses for input and guidance as to the community's goals for the theatre.

TO: Administrative Services Committee for October 21, 2015
FROM: Carla Holzworth, City Recorder
DATE: October 8, 2015
THROUGH: Mark W. Shepard, P.E., City Manager *MWS*
SUBJECT: Council Policy 4.14, "City Hall Plaza"



Action Requested:

Staff recommends amending Council Policy 4.14, "City Hall Plaza" to reflect the addition of a new kiosk that was recently installed in front of City Hall.

Discussion:

Council approved amendments to the Policy last February to remove references to the old City Hall kiosk, which had been relocated to the Benton County Fairgrounds. Policy updates are proposed to reflect guidelines for use of the new kiosk.

The old kiosk was constructed in 1999 with funds provided by the Madison Avenue Task Force (MATF). The exterior had four plexiglass panels which were used to display Council agendas and other City information, as well as non-profit event posters and other notices of community interest. A small interior space was available for non-profits who wished to sell goods or promote events, but it was rarely used. MATF's request to move the old kiosk was approved by the City Manager (Jim Patterson at the time) based on the kiosk's rare interior usage and because MATF funded construction of the kiosk in the first place.

Public Works staff worked with MATF member David Livingston to identify a replacement kiosk that was acceptable for the Madison Avenue corridor and in concert with other signs installed as part of the City's way finding sign project for the City Hall block area. The City paid for the new kiosk, which cost approximately \$2,400.

The new kiosk has only two plexiglass panels. Due to the reduced amount of space available to post information, the amended Policy proposes that postings are limited to City government information only. Non-profit organizations have always been able to post information on the community bulletin board at the Library, and they have been using this resource since the old kiosk was removed.

Budget Impact:

None.

	<p>City of Corvallis Leisure and Cultural Activities City Council Policy Policy # 4.14 Use of City Hall Plaza and Kiosk</p>	
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- Policy:** The plaza in front of City Hall is available for festivals, events, and public assembly. The kiosk is used to provide information about City government.
- Purpose:** This Policy establishes the process, rules, and regulations for the use of the City Hall plaza as a place for festivals, events, and public assembly, **and provides guidelines for use of the kiosk.**
- Guidelines:** The following guidelines govern the use of the City Hall plaza **and kiosk:**
1. Use of the plaza is allowed under the following conditions
 - a. The group or organization reserving **the** space in the plaza must first obtain a permit from the City Manager to ensure no conflict between users, **and who** must have the permit at the event.
 - b. The activity must not impede the passage of pedestrians through the area.
 - c. The City Manager may impose fees for the use of the plaza. If fees are established, **this they** shall be included in the annual fee review for City services.
 2. **Use of the panels in the kiosk is allowed under the following conditions**
 - a. **The kiosk will be used to post City government information, including official public notices.**
 - b. **Permission to post a notice must be obtained from the City Manager or designee.**
 3. Exceptions to these guidelines must be approved by the City Manager.
-
- Definitions:**
1. **Kiosk – the two-sided structure outside of City Hall used to post City-government information**
 2. **Official public notices – notices address City government activities**
- Responsibility:** City Manager: The City Manager has authority to establish guidelines for use of the kiosk and City Hall Pplaza, approve uses of the City Hall Pplaza, and assess fees for such use.
- Review/Update:** The City Recorder will prepare this Council Policy review every three years for Council approval.

Council Policy 4.14

Rev #	Name	Change Date	Character of Change
0		11-15-1999	Adopted
1		10-21-2002	Revised
2		10-17-2005	Revised
3		11-03-2008	Affirmed
4	E. Volmert	11-07-2011	Deleted "Guidelines for Use" (included in Administrative Policy 1.12); minor wording changes (4.h and Review/Update section).
5	C. Holzworth	02-02-2015	Deleted language associated with the kiosk, which was re-located from the plaza to the Benton County Fairgrounds.
6	C. Holzworth	__-__-2015	Added language to reflect guidelines for use of the new kiosk