



City of Tigard
Tigard Business Meeting - Agenda

TIGARD CITY COUNCIL, LOCAL CONTRACT REVIEW BOARD AND CITY CENTER DEVELOPMENT AGENCY

MEETING DATE AND TIME: November 22, 2011 - 6:30 p.m. Study Session; 7:30 p.m. Business Meeting

MEETING LOCATION: City of Tigard - Town Hall - 13125 SW Hall Blvd., Tigard, OR 97223

PUBLIC NOTICE:

Anyone wishing to speak on an agenda item should sign on the appropriate sign-up sheet(s). If no sheet is available, ask to be recognized by the Mayor at the beginning of that agenda item. Citizen Communication items are asked to be two minutes or less. Longer matters can be set for a future Agenda by contacting either the Mayor or the City Manager.

Times noted are *estimated*; it is recommended that persons interested in testifying be present by 7:15 p.m. to sign in on the testimony sign-in sheet. *Business agenda items can be heard in any order after 7:30 p.m.*

Assistive Listening Devices are available for persons with impaired hearing and should be scheduled for Council meetings by noon on the Monday prior to the Council meeting. Please call 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

Upon request, the City will also endeavor to arrange for the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters.

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 5:00 p.m. on the Thursday preceding the meeting by calling: 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

SEE ATTACHED AGENDA

VIEW LIVE VIDEO STREAMING ONLINE:

<http://www.tvctv.org/government-programming/government-meetings/tigard>

CABLE VIEWERS: The regular City Council meeting is shown live on Channel 28 at 7:30 p.m. The meeting will be rebroadcast at the following times on Channel 28:

Thursday	6:00 p.m.	Sunday	11:00 a.m.
Friday	10:00 p.m.	Monday	6:00 a.m.



City of Tigard
Tigard Business Meeting - Agenda

TIGARD CITY COUNCIL, LOCAL CONTRACT REVIEW BOARD, AND CITY CENTER DEVELOPMENT AGENCY

MEETING DATE AND TIME: November 22, 2011 - 6:30 p.m. Study Session; 7:30 p.m. Business Meeting

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6:30 PM

• STUDY SESSION

- A. Discussion of Banking Services Contract
- B. Identify Preliminary Legislative Priorities for the 2012 Oregon Legislative Session

- EXECUTIVE SESSION: The Tigard City Center Development Agency will go into Executive Session to discuss real property transaction negotiations and the Tigard City Council will go into Executive Session to discuss pending litigation with legal counsel under ORS 192.660(2) (e) and (h). All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

7:30 PM

- 1. BUSINESS MEETING
 - A. Call to Order
 - B. Roll Call
 - C. Pledge of Allegiance
 - D. Council Communications & Liaison Reports
 - E. Call to Council and Staff for Non-Agenda Items
- 2. CITIZEN COMMUNICATION (Two Minutes or Less, Please)
7:35 p.m. - time is estimated
 - A. Follow-up to Previous Citizen Communication
 - B. Citizen Communication – Sign Up Sheet

3. PROCLAMATION - PROCLAIM DECEMBER 4-10 AS HUMAN RIGHTS WEEK
7:45 p.m. - time is estimated
4. CONSENT AGENDA: (Tigard City Council and Local Contract Review Board) These items are considered routine and may be enacted in one motion without separate discussion. Anyone may request that an item be removed by motion for discussion and separate action. Motion to:
7:50 p.m. - time is estimated
 - A. Approve Council Meeting Minutes:

August 23, 2011
September 13, 2011
October 11, 2011
 - B. Local Contract Review Board:
 1. Contract Award - Hydro-geological Services Related to Aquifer Storage and Recovery Program
 - Consent Agenda - Items Removed for Separate Discussion: Any items requested to be removed from the Consent Agenda for separate discussion will be considered immediately after the Council/City Center Development Agency has voted on those items which do not need discussion.
5. UPDATE FROM THE PARK AND RECREATION ADVISORY BOARD (PRAB)
REGARDING A CITY RECREATION PROGRAM
7:55 p.m. - time is estimated
6. CONSIDER ADDITION OF FULLY FUNDED 1.0 FTE TRANSIT OFFICER TO POLICE
DEPARTMENT AND A RELATED BUDGET AMENDMENT
8:25 p.m. - time is estimated
7. DISCUSS AMENDMENTS TO CHAPTER 1.16 OF THE TIGARD MUNICIPAL CODE
8:30 - time is estimated
8. RECEIVE AND DISCUSS FINDINGS FROM THE 2011 COMMUNITY ATTITUDES SURVEY
9:10 - time is estimated
9. COUNCIL LIAISON REPORTS
10. NON AGENDA ITEMS
11. EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.
12. ADJOURNMENT
9:30 p.m. - time is estimated

AIS-685

Item #: A.

Business Meeting

Date: 11/22/2011

Length (in minutes): 5 Minutes

Agenda Title: Discussion of Banking Services Contract

Submitted By: Debbie Smith-Wagar
Financial and Information Services

Item Type: Update, Discussion, Direct Staff

Meeting Type:

Council Business
Mtg - Study Sess.

ISSUE

The City of Tigard's banking services contract has been in place for five years and staff is asking to use a permissive cooperative procurement process.

STAFF RECOMMENDATION / ACTION REQUEST

Request council agreement to bring banking contract to council using Lane County's contract and the permissive cooperative procurement method.

KEY FACTS AND INFORMATION SUMMARY

The City of Tigard currently has its primary banking services contract with US Bank. This contract provides a variety of services:

- General checking
- Merchant services (credit card processing)
- Lock box (automatic processing of check payments, primarily for utility billing)

Every five years the city is required to reevaluate the contract. Our five years are up, and the city needs to sign a new contract.

The city has been pleased with the service from US Bank. The bank's staff responds quickly to questions from city staff. US Bank consistently receives high ratings from web services that rate banks for safety, such as Bankrate.com. In addition, US Bank is the only bank with a lock box in Oregon. This is important as it allows our customers to mail payments to an Oregon address. We would like to continue with US Bank.

Staff is asking the LCRB to allow us to use the results of Lane County's formal Request for Proposal (RFP) and approve new banking services agreement with US Bank. Staff is also recommending the use of a permissive cooperative procurement, as authorized under ORS 279A.215 through the use of an existing Lane County contract and solicitation. The permissive cooperative procurement method allows the city to save on both staff time and materials when compared to a traditional RFP. This method is most fitting in this case as US Bank is the only potential proposer which has the local lockbox service in Oregon and conducting an RFP would most assuredly end with US Bank as the most responsible proposer.

If the council agrees we should move forward, our intent to award the contract to US Bank will be published giving potential vendors a chance to comment. A resolution to approve the award will then go on the December 20, 2011 consent agenda.

OTHER ALTERNATIVES

Staff could be directed to conduct a formal request for proposals.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

Financial Stability: hold the line on General Fund budget.

DATES OF PREVIOUS COUNCIL CONSIDERATION

This has not been considered by council before.

AIS-704

Item #: B.

Business Meeting

Date: 11/22/2011

Length (in minutes): 5 Minutes

Agenda Title: Discuss the 2012 Oregon Legislative Session and Its Potential Impact on Tigard

Prepared For: Kent Wyatt

Submitted By:

Kent Wyatt
City Management

Item Type: Update, Discussion, Direct Staff

Meeting Type:

Council Business
Mtg - Study Sess.

ISSUE

What should Tigard's legislative platform include for the 2012 Oregon Legislative Session?

STAFF RECOMMENDATION / ACTION REQUEST

Discuss legislative priorities for the 2012 session.

KEY FACTS AND INFORMATION SUMMARY

The 2012 Legislative Session will begin on February 1st and cannot exceed 35 days, according to the Oregon Constitution. Legislative leadership has restricted each member to two bills each, which will limit the session's scope. The session will focus mostly on the state budget and determining whether further cuts are necessary. City staff will monitor the session for budget-related legislation which may have an undue burden on cities.

House Bill 2712, passed in the 2011 session, is one legislative item which cities will closely monitor. The bill alters the distribution system for fines in Oregon courts, including municipal courts. One of the effects of HB 2712 is to require courts (including municipal courts) to remit to the state before any other distribution is made, either (a) \$60 or (b) the amount of the fine if the fine is less than \$60, in any criminal action in which a fine is imposed. Additionally, discussions among city officials have been inconclusive as to whether or not the legislation would require cities to turn over fine revenue from municipal code violations, including parking tickets.

City staff will update the City Council if other city-related legislation is introduced.

OTHER ALTERNATIVES

N/A

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

Work with state and regional partners to modify the Transportation Planning Rule.

Work with partners on urbanization policy issues.

Work with partners on long-range solutions to statewide structural problems.

DATES OF PREVIOUS COUNCIL CONSIDERATION

N/A

AIS-713

Item #: 3.

Business Meeting

Date: 11/22/2011

Length (in minutes): 5 Minutes

Agenda Title: Proclaim Human Rights Week

Prepared For: Joanne Bengtson

Submitted By:

Joanne Bengtson
City Management

Item Type: Update, Discussion, Direct Staff

Meeting Type:

Proclamation

ISSUE

Should Mayor Dirksen Proclaim December 4-10 Human Rights Week?

STAFF RECOMMENDATION / ACTION REQUEST

N/A

KEY FACTS AND INFORMATION SUMMARY

The text of the proclamation is attached. The request is for the City of Tigard to proclaim December 4-10 to be Human Rights Week and December 10, 2011, as Human Rights Day.

OTHER ALTERNATIVES

N/A

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

N/A

DATES OF PREVIOUS COUNCIL CONSIDERATION

Mayor issued this proclamation in 2010 at the request of the Washington County Human Rights Council.

Attachments

Human Rights Proclamation

Proclamation

City of Tigard

Human Rights Proclamation

WHEREAS, on December 10, 1948, the member states of the United Nations signed the Universal Declaration of Human Rights and countries of different political, economic and social systems unanimously agreed upon fundamental rights that all people share solely on the basis of their common humanity; and

WHEREAS, the Universal Declaration asserts recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace; and

WHEREAS, disregard for human rights have resulted in acts which have offended the conscience of mankind, and the advent of the world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people; and

WHEREAS, the Universal Declaration is referred to as the primary definition of human rights standards and increasingly referred to as customary international law, which all countries should abide; and

WHEREAS, the Human Rights Council of Washington County works to promote respect, dignity and mutual understanding for everyone within the community; and

WHEREAS, the primary responsibility to promote respect for these rights and freedoms lies within each individual in the City of Tigard, and by supporting the dignity and worth of the human person, residents can promote social progress and better standards of life;

NOW THEREFORE BE IT RESOLVED THAT WE, the City Council of the City of Tigard, Oregon do hereby proclaim

**December 4-10, 2011 to be HUMAN RIGHTS WEEK, and
December 10, 2011 as HUMAN RIGHTS DAY,**

and we encourage our residents to study and promote the ideas contained in Universal Declaration of Human Rights to the end that freedom, justice, and equality will flourish and be made available to all.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Tigard to be affixed.

Craig E. Dirksen, Mayor
City of Tigard

Attest:

City Recorder

AIS-727

Item #: 4. A.

Business Meeting

Date: 11/22/2011

Length (in minutes): Consent Item

Agenda Title: Approve City Council Minutes

Submitted By: Cathy Wheatley
Administrative Services

Item Type: Motion Requested

Meeting Type: Council Business
Meeting - Main

ISSUE

Approve Council Meeting Minutes:

August 23, 2011

September 13, 2011

October 11, 2011

STAFF RECOMMENDATION / ACTION REQUEST

N/A

KEY FACTS AND INFORMATION SUMMARY

Minutes are being drafted. Drafts not completed and attached to this agenda item summary by November 21 will be rescheduled for the next business meeting.

OTHER ALTERNATIVES

N/A

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

N/A

DATES OF PREVIOUS COUNCIL CONSIDERATION

N/A

Attachments

August 23, 2011 City Council Minutes

September 13, 2011 City Council Minutes

October 11, 2011 City Council Minutes



City of Tigard Tigard Business Meeting - Minutes

TIGARD CITY COUNCIL, LOCAL CONTRACT REVIEW BOARD

MEETING DATE AND TIME: August 23, 2011 - 6:30 p.m. Study Session; 7:30 p.m. Business Meeting

MEETING LOCATION: City of Tigard - Town Hall - 13125 SW Hall Blvd., Tigard, OR 97223

Mayor Dirksen called the meeting to order at 6:30 p.m.

<u>Name</u>	<u>Present</u>	<u>Absent</u>
Mayor Dirksen	✓	
Council President Buehner	✓	
Councilor Henderson	✓	
Councilor Wilson	✓	
Councilor Woodard	✓	

Staff present: Interim City Manager Newton, City Recorder Wheatley, Assistant Community Development Director Hartnett, Assistant to the City Manager Mills, Planning Manager Shields, Senior Management Analyst Wyatt, City Attorney Ramis, Community Development Director Bunch.

STUDY SESSION

A. Update on Code-Compliance Related Municipal Code Amendments

Assistant Community Development Director Hartnett and Permit Coordinator Shields were present to give City Council information on the status of the amendments being drafted for the Tigard Municipal Code regarding code compliance and abatement. Assistant Community Development Director Hartnett advised:

- It has been 13 months since she first reported to the City Council about the code compliance program and what staff was doing in response to elimination of the code enforcement position. Staff continues to make progress. As of July 1 one employee has a portion of his primary time assigned to the code compliance program.
- In July 2010, council asked staff to look into administrative abatement options and how to implement. Staff reviewed what other cities were doing and gave this information to City Council.

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- In February 2011, City Council gave staff specific direction for moving forward to develop the code language for code compliance.
- Staff reviewed the program from an administrative and operational standpoint. Additional goals were established on how the program would operate on a day-to-day basis. Staff has been looking to do things that will simplify, clarify, consolidate and reduce redundancy to the code provisions for nuisance violations. Assistant Community Development Director Hartnett reported on the challenges to attempting to simplify code language.
- The schedule for the next activities was reviewed. A public hearing was initially scheduled for September 13; however, this has been pushed back. Staff needs to have a detailed conversation with the City Council about some of the things being proposed by staff. Staff will hold a detailed conversation with the council on September 13 rather than holding a public hearing. The public hearing is now scheduled for October 25, 2011. After that, staff will give council an update on the program as a whole.
- Staff continues to work on efficiencies, working with the public and with staff to create systems that operate more smoothly in terms of response times and ability to rely on the public to provide information so staff can pursue some of these matters.
- Assistant Community Development Director Hartnett advised that on September 13, staff plans to provide the council the following:
 - The table of contents for a new Title 6. This new title will allow for nuisance violations to be consolidated in one place.
 - Staff will clarify some of the development-related violations. For example, some of the violations (vision clearance zone) are only stated in Title 18, which makes them sound as if they only apply when making application for a development. However, the city wants these provisions to apply all of the time. This will be clarified at the time the code amendments are presented to the council.
 - Administrative options will be proposed to be added to Title 1.16.
 - Administrative rulemaking has been added as a separate piece.
- In response to a question from Councilor Henderson, Assistant Community Development Director Hartnett explained that the administrative abatement is the option where, for example, there is a foreclosed home with tall weeds and grass and no owner can be identified. Staff would like to have the ability to initiate abatement of the tall weeds and grass through an administrative process so there would a delegation of that authority to the city manager or his designee. The city can only initiate abatement at this time under emergency conditions. Staff is reviewing collection options for charges owing to pay for the abatement work.
- Mayor Dirksen asked if there was an opportunity for the city to work through the Neighborhood Network to help neighborhoods become aware of how collectively problem areas of tall weeds and grass could be addressed. He envisioned things such as neighborhood competitions with awards; i.e., the best, the most improved, etc. Also he said there might be a way for neighborhoods to assemble volunteers to help address problems on foreclosed properties or to help disabled neighbors who are having a difficult time. Interim City Manager Newton said there are options under the current program. One of those options is that neighborhoods with active steering committees can qualify for a neighborhood cleanup event; funds can be used for dumpsters and organize

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a one-day area-wide clean up. She said the neighborhood could adopt, with the property owners' permission, a property that might need assistance to clean up their property.

- Council President Buehner referred to a situation along Walnut beginning at Gaarde Street. There is untended property between fencing and the sidewalk. She understands it is the responsibility of the property owner to take care of problems such as tall weeds and grass; however, she is unsure whether the code is clear enough. Assistant Community Development Director Hartnett said staff pursues these types of enforcement matters every year and often the offenders are the same people time after time. Assistant Community Development Director Hartnett said City Council asked the staff to consider how to address (in the fee structure) those situations where residents are relying on the code compliance services to remind them that they need to mow the grass, etc.
- Council President Buehner said there is a situation along Gaarde Street that is not being taken care of – she thinks this might be city property that was purchased when Gaarde was extended through to Walnut Street. Assistant Community Development Director Hartnett said she could take a look at the situation.
- Councilor Henderson asked about abatement and whether an individual could pay the City of Tigard to take care of areas such as right of way behind fences. Assistant Community Development Director Hartnett said one of the options being built into the new provisions would address a circumstance where a property owner could give the city permission to abate the nuisance and charge them. Volunteers could take care of the nuisance if the property owner gives permission. Mayor Dirksen confirmed with Councilor Henderson that his question was related to whether there could be an ongoing type of contract where the city would always take care of the maintenance – the mayor said he does not think this type of program is being proposed. Councilor Henderson said he would like to see a way for problems to be worked out before a resident is fined. Interim City Manager Newton reminded the council that part of the street maintenance fee will be allocated for right-of-way maintenance within the next couple of years for specific areas. There is no program in place now to offer abatement services upon request. Assistant Community Development Director Hartnett offered that staff could look at this type of program after the staff has completed the current code amendment project. Council President Buehner suggested running this program through the Neighborhood Networks. Mayor Dirksen pointed out that if the city was gearing up to do right-of-way maintenance on some streets, then an opt-in option could be considered.
- Mayor Dirksen said he considered the abatement option as it is now being proposed would be a last resort – used only when all other efforts have failed.
- Assistant Community Development Director Hartnett advised that when there is an identifiable property owner or responsible party, compliance is achieved quickly in 80 percent of the cases. For the 20 percent of the remaining cases, staff is trying to find more tools to respond. Sometimes people are unwilling to work with city staff and abatement would give them another option. Other times, people are experiencing life situations, which have contributed to the code compliance issues. When people find themselves in these situations, they often appreciate that staff could, with their permission, move towards an abatement approach.
- Councilor Woodard agreed with an abatement approach as long as there were other remedies available prior to implementation of abatement.

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- Assistant Community Development Director Hartnett reviewed the layers of the Code Compliance Program:
 - The code that gives authority.
 - The administrative rules that flesh out the operational level for implementing the code.
 - The standard operating procedures defining the step-by-step actions; i.e., the first telephone call, the first letter, a follow-up telephone call, etc.
- Councilor Woodard referred to a previous discussion by the City Council and the fact that the economy still has not improved that much. His concern was that the city not enter into the “lien business” contributing to a situation where someone might lose their home. Council President Buehner purported that this would not occur since a lien is collected at the time a property is sold. Assistant Community Development Director Hartnett said staff would provide City Council information on the effect on property, under the proposed Code Compliance Program, prior to the public hearing.
- Council President Buehner noted that many communities, including Tigard, are looking to accommodate an aging population. As the code amendments or administrative rules are drafted, Council President Buehner said we should think about how we can address this issue.

B. Review and Discuss Topic Areas for 2011 Community Attitudes Survey

Interim City Manager Newton introduced this item. The survey is conducted every other year and one is scheduled is to be taken this October. Staff requests input from the council about topic areas for the questions. The survey will be presented to the council for review before it goes out.

Senior Management Analyst Wyatt advised staff is soliciting quotes for a consultant to perform the survey at this time. Key points of the discussion with council include the following:

- The survey will contain about 20 baseline questions, with three to five topical questions added.
- In 2009 two topical questions were asked:
 - Traffic – Should Pacific Highway be widened? Answer: Yes
 - Population growth – Where should it go? Answer: Away from developed areas.
- In 2007 the topical questions included gas tax, water source, and recreational programs.
- Executive staff members met last week to brainstorm ideas on the survey. A summary of this staff discussion was forwarded to the council in an August 19, 2011, memorandum from Senior Management Analyst Wyatt; this memo is on file with the council packet material.
- Council President Buehner referred to the Community Plan for River Terrace (north and south) and that the city might want to include a question about what people think should be in the community plan. This is where we are looking for new development to occur and it will change the city substantially. Interim City Manager Newton

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referred to the Executive Staff list that touched on this topic – “Services needed west of Pacific Highway.” For example, does the city need a satellite library or a police substation – what services might be needed in this area.

- Councilor Wilson said the city has never asked its citizens what they think about light rail. The city is actively pursuing light rail, but there is only an occasional comment from the citizenry on this subject. He suggested that the question be probed a little deeper and ask those who are opposed to light rail whether they would support it if gas was \$5 per gallon or if it would help relieve congestion. He said he would guess the citizenry is less supportive of light rail than the City Council is; however, he honestly does not know how the community feels about this topic. Council President Buehner said it would be important that the citizens are also aware of the estimated increase of traffic of 50-60 percent within the next couple of decades.
- Councilor Henderson cautioned not to jump to the conclusion that light rail would be the only option for rapid transit. He would like to have a question to determine if the citizens know what rapid transit means. Councilor Wilson agreed and added the city should not represent that light rail was definitely going to happen. He suggested that a statement should precede the question; i.e., the corridor is being studied with a look at a range of options. Most likely the selected option will be light rail. Senior Management Analyst Wyatt said they have information obtained from the High Capacity Transit focus group with regard to potential questions. Councilor Wilson commented there might be negative comments expressed because of the federal deficit and the current economic climate might skew results somewhat – he said he would like to get past that. For example, if someone is opposed, ask why. Follow up with the question whether the respondent would be more in favor if the light rail would not add to the deficit. Senior Management Analyst Wyatt said the survey administrators are good at getting information on perception versus importance. If people are overwhelmingly opposed to light rail, Councilor Wilson said the city should rethink it. The alternative would be to do nothing. Council President Buehner said she hoped light rail would reduce the increase of traffic.
- Senior Management Analyst Wyatt said that citizens’ view that Tigard is a good place to live increased in its score from 7.4 to 7.8. There has been steady improvement throughout the years.
- Mayor Dirksen suggested a question be included regarding a recreation program as well as a question about economic development.
- Mayor Dirksen said a question about efficient use of city resources be asked. He said this could be asked if a citizen ranked a service below a certain point to determine what the citizen thought the city should be focusing on.
- There was discussion on the recreation programming feedback from the 2005 and 2007. Citizens supported hiking/biking trails and playing fields, but other recreational activities received a lukewarm response.
- Councilor Woodard commented on the neighborhood and the regional trail systems. He noted the trails are so well used that people are almost colliding into each other. He said he would be interested to determine what it is that people want now. Council President Buehner noted this is an interesting question because it affects

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environmental issues. She referred to her past discussions with Clean Water Services regarding trail widths (ADA rules) and the surface treatments.

- Interim City Manager Newton said in 2007 hiking and biking paths received 48 percent support; playing fields 45 percent; music programs/community gardens/fitness classes/arts and crafts received support in the 20 percent range. Council President Buehner reminded that there is a full recreation center opportunity for some areas of the community; i.e., Summerfield.
- Councilor Wilson said he thought it would be good to repeat questions in the same manner. Interim City Manager Newton noted the 20 baseline questions are the same from survey year to survey year. The topical questions are for specific issues currently before the City Council.
- Council President Buehner recalled there was controversy about how the questions were written for the recreational programming.
- Senior Management Analyst Wyatt said the Tigard survey will be statistically significant; that is, a valid representation of the citizenry.
- Councilor Wilson said it is important not to lead people so they can give “true answers.” Tradeoffs need to be acknowledged. Mayor Dirksen said there is an art to writing the questions properly so open responses are collected. Councilor Woodard asked about how the questions would be formulated. Mayor Dirksen said a professional consultant is hired to do this for the city; however, the City Council would also review the questions. Interim City Manager Newton said council reviews the questions to determine whether they might be skewed (leading) or if they are asked in such a way to solicit the information the council needs to make a decision.
- Councilor Wilson said his main concern is that there is a great deal of negative thinking now with the high unemployment, status of federal government, and budget deficits. The results might report a dip in customer satisfaction that has nothing to do with anything the city has done. Senior Management Analyst Wyatt said the question is rated by perception followed by a rating of “how important is it.”
- Councilor Woodard noted that the cost of the Tualatin Hills Park and Recreation District is great; however, the programs are fully utilized, which is an indicator of how important this programming is. School systems are unable to provide this service right now. He conjectured whether times have times have changed with families looking for opportunities for their kids to keep them busy in a positive way. The opinion poll might change depending on how the question is framed. Council discussed the fact that the district is there, so there is no option regarding whether or not a property owner will support it financially. In addition, Council President Buehner said part of the agreement, when the district was formed, was that the school district would back away from providing as much of the recreational services because it would now be offered by the district.
- Council President Buehner commented on the number of activities sponsored by the schools in Tigard now (specifically referring to Fowler Middle School). Councilor Wilson pointed out that Tigard also has an aquatic district now.
- Councilor Henderson said he proposed that the question on the photo red light be taken out.

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- Mayor Dirksen suggested that the brainstorming ideas offered by Executive Staff be included in the survey only if the City Council specifically mentions that it wants the idea formulated into a question.
- Council President Buehner and Councilor Wilson indicated they would want a question to be asked regarding funding the facilities plan. Councilor Henderson would like the question(s) in this area include a way to get feedback on sustainable practices to be used in building facilities.
- Interim City Manager Newton summarized the topics council wanted to include this survey year were: recreation, light rail, funding for the facilities plan/sustainable environmental practices, economic development, and the community plan for River Terrace.
- Mayor Dirksen said that relating to economic development, he would be interested to receive feedback relating to health of businesses and services for the city in general.
- Interim City Manager Newton said the Executive Staff discussion on economic development centered on whether people were able to get the services they need in Tigard or were there opportunities for certain business sectors to develop.
- Public/private partnerships were discussed by the council. Mayor Dirksen said he thought this topic might be too complex to ask in a single question.
- Councilor Wilson commented that there might be categories of services that Tigard citizens would like to have closer to home. Community Development Director Bunch said the Executive Staff discussed the fact that we have a lot of retail leakage in the community and suggested questions such as:
 - Can you get your goods and services (durable and frequently recurring) close to home?
 - Do you have a job – available employment? This last question is “tricky” because we export about 90 percent of our workforce and import 90 percent within. Economic development is a regional issue. Community Development Director Bunch concluded by saying it would be good to determine if the “circulation of the dollar” is occurring within the community three or four times as opposed to once or twice. Councilor Wilson commented that Tigard has higher sales per capita than any other city in Oregon. He said he would like to see more of certain types of businesses in Tigard but was unsure whether the city should play a vital role in this area – what could we do with that information?
- Councilor Woodard asked if there would be a way to pose a question to determine if people like the “destination” businesses; i.e., Bridgeport Village and Al’s Bowling. Council President Buehner said she thinks Tigard has plenty of this type, noting Tigard also has Washington Square and a number of big box stores. Interim City Manager Newton said she was hearing the City Council say that if this question was asked, they would be unsure of what to do with the information, so it would not be a question to ask in a survey.
- Senior Management Analyst Wyatt asked the council to send staff any other ideas they might come across. The questions will be crafted in early September, the survey conducted in October, and a report of the results to the City Council in late November.

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C. Administrative Items:

- Information for tonight's business meeting:
 - Revised Exhibits A and B (Legal Description and Maps) for the draft ordinance relating to Agenda Item No. 5, River Terrace Annexation, were distributed to City Council. This was the same information delivered with the August 19, 2011, City Council newsletter.
 - August 16, 2011, letter from Washington County Commissioner Roy Rogers supporting the City of Tigard's River Terrace Annexation, Agenda Item No. 5, was distributed to City Council. A copy was also delivered with the August 19, 2011, City Council newsletter.
 - Associate Planner Caines distributed supplemental findings from the City Attorney's office and a revised ordinance which adds these findings as an exhibit. These findings build upon the staff's findings and are written as findings by the City Council and can be adopted with the ordinance under consideration tonight. City Attorney Ramis said that typically the City Council would hold the public hearing and do a "tentative vote" giving staff direction. Staff would then write findings and return to the City Council for a "final vote." The city attorney's office is saving a step by preparing the findings ahead of time, which will enable the City Council to take a final action tonight by relying on these findings. City Attorney Ramis confirmed Mayor Dirksen's comment that the City Council might receive public testimony with new information that would cause the staff to recommend amending the proposed findings; the "final vote" would be delayed so the amended findings could be prepared for council review and consideration.

- Preliminary layouts for the Barbur ramps, State Transportation Improvement Program (STIP) projects were distributed to the City Council. Interim City Manager Newton reviewed the plans by Oregon Department of Transportation (ODOT).

- Interim City Manager Newton referred to a noise variance request and information relating to Oregon Department of Transportation work on I-5 to extend a fourth lane under Carman Drive/Upper Boones Ferry overpass. She intends on approving the variance.

- Interim City Manager Newton noted Oregon Department of Transportation (ODOT) is preparing to install a median to prevent a left-turn movement off Scholls Ferry Road to Washington Square.

- Interim City Manager Newton said there is a proposed closure of 72nd Avenue for a culvert installation tentatively scheduled for Labor Day weekend.

- Council Calendar:
 - September 11, 2011 - 9/11 Memorial Service, Young's Funeral Home, 1 p.m.
 - September 11, 2011 - City's 50th Birthday Party, Library, 2-4 p.m.
 - September 13, 2011 - City Council Business Meeting, Town Hall, 6:30 p.m.

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- o September 20, 2011 - City Council Workshop Meeting, Town Hall, 6:30 p.m.
- o September 27, 2011 - City Council Business Meeting, Town Hall, 6:30 p.m.

- EXECUTIVE SESSION: Not held.

Study Session concluded at 7:30 p.m.

1. BUSINESS MEETING - AUGUST 23, 2011

A. Call to Order: Mayor Dirksen called the meeting to order at 7:36 p.m. 

B. Roll Call

<u>Name</u>	<u>Present</u>	<u>Absent</u>
Mayor Dirksen	✓	
Council President Buehner	✓	
Councilor Henderson	✓	
Councilor Wilson	✓	
Councilor Woodard	✓	

C. Pledge of Allegiance

D. Council Communications & Liaison Reports: None 

E. Call to Council and Staff for Non-Agenda:

 Interim City Manager Newton advised there is a non-agenda item for a City Council discussion on the process to use for the selection of the city manager.

2. CITIZEN COMMUNICATION 

A. Follow-up to Previous Citizen Communication: None.

B. Citizen Communication – Sign Up Sheet – No one.

 Mayor Dirksen reviewed the consent agenda:

3. CONSENT AGENDA: (Tigard City Council and Local Contract Review Board)

A. Approve Tigard City Council Meeting Minutes:

1. June 21, 2011
2. June 28, 2011

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- B. Appoint David Brown as a Voting Member of the Park and Recreation Advisory Board
- Resolution No. 11-34

RESOLUTION NO. 11-34 -- A RESOLUTION APPOINTING DAVID BROWN
TO HIS FIRST TERM AS A VOTING MEMBER ON THE PARK AND
RECREATION ADVISORY BOARD (PRAB)

- C. Authorize the Reimbursement of Expenditures with Reimbursement Obligation
Proceeds - Resolution No. 11-35

RESOLUTION NO. 11-35 -- A RESOLUTION AUTHORIZING THE
REIMBURSEMENT OF EXPENDITURES WITH REIMBURSEMENT
OBLIGATION PROCEEDS

- D. Local Contract Review Board:

1. Approve the Purchase of Four Dodge Chargers from Withnell Motor Company and
Two Chevrolet Tahoes from Hubbard Chevrolet/GMAC for the Police Department
Fleet



Motion by Council President Buehner, seconded by Councilor Wilson, to approve the Consent
Agenda.

The motion was approved by a unanimous vote of City Council present.

Mayor Dirksen	Yes
Council President Buehner	Yes
Councilor Henderson	Yes
Councilor Wilson	Yes
Councilor Woodard	Yes



4. PROCLAIM SEPTEMBER NATIONAL RECOVERY MONTH
Mayor Dirksen issued proclamation.



5. QUASI-JUDICIAL PUBLIC HEARING - RIVER TERRACE ANNEXATION – ZONE
CHANGE ANNEXATION (ZCA) ZCA2011-00001

- a. Mayor Dirksen opened the public hearing.
- b.  City Attorney Ramis reviewed the hearing procedures
- c. Declarations or Challenges 

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Council President Buehner advised she is familiar with the area under consideration for annexation. She said she was involved when the original Community Participation Organization was established in the late 1990's. She said she has friends in the area. She also has clients in the area; however, she has not represented any of them in connection with this annexation.

Councilor Henderson said he has visited the site.

Mayor Dirksen said the site is well known to all. He reported he had some preliminary meetings regarding process with some of the property owners prior to applications being submitted to the city. He has not had contact with any property owners since the annexation process was started.

There were no challenges

d.  Staff Report: Community Development Staff

Associate Planner Caines presented the staff report:

- The River Terrace Annexation is an owner-initiated request.
- The area involves 43 properties and consists of approximately 230 acres.
- She reviewed a map of the area, pointing out the boundaries of the proposed annexation area.
- The south side of Barrows Road in the area proposed to be annexed was within the City of Beaverton boundary. The City of Beaverton has adopted the necessary legislation to de-annex this area so it can be annexed into the City of Tigard if the annexation is approved.
- The annexation request was because there is a lack of urban services in this rural area at present. Urban services are needed to develop the area as was envisioned when the area was brought into the Urban Growth Boundary in 2002.
- Urbanization of this area will provide housing and employment development as envisioned by Metro when it was brought into the Urban Growth Boundary.
- The proposed annexation area is contiguous to the city through the utility service corridor on the south side of SW Barrows Road. This will allow for utilities to be provided to the River Terrace area. There is a 16-inch City of Tigard water main in SW Barrows Road.
- Criteria for annexation, as outlined in the staff report, were reviewed.
- The annexation is owner-initiated and is not being processed by a public election. There are two methods for an owner-initiated annexation. One is through “double majority”. The other is often referred to as “triple majority” – and in the proposed annexation, 81 percent of the property owners in the area that represent 92 percent of the land area and 82 percent of the assessed properties have signed petitions to

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annex to the City of Tigard – meeting the Oregon Revised Statutes’ provision to annex through this method.

- Utilities are available and can be provided for this area. In 2010, Washington County prepared a concept plan – a large scale blueprint – for the development and urbanization of River Terrace and the properties to the south. Options were reviewed for providing utilities to this area (especially water service) and it is most economical and efficient for the utilities to be provided by the City of Tigard.
- There is documentation included in the annexation file along with the Washington County West Bull Mountain Concept Plan that demonstrates how this area can and will be serviced through the City of Tigard or the City of Tigard in conjunction with Clean Water Services. Clean Water Services will be the ultimate provider of storm water and the City of Tigard and Clean Water Services will provide sanitary sewer service. In 2009, there was a Master Sanitary Sewer System Plan update completed by Clean Water Services that outlines how to service this area – it includes improvements that would be needed for urbanization to occur.
- Fire protection will be provided by TVF&R, which is already servicing the area.
- The City of Tigard will provide police services.
- If the annexation is approved, the City of Tigard will prepare a community plan, which will expand the 2010 Concept Plan to determine what improvements need to be made and how these improvements can be financed so services can be provided so the area can be developed and urbanized.
- The applicant has demonstrated in their application how they meet the Metro, local, and state requirements for annexation.
- The findings for the annexation are outlined in the staff report presented to the City Council.
- The staff recommends that the City Council approve the proposed annexation.
- In addition to the staff report, there is a revised ordinance presented to the City Council during its study session earlier this evening. The ordinance includes additional findings (Exhibit D) submitted this afternoon, prepared by the city attorney’s office, which will enable the City Council to make a final decision this evening.



- City Attorney Ramis advised that because the revised ordinance and the Exhibit D findings are a part of the staff report and because they are in the file, they are in the record unless there is an objection.



e.

Public Testimony

- Proponents



Michael Robinson, 1120 NW Couch Street, 10th Floor, Portland, OR 97209-4128, advised he was testifying on behalf of West Hills Development Company. He introduced Dan Grimberg of West Hills Development Company who was present in the

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audience. West Hills was one of the petitioners for the River Terrace annexation. Mr. Robinson said they agree with the staff report and the findings are accurate. They have also had an opportunity to review the supplemental findings that were distributed to the Mayor and City Council and they believe those are also accurate.

Mr. Robinson addressed the approval criteria and this annexation is important so utility services could be provided to the area. He requested the City Council approve the proposed annexation.



Joanne Criscione, 16880 SW Bull Mountain Road, Tigard, OR 97224, said she would like to see the proposed annexation approved. She said she represented Area 64 during the time of planning for Washington County and one of things they have struggled with is that this area used be rural with a quiet country road, which is now a “freeway.” The road is dangerous and this area needs to be planned more like a community and made a safer place. She noted concerns of safety for children waiting for buses on Roy Rogers Road. There have been many vehicle accidents in the area. When they moved onto their property in 1995, they signed a “right of remonstrance” stating that they would not fight annexation. Accordingly, it has always been her understanding that the area was going to be annexed into the City of Tigard. When Urban Growth Boundary areas are brought in, Metro says that these are to be planned and be ready to develop in two years – that date was passed in 2004. The development plans are really behind schedule. She said that she knows of no property owners in the area who are opposed to the annexation. She said a few signatures of the property owners are not on the petition because the properties are owned by absentee owners and no contact information could be found. She said she hoped the City Council would approve the annexation.

In response to a question from Councilor Henderson, Ms. Criscione said she was referring to property owners within Area 64, when she said people were in support of the annexation.

Councilor Woodard asked if the concerns of safety on Roy Rogers Road also included foot traffic and bicycles. Ms. Criscione said there is a lot of bicycle traffic on Roy Rogers Road.

Ms. Criscione confirmed for Council President Buehner that the posted speed limit on Roy Rogers Road was 50 m.p.h.

Marsha Lancaster, 17740 SW Scholls Ferry Road, Beaverton, OR 97007, said she has 42 acres that is immediately adjacent to the River Terrace property. She indicated to City Council where her property was located on a map. At one time, her property was in Area 64, but was removed. She said she is still very much affected by what happens in Area 64. She said there is a road easement on her property which runs north/south that could alleviate safety concerns. Ms. Lancaster said her property was unique because there are three school districts’ boundaries – the majority is in Beaverton, part is in Tigard and ten acres is in Hillsboro. She would prefer to have her property belong to

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one school district and her preference would be to be in Tigard-Tualatin School District. She would “love to...annex the property into Tigard.” She said she has been writing letters for the last three years to officials saying she would like to join the City of Tigard to receive services and belong to just one entity. She asked the City Council to consider her ideas and urged that this property be annexed.

Councilor Wilson asked Ms. Lancaster if she was aware that the annexation would not alter any school district boundaries. Ms. Lancaster said she was – but this would be an important first step. She said she wanted the City Council to know that it was not only the residents of River Terrace that are encouraging this annexation, but there are also supporters who reside on property contiguous to the River Terrace area.

Council President Buehner disclosed that Ms. Lancaster is one of her clients.

Mayor Dirksen said Ms. Lancaster is probably aware of the urban and rural reserves process that is occurring at Metro and within the three counties now. He said Ms. Lancaster’s property is included in a parcel that is under consideration for urban reserves or rural reserves in the near future, which would place it in line to be brought into the Urban Growth Boundary. He encouraged Ms. Lancaster to continue to advocate for her property among those jurisdictions.

Tom English, 13915 SW Florentine Avenue, Portland, OR 97223, advised that for the last couple of years he followed the work that Washington County did regarding assembling a coherent plan between Areas 63 and 64 and the farmland area between Roy Rogers and Beef Bend Roads. He understands that development is coming and understands those who desire to move into a city to receive services. He said he questions whether the connection from Tigard to this area was gerrymandered with the Barrows Road connection. He said he sees this as a “done deal.” He said he is concerned that the properties in the unincorporated area where he lives will now be surrounded on three sides by the City of Tigard. He said as the Washington County plan becomes implemented over time, it is likely that the unincorporated area on Bull Mountain will be surrounded by the City of Tigard. He asked the City Council how will this island of Bull Mountain be treated with the ongoing needs for financing light rail and other infrastructure.

Mayor Dirksen responded to Mr. English that he believed he could speak for the City Council that it has no intentions towards the currently urbanized unincorporated areas of Bull Mountain. He said he appreciated Mr. English’s comments with regard to the extension to this property along Barrows Road rather than working for a connection through his area of Bull Mountain. There are political issues that make the Barrows Road connection preferable. Mayor Dirksen said he did not know any circumstance to be considered in the future that would lead to a complete surrounding of the currently urbanized unincorporated area of Bull Mountain – but even if that were the case, there is no intention by this council to take any steps towards an island annexation of that area without the request of the people who live there. Mayor Dirksen asked other City

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Council members if his remarks were correct. City Council members indicated they agreed with the remarks.

Jim Beardsley, 16720 SW Friendly Lane, Beaverton, Oregon, spoke about the history of his property becoming part of the Urban Growth Boundary in 2002 and it was their understanding that the state law provided that the land would be developable after two years. He has moved to North Plains and his son and family now rent from them the property on Friendly Lane. He said children have been hit by traffic when waiting for school buses. He has a trucking business which is located on Friendly Lane and explained the traffic issues in the area. He also said the family has goats and horses on the property and this becomes a concern during the 4th of July holiday when people in the housing development next door shoot off fireworks toward their property – it is also a fire hazard. He said it is time to annex this area so they can proceed with their lives. They have waited too long for this. He supports annexation.

Mr. Beardsley responded to Councilor Henderson that his family would be very happy if this property were annexed. He said he does not understand why there are not more people here to testify because of the situation created when this property was included in the Urban Growth Boundary but the opportunity to develop has been delayed for so long. He said it has been really stressful.

 Don Roshak, 13580 SW Roy Rogers Road, Sherwood, Oregon, spoke on behalf of the Roshak family that owns about 90 acres in Area 64. He said things have changed a lot in the last 60 years and more change is coming. They worked with Washington County on their plans, which had a few gaps – i.e., water and parks. He said if this is annexed into the City of Tigard, the family feels these gaps will be addressed. He said they strongly support annexation. He said the property has been in the Urban Growth Boundary for nine years.

 Council President Buehner said she hoped that someone from the Roshak family will be able to participate in the planning process. Mr. Roshak said he also hoped this was possible. They would have liked to have been more involved in the Washington County planning process.

Rebuttal – None.

- f. Staff Recommendation: Associate Planner Caines advised that staff recommends that the City Council approve the proposed annexation of River Terrace.
- g. City Council Questions

Councilor Woodard said the findings looked good. He asked if the annexation is approved tonight, when would police services be available. Associate Planner Caines said the proposed effective date is September 30. In response to a question from Councilor Woodard, Associate Planner Caines advised the Police Department was asked

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for comments on the proposed annexation and there were no objections to the proposal. Interim City Manager Newton said the Police Department has a district system and this area will be incorporated. Mayor Dirksen said the Sheriff services provides services within all cities of Washington County and the area is not currently in the Washington County Enhanced Sheriff Patrol Area.

- g.  Mayor Dirksen closed the public hearing.
- h. Council consideration of Ordinance No. 11-07.

Motion by Council President Buehner, seconded by Councilor Wilson, to approved Ordinance No. 11-07.

ORDINANCE NO. 11-07 -- AN ORDINANCE ANNEXING 230.06 ACRES OF LAND, INCLUDING FORTY-THREE (43) PARCELS, ADJACENT RIGHTS OF WAY, AND A UTILITY SERVICES CORRIDOR WITHIN SW BARROWS ROAD RIGHT OF WAY; APPROVING THE RIVER TERRACE ANNEXATION (ZCA2011-00001); AND WITHDRAWING SIX (6) PARCELS FROM THE WASHINGTON COUNTY ENHANCED SHERIFF'S PATROL DISTRICT AND WASHINGTON COUNTY URBAN ROADS MAINTENANCE DISTRICT. IN ADDITION, WITHDRAWAL OF THREE (3) PARCELS FROM WASHINGTON COUNTY SERVICE DISTRICT FOR LIGHTING.

Mayor Dirksen clarified with Council President Buehner that her motion included the revised ordinance and the Exhibit D received by the City Council. City Attorney Ramis said the record should so note these documents.

Councilor Henderson thanked all parties for their hard work noting that this was a good process.

Council President Buehner commented that she has worked with people in this area since 1998 when there was a discussion about bringing this area into the Urban Growth Boundary. It has been a long, tedious process and she is glad to see this conclusion.

Councilor Woodard said this is the first time he has had an opportunity to go through this process. Prior to his service on City Council, he could not understand why something such as this would take so long – he assigned it to the nature of politics. He said he thinks the process used was a good way to proceed.

Councilor Wilson said he has not seen such unanimous support on this type of action by the City Council since the Tigard Triangle was rezoned. It is nice to see an annexation proceeding that is not opposed.

Council President Buehner said she was glad to see so many residents in attendance at the hearing.

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Mayor Dirksen agreed with Councilor Woodard that this is an interesting process. This is the first time he has experienced this process as he believes that triple majority annexations are not common. He said he is pleased to be able to respond to these property owners' requests, who will become City of Tigard residents.

The City Recorder read the number and title of the ordinance.

The motion was approved by a unanimous vote of City Council present.



Mayor Dirksen	Yes
Council President Buehner	Yes
Councilor Henderson	Yes
Councilor Wilson	Yes
Councilor Woodard	Yes



6. CONSIDER AN INTERGOVERNMENTAL AGREEMENT WITH TUALATIN HILLS PARK AND RECREATION DISTRICT (THPRD) REGARDING THE MAINTENANCE AND OPERATION OF BARROWS PARK

Public Works Director Koellermeier presented the staff report:

- The issue before the City Council tonight is needed because the annexation the City Council just approved created a problem. THPRD operates Barrows Park, of which a small piece is in the old Barrows Road right of way. Effective with the annexation, this piece of property will be in the City of Tigard.
- The Tigard Urban Services Agreement lays out a clear declaration that THPRD will not operate parks facilities in the City of Tigard. The proposed Intergovernmental Agreement acknowledges the fact that this section of the park will be in the city until the Tigard Urban Services Agreement is re-opened.
- The THPRD Board considered this issue last month and approved it.
- There is no financial impact on the City of Tigard; the THPRD will continue to operate the park as they are currently.

Motion by Council President Buehner, seconded by Councilor Woodard, to approve the Intergovernmental Agreement with Tualatin Hills Park & Recreation District regarding maintenance and operation of Barrows Park.

The motion was approved by a unanimous vote of City Council present.

Mayor Dirksen	Yes
Council President Buehner	Yes
Councilor Henderson	Yes
Councilor Wilson	Yes

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7. CONTINUATION OF LEGISLATIVE PUBLIC HEARING FROM AUGUST 9, 2011 -
CONSIDER TIGARD MUNICIPAL CODE AMENDMENTS ON ADMINISTRATIVE
RULE MAKING

- a. Mayor Dirksen noted this is a continuance of the public hearing opened on August 9, 2011.
- b. Assistant Community Development Director Hartnett presented the staff report on the matter now before the City Council.
 - At the last meeting, council had questions about language in 2.04.070(1)(a). The City Council's desire was to clarify that the staff notice to the City Council of a proposed administrative rule would occur prior to the public notice being provided. These time periods would not be concurrent; the council's notice would occur prior to the public notice.
 - Assistant Community Development Director Hartnett referred to a memorandum provided to the City Council (Attachment 3 to the Agenda Item Summary) delineating the changes made to the last draft the City Council reviewed.
- c. Public Testimony: None. 
- d. Mayor Dirksen closed the public hearing. 
- e. City Council Consideration: Ordinance No. 11-06

Councilor Henderson asked for clarification of the review process. Assistant Community Development Director Hartnett said the council would specify (through adoption of new code language) the authority for the city manager to follow the rulemaking process. To create administrative rules, this new process would have to be followed. She outlined the steps stipulated in the proposed code language. The City Council would receive the proposed administrative rule first followed by a period of time for public review and comment. After brief discussion about whether to wait for the new city manager to be appointed before this ordinance is considered, the consensus was to proceed. There will be opportunities for review of the process and to make changes later if needed.

Motion by Council President Buehner, seconded by Councilor Wilson, to approve Ordinance No. 11-06.

ORDINANCE NO. 11-06 -- AN ORDINANCE AMENDING TITLE 2 OF THE
TIGARD MUNICIPAL CODE AUTHORIZING THE USE OF ADMINISTRATIVE
RULES AND DEFINING THE PROCEDURES FOR ADMINISTRATIVE

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RULEMAKING AND AMENDING EXISTING SECTIONS IN TITLE 9 AND TITLE 11 TO BE CONSISTENT.

The motion was approved by a unanimous vote of City Council present.

Mayor Dirksen	Yes
Council President Buehner	Yes
Councilor Henderson	Yes
Councilor Wilson	Yes
Councilor Woodard	Yes



8. DISCUSS STRATEGIES FOR COMMUNICATING TIGARD'S FEDERAL LEGISLATIVE PRIORITIES

Senior Management Analyst Wyatt presented the staff report. The issue before the City Council was whether the City of Tigard should hire a Washington DC-based lobbying firm that would provide technical advice and direct advocacy and support for the city's federal intergovernmental interests.

Mayor Dirksen said that since he has been Mayor, he has seen other cities have the ability to accomplish greater things if they have the resources to do so. He said there are three things that a federal affairs firm could assist the City of Tigard in:

- a. Advise of grants and programs available and how we could go about applying for them in a way that would give us more opportunity to receive funding.
- b. Set up meetings and establish contacts so Tigard representatives can be effective when they travel to Washington DC or when those people are in Oregon.
- c. Make us aware of issues and the climate in Washington DC so we know about the timing for when it is the best time to accomplish things or "what is the best program to go after."

Mayor Dirksen said that he has seen that the cost of this type of service is soon eclipsed by the amount of funding made possible.

Councilor Henderson said he agreed with Mayor Dirksen's comments. In response to a question from Councilor Henderson, Senior Management Analyst Wyatt said one firm has visited the City of Tigard – they have a Washington DC presence as well as an office in Portland.

Councilor Wilson said he was ambivalent about this. He agrees that it is a good idea to have a representative in Washington DC to build relationships with our delegation and make our concerns known to them. He said he is opposed, in general, to lobbyists. He said we are now in an unprecedented situation with the federal deficit. It is no longer business as usual – they do not have the money to give us – and he would like to see the federal government get its house in order. He does not want the city to add to the federal deficit and said he was not quite ready to support this.

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Council President Buehner said she has come to the following conclusions regarding the current state of the political climate. We are going to have a freshman congressman representing us, which means that he or she will have the least influence and be new to the process. This will negatively impact our ability to get our message across. She said that congress has made it clear that they have no intention of paying attention to “John Q citizen” or those associated with local government – they are listening solely to lobbyists. She said up until now, she has been vehemently opposed to having a lobbyist, but she has come to the conclusion that if the city is going to succeed long term in this environment where grants are going to be harder to get that we must take advantage of all the opportunities available. She said she thinks Tigard is the largest city in the area that does not have a lobbyist. It would be unfair to our citizens and taxpayers not to try to “go out there and get the best bang for the buck...”

Councilor Woodard said he agrees with much of what has been said. He said he does not like the way the federal government has contributed to a huge deficit that “our kids will be paying on for years and years...” However, we are competing for what is available, which is less now. Our city is not going to quit growing and we need good economic development. To be ready for the future, we have to be competitive. The downside to receiving money is that we are then bound by certain conditions and stipulations – so we will need to take care to be aware of what we are obligating the taxpayers for. He said he would like to give this idea a chance with a return on investment monitored on an annual basis.

Senior Management Analyst Wyatt acknowledged the “strings attached” have been an issue for some cities. He said he has heard there is funding still available, but it seems to be less transparent and harder to find.

Interim City Manager Newton said access is important to obtain assistance on projects we already have in place. For example, we might want to have assistance with the water permitting process at the federal level – it’s not always about gaining access to funds. She said we would need to find a way to track performance on all areas of assistance.

Mayor Dirksen acknowledged that along with receiving funding, assistance with the bureaucracy was important. He was ambivalent in the beginning also and finds it distasteful when special interest groups appear to have undue influence at the federal level. We could use the assistance of an advocate in an advice-giving role to show us the best places to invest our time. He said he was concerned about the increased competition for the dollars available.

Councilor Henderson said that jobs will be the key to ending the recession. We need to have someone monitoring so we know how the system can be accessed. He said, “I think it’s ok to be using our grandchildren’s money as long as we are going to be building something that they are going to be able to use.” Councilor Woodard added that he agreed with Councilor Henderson and this effort is needed to bring dollars spent back to our area to create jobs through economic development. We need to get ready for opportunities that might become available.

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Mayor Dirksen noted that if City Council is in support, then the staff would be directed to send out a request for proposals and we would look for firms interested in representing us. Staff will proceed with the request for proposals.

9. COUNCIL LIAISON REPORTS

10. NON AGENDA ITEMS



Council then moved to the Red Rock Creek Conference Room to discuss the city manager review process.

Council discussed dates for the assessment center with September 16 and 17 proposed.

Council discussed the community members for the citizen inter panel for which Mayor Dirksen is collecting suggestions from the council members. The assessment center will have a mock City Council presentation as one of the exercises. Potential topics were suggested with a budget-related topic named.

The second exercise will be oral panel (panel made up of community members) interviews. Several questions were suggested. Human Resources Director Zodrow and the consultant will draft questions for City Council review.

City Council will debrief with the community panel members at the end of the day on September 16.

Council will receive additional information to review; i.e., writing samples and videos of the candidates making presentations.

11. EXECUTIVE SESSION: Not held.

12. ADJOURNMENT – 9:51 p.m.

Motion by Councilor Wilson, seconded by Council President Buehner, to adjourn the meeting.

The motion was approved by a unanimous vote of City Council present.

Mayor Dirksen	Yes
Council President Buehner	Yes
Councilor Henderson	Yes
Councilor Wilson	Yes
Councilor Woodard	Yes

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Catherine Wheatley, City Recorder

Attest:

Mayor, City of Tigard

Date: _____

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City of Tigard

Tigard Business Meeting – Minutes

TIGARD CITY COUNCIL AND LOCAL CONTRACT REVIEW BOARD

MEETING DATE AND TIME: September 13, 2011 - 6:30 p.m. Study Session; 7:30 p.m. Business Meeting

MEETING LOCATION: City of Tigard - Town Hall - 13125 SW Hall Blvd., Tigard, OR 97223

Mayor Dirksen called the meeting to order at 6:30 p.m.

Council Attendance:

<u>Name</u>	<u>Present</u>	<u>Absent</u>
Mayor Dirksen	✓	
Council President Buehner	✓	
Councilor Henderson	✓	
Councilor Wilson	✓	
Councilor Woodard	✓	

Staff Present: Interim City Manager Newton, City Recorder Wheatley, Assistant to the City Manager Mills, Utility Division Manager Goodrich, Assistant Finance and IT Director Smith-Wagar.

- STUDY SESSION

- A. BRIEFING ON THE PROPOSED ADDITION OF CHAPTER 12.01, UTILITY SERVICES RULES AND REGULATIONS, TO THE TIGARD MUNICIPAL CODE (TMC)

Utility Division Manager Goodrich presented the staff report. He reviewed the background on the proposed addition of Chapter 12.01, Utility Services Rules and Regulations, which is outlined in detail in the staff report.

Staff is proposing the use of the administrative rules for Chapter 12.

Utility Division Manager Goodrich said he plans to return to the City Council on October 11, with a proposed ordinance for this addition to Tigard Municipal Code Chapter 12. He said he also plans to submit the administrative rules to the City Council for its 14-day review period. Once the administrative rules have been approved through the new process, Utility

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Division Manager Goodrich said he would place a proposed ordinance before the City Council to remove procedural language, which would be covered by the new administrative rules.

The proposed rules for TMC Chapter 12 are scheduled for another review by the Intergovernmental Water Board.

Mayor Dirksen suggested staff review the proposed changes with the newer City Council members, Councilor Henderson and Councilor Woodard, since this language was proposed before they began on the City Council. Councilor Woodard noted when he reviewed the proposal he liked that the wording was clear and brief. He likes the idea of the use of administrative rules, providing an opportunity for review if there is disagreement on the process.

After discussion, City Council consensus was for staff to proceed as proposed.

City Attorney Ramis spoke of Utility Division Manager Goodrich's efforts on drafting these new rules, which is not often seen at the local level but has worked well at the federal and state levels. The city attorney's office has been working with staff for the last two years on this matter. Administrative rules should include enough process and rulemaking so all due-process requirements are met.

Council President Buehner commented that the IWB will welcome these administrative rules, which will allow staff to administer rather than having to have an IWB review. This will allow a more expeditious manner of business.

Councilor Henderson said he would not want to see unintended consequences of administrative rules adding to costs. City Attorney Ramis said the purpose of having a council review is to demonstrate whether a proposed rule has a cost or budget implication. Utility Division Manager Goodrich said most of the rules have to do with practices and procedures relating to how the utility conducts its business. In response to a follow-up question by Councilor Henderson, Utility Division Manager Goodrich advised that penalties for late payments would be fixed in the administrative rule process and also adopted by the City Council in the fees and charges schedule.

Utility Division Manager Goodrich explained the purpose of the administrative rules, which is to identify procedures to administer business through a process separate from a code amendment. Assistant Finance and IT Director Smith-Wagar said it will be nice to have written practices and procedures to follow to assure the fair treatment to all citizens.

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B. ADMINISTRATIVE ITEMS

Interim City Manager Newton reviewed the following with the City Council:

The September 27, 2011, Tigard City Council Business meeting is cancelled.

- Council Calendar:
 - Friday, September 16, City Manager Assessment Center - Panel Executive Sessions in the Town Hall and the Red Rock Creek Conference Room - 7:45 a.m.
 - Saturday, September 17, City Manager Assessment Center - City Council Executive Session in the Red Rock Creek Conference Room -- 8:30 a.m.
 - Tuesday, September 20, Tigard City Council Workshop Meeting, Town Hall.
 - Tuesday, September 27, Tigard City Council Business Meeting - Cancelled.
- City Council members attending the League of Oregon Cities conference will coordinate with city management staff.
- Mayor Dirksen reported that the Tigard Farmers Market and Young's Funeral Home held a commemoration event on September 11, 2011. This day was also the City of Tigard's 50th Birthday Party, held in the Library Community Room. Mayor Dirksen noted that the Tigard community is actually 125 years old, which is when the first Tigard post office was established. Both of the events were well attended. Interim City Manager Newton added that Mr. Curtis Tigard, age 102, attended and spoke to the audience. Mayor Dirksen said Mr. Tigard gave a short history of the Tigard community. Mr. Tigard's great-grandfather arrived in the area in 1852. The birthday event was video-recorded per Interim City Manager Newton.
- Interim City Manager Newton referred to a revised agenda distributed to the City Council, which rearranged the agenda items to group the Local Contract Review Board agenda items together.
- Mayor Dirksen reported on a recent JPACT meeting. A resolution was passed to amend the Metropolitan Transportation Improvement Program (MTIP) to add a project to improve the I-5/Carman Drive ramp (both sides). Oregon Department of Transportation (ODOT) has identified this project and there is funding for it; however, it cannot receive final approval unless is part of the official MTIP package. JPACT also considered the draft recommendation for regional flexible fund allocations. Tigard had a project – a portion of the Fanno Creek Trail (aka the Crescent Connection). There was a joint application to Metro from Tigard, Beaverton and Tualatin Hills Park and Recreation District. This project did not make the cut, but Washington County is taking the lead to submit this project to a new Oregon Department of Transportation (ODOT) program for non-highway projects (\$21 million). Interim City Manager Newton said County staff reports that ODOT officials are supportive of this trail connection application.
- Council President Buehner reported she submitted her name to serve again on the Finance/Tax and Transportation League of Oregon Cities committees. Mayor Dirksen said he would probably apply for a committee appointment.
- The city manager assessment center schedule and activities were reviewed.

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- EXECUTIVE SESSION: Not held.

1. BUSINESS MEETING

A.  Mayor Dirksen called the meeting to order at 7:32 p.m.

B. Roll Call

<u>Name</u>	<u>Present</u>	<u>Absent</u>
Mayor Dirksen	✓	
Councilor President Buehner	✓	
Councilor Henderson	✓	
Councilor Wilson	✓	
Councilor Woodard	✓	

C. Pledge of Allegiance

D. Council Communications & Liaison Reports 

Council President Buehner reported on the Water Partnership Oversight Committee at the end of the agenda (See Item No. 10)

E. Call to Council and Staff for Non-Agenda Items – None. 

 2. CITIZEN COMMUNICATION (Two Minutes or Less, Please)

- Follow-up to Previous Citizen Communication: None
- Tigard High School Student Envoy – Courtney Bither

Student Envoy Bither (Associated Student Body Activities Director) presented her first report to the council regarding the activities at Tigard High School. A summary of the report is on file with the council packet materials.

- Tigard Area Chamber of Commerce – Debi Mollahan 

Chamber Executive Director Mollahan presented a report of activities for the Chamber. A summary of the report is on file with the council packet materials. There are over 300 members in the Chamber – 20 new members signed up last month.

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D. Citizen Communication – Sign Up Sheet

- Jim Long, 10730 SW 72nd Avenue and John Frewing, 7110 SW Lola Lane spoke as representatives of the Metzger Centennial Committee/Historical Society. Mr. Long said Metzger was a town that grew as a result of the arrival of the railroad in 1908. Herman and Josephine Metzger donated the land for a school, church, park and railroad right of way. On Saturday, October 1, there will be an event that will begin at Metzger Elementary School, with additional festivities held at Metzger Park as well as a parade in the Metzger community. A copy of the flyer for this event is on file with the council packet materials.

Mr. Frewing shared some interesting historical particulars about the Metzger area:

- He said that the lady that owned the Hope Diamond lived, at one time, at the Cordero House.
- He had with him a carpenter’s pencil from the Metzger Lumber Company with the printing identifying its location as “Poverty Flats” on Mae West Boulevard, Metzger, Oregon – Telephone: Cherry 3963.
- He said Mae West Boulevard is the same as what is now known as Hall Boulevard.

Mr. Frewing invited people to attend the celebration.

Mr. Long explained that the upper portion of Metzger was known as Snob Hill and the lower part was called Poverty Flats. The Washington Square Mall is located on the former Poverty Flats area.



Mayor Dirksen reviewed the Consent Agenda:

3. CONSENT AGENDA:

A. Receive and File:

1. Council Calendar
2. Tentative Agenda

B. Approve Council Meeting Minutes

1. July 12, 2011
2. July 19, 2011

Motion by Council President Buehner, seconded by Councilor Wilson, to approve the Consent Agenda.

The motion was approved by a unanimous vote of City Council present.

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Mayor Dirksen	Yes
Council President Buehner	Yes
Councilor Henderson	Yes
Councilor Wilson	Yes
Councilor Woodard	Yes



4. QUASI-JUDICIAL PUBLIC HEARING - COMPREHENSIVE PLAN AMENDMENT, SENSITIVE LANDS REVIEWS AND ADJUSTMENT TO EXTEND WALL STREET TO FIELDS' PROPERTY

COMPREHENSIVE PLAN AMENDMENT (CPA) 2009-00004/SENSITIVE LANDS REVIEW (SLR) 2009-00004/SENSITIVE LANDS REVIEW (SLR) 2009-00005/ADJUSTMENT (VAR) 2010-00002 - WALL STREET EXTENSION (FIELDS)

REQUEST: The applicant is requesting amendments to the Comprehensive Plan to remove Goal 5 protection from Tigard Significant Wetlands and the riparian corridor surrounding Fanno Creek in order to extend Wall Street across City of Tigard property and Fanno Creek to his property. Sensitive Lands Review is required for proposed work within the 100-year floodplain and wetlands. The applicant is requesting an adjustment to the street improvement standards in order to construct a narrower street section than required by code. Tree removal permits to remove trees within the sensitive lands were submitted under a separate application.

LOCATION: No address, Washington County Tax Assessor's Map 2S102DA, Tax Lot 690. No address, Washington County Tax Assessor's Map 2S102DD, Tax Lot 100. 13560 SW Hall Blvd., Washington County Tax Assessor's Map 2S102DD, Tax Lot 200. No address, Washington County Tax Assessor's Map 2S10100, Tax Lot 1200. ZONES: R-12: Medium-Density Residential District. The R-12 zoning district is designed to accommodate a full range of housing types at a minimum lot size of 3,050 square feet. A wide range of civic and institutional uses are also permitted conditionally. R-25: Medium High-Density Residential District. The R-25 zoning district is designed to accommodate existing housing of all types and new attached single-family and multi-family housing units at a minimum lot size of 1,480 square feet. A limited amount of neighborhood commercial uses is permitted outright and a wide range of civic and institutional uses are permitted conditionally.

COMPREHENSIVE PLAN DESIGNATION: Medium Density Residential and Medium-High Density Residential.

APPLICABLE REVIEW CRITERIA: Community Development Code Chapters 18.370, 18.380, 18.390, 18.510, 18.745, 18.775, 18.790 & 18.810; Comprehensive Plan Goals 1, 2, 5, 6, 7, 8, 11 & 12; Tigard Municipal Code Chapter 9; Metro Functional Plan Titles 3, 6 and 13; and Statewide Planning Goals 1, 2, 5, 6, 7, 8, 11 and 12.

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Mayor Dirksen announced the above public hearing will be continued to the December 13, 2011, City Council meeting at the request of the applicant.



5. DISCUSS AMENDING THE TIGARD MUNICIPAL CODE TO CREATE ADMINISTRATIVE OPTIONS RELATED TO CODE COMPLIANCE

Assistant Community Development Director Hartnett and Program Development Coordinator Shields presented the staff report, which also included a PowerPoint presentation outlining the highlights of their presentation. The documents are on file with the council packet materials. The presentation covered:

- A brief review of past practices and program changes.
- Overview of proposed amendments to the Tigard Municipal Code.
- Revisions to Chapter 1.16 – Civil Infractions.
- Consolidation of nuisance violations into new Title 6 – Nuisance Violations and clarification of nuisance violations in Title 18 (Community Development Code).
- Administrative Rules.
- Proposed Administrative Fee Calculation Schedule.
- A list of questions from staff to the council regarding the proposed code amendments and administrative rules.

City Council questions/discussion:

- Councilor Woodard asked a question about visual requirements and whether there would be a cross-reference in Title 6 and Title 18 regarding visual requirements. Program Development Coordinator Shields said there were no plans to do that because any revisions to Title 18 would require a much more lengthy process than what is required for Title 6. Councilor Woodard said it would probably be best to leave this language “as is.”
- Councilor Woodard commented that the fee calculation schedule was well done.
- Councilor Wilson said he had a difficult time following the staff report, probably because of its complexity. He said he would like additional time to study the matter. Assistant Community Development Director Hartnett agreed that this agenda item is complex and said staff was willing to reorganize the materials to assist with a council review. Staff will prepare a matrix outlining all of the changes proposed.
- Councilor Wilson said that some of the code language appears to be antiquated and terminology is inconsistent. Assistant Community Development Director Hartnett explained staff is updating the language in the new Title 6 where appropriate for a cleaner, simpler and user-friendly read. Councilor Wilson noted terminology usage is inconsistent in the code and would like for this to be addressed at some point.
- Mayor Dirksen advised he agreed with Councilor Wilson’s comment regarding the need for additional time for review. He complimented Assistant Community Development Director Hartnett and Program Development Coordinator Shields for their presentation tonight,

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which clarified some questions he had. He added that he would still like to have an opportunity to compare new language to the old code language.

- Mayor Dirksen referred to the list of staff questions outlined in the staff report. He said he was not prepared to answer all of them and, in fact, some of the questions might more appropriately be answered by someone other than the members of council. For example, the second question asks if the proposed administrative rulemaking authority provides the right level of specificity. He said this question should be referred to the city attorney to determine if he agrees with regard to the level of specificity and whether program elements that appear to be missing.
- Assistant Community Development Director Hartnett suggested staff could work to clarify the questions. One of things she understood from the council deliberations on the rulemaking authority was to assure that council was setting a clear policy and the link to the administrative rules was clear enough in the code.
- Council President Buehner said she did not see a place in the proposed code to address violations of maintenance of right of way, where there are several parcels in violation along a major road.
- Councilor Henderson said his question relates to how friendly this is for the public to use once it is adopted. He asked if it was possible to select parts of the proposed changes to implement first and be used as an example to follow and give city officials an opportunity to work through initial problems that might come up. Assistant Community Development Director Hartnett said the proposed revisions to TMC 1.16 are the minimum possible to create administrative options. She said for Title 6, there are five other titles being affected. She said staff could limit the number of sections for the first “go round.” However, it might be more user friendly to do this all at once. Mayor Dirksen said it might be better to have staff consider Councilor Henderson’s question to determine whether it would be beneficial to implement the changes in phases. Assistant Community Development Director Hartnett said staff could package the information in a different manner for council review.
- In response to a question to Councilor Henderson, Assistant Community Development Director Hartnett confirmed code enforcement is generally pursued when a complaint is filed. There are exceptions – for example, if staff comes upon a situation that is a fire/life/safety issue or an egregious example, then the staff member might pursue compliance based on staff observation (the rare exception).
- Councilor Wilson said sometimes the concept is actually easier to understand than the steps for implementation. He said he likes the calculation sheet that was prepared as it seems fair and logical. He said the overall direction proposed by staff seems appropriate. He would appreciate more time to review.
- Mayor Dirksen said the direction proposed by staff, in general, is very beneficial. The challenges for code enforcement brought about by reduced funding are now being addressed as they should have been done regardless. Producing an administrative process, rather than relying totally on a judicial one, is something that also should have been done anyway. Looking at efficiencies has been a good thing even if the city finds it is able to add additional code compliance staff in the future. An administrative process is much friendlier than a judicial one.

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Assistant Community Development Director Hartnett summarized staff's proposal for the next steps based on tonight's discussion:

- Change the public hearing item scheduled for October 25 to a continuation of this discussion.
- For the next City Council discussion, staff will submit all of the text. On the top, there will be a matrix so council members can identify the changes.
- Schedule a public hearing in November or December, depending on how the City Council discussion proceeds.
- Staff will make an effort to build on what council has discussed tonight by identifying key points.



Council meeting adjourned and council members then convened as the Local Contract Review Board to review Agenda Item Nos. 6 and 7.

6. AWARD CONTRACT FOR CITYWIDE COLLECTION SERVICES TO ALLIANCEONE RECEIVABLES MANAGEMENT, INC.

Administrative Services Manager Robinson and Assistant Finance and IT Director Smith-Wagar presented the staff report.

Administrative Services Manager Robinson said the city has worked with collection agencies since the 1990's. Currently, there are approximately 5300 city accounts with AllianceOne, for a total of about \$2 million. AllianceOne has done work for the city for the last five years. The most recent contract expired in June. Staff then had an opportunity to seek proposals with the City of Beaverton and Washington County. There were 18 responses to the request for proposals and she outlined the selection process by the three agencies. The request is that the Local Contract Review Board award a contract for collection services to AllianceOne Receivables Management, Inc. Washington County and City of Beaverton have already taken action approving the request for award of contract.

Board Member Wilson said his only concern was that collection agencies are notorious for being abusive and sometimes operating at the edges of the law. He wanted assurances that we would be dealing with a reputable company. Ms. Robinson said one of areas considered as part of the process is the people-approach philosophies held by each of the agencies that responded to the request for proposals. References were checked. The Municipal Court is the primary user of the collection services and it is rare to receive a complaint about the collection agency. Assistant Finance and IT Director Smith-Wagar agreed that she does not receive complaints about the agency either.

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Board Member Henderson asked for more detail on how the collection agencies were evaluated. Ms. Robinson explained:

- Categories that were scored (rated) were:
 - Business plan.
 - Reports required.
 - Philosophy of approach to collections.
 - Ability to provide service.
 - Customer-service features.
 - Pricing.
- Interviews were conducted with the top two agencies.

The city has used in the past AllianceOne previously by utilizing the ability to piggy-back onto a state contract.

Board Member Buehner noted her experience in her profession where a collection agency is doing a good job and gets sold resulting in a major policy shift (a negative move). She asked if the proposed contract provides a way to address such a situation? Administrative Services Manager Robinson said she has not seen the final language in the contract. Currently, it is a year-to-year obligation. She said AllianceOne was bought out recently, but their philosophy remained consistent. Assistant Finance and IT Director Smith-Wagar said it is standard for the city's contracts to have an option to opt out with 30 days' notice.

Board Member Henderson commented he was surprised at how low the rate is for this service. Administrative Services Manager Robinson said she believes the rates are lower now because of the automation in this industry.

In response to a question from Board Member Woodard, Administrative Services Manager Robinson advised the customer always has the option to contact the City of Tigard even if they have been turned over to the collection agency. She responds to all calls for the municipal court and Assistant Finance and IT Director Smith-Wagar responds to call for utility billing. Administrative Services Manager Robinson explained the dispute process available to a customer.

Board Member Buehner referred to the fair-debt collection laws that are complicated and it is easy to make a technical error. She asked if there were provisions in this contract for assurances that the company will follow all of the relevant provisions. Assistant Finance and IT Director Smith-Wagar said, yes, staff would make sure that language is present.

Motion by Board Member Buehner, seconded by Board Member Wilson, that the Local Contract Review Board approve awarding the contract to AllianceOne Receivables Management, Inc.

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The motion was approved by a unanimous vote of the Local Contract Review Board members present.

Chair Dirksen	Yes
Board Member Buehner	Yes
Board Member Henderson	Yes
Board Member Wilson	Yes
Board Member Woodard	Yes



7. PUBLIC HEARING TO ADOPT REVISIONS TO TIGARD'S PUBLIC CONTRACTING RULES

Chair Dirksen opened the public hearing.

There were no declarations of a conflict of interest on the part of any Local Contract Review Board (LCRB) member.

Senior Management Analyst Barrett presented the staff report. Accompanying him was Assistant Finance and IT Director Smith-Wagar. The matter before the LCRB is a follow up to a workshop meeting before the Local Contract Review Board in late June.

- According to Oregon Revised Statutes (ORS) 279A, the city may adopt its own public contracting rules.
- If the city does not adopt its own rules, it would fall under the authority of the Attorney General's Model Contracting Rules.
- The update to the contracting rules before the LCRB tonight promote fair and open competition and meets all legal requirements.

The proposed changes to the rules are included in a resolution to formally revise the public contracting rules. There is also a proposed ordinance to go before the City Council that will update the municipal code to maintain continuity with the rules in the LCRB resolution. The two changes are:

- The direct appointment threshold for personal services was lowered to \$20,000 from \$25,000.
- The approval process for Intergovernmental Agreements (IGAs) calls for the City Council (not LCRB) to be the sole body to approve unless delegated to the city manager.

Provisions outlined in the matrix presented in June remain the same.

Staff asks that the LCRB approve the resolution.

Board Member Wilson noted money is beginning to accumulate for the Downtown Urban Renewal District. He asked if the purchasing rules affect some of the things the city might want

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to do that are new. For example, could the city subsidize a lease to attract a tenant in the downtown or team up with a developer on a project – items outside the normal public bid process. Senior Management Analyst Barrett responded that staff will come before the City Council/LCRB in late spring with additional proposals. In the interim, there is the ability to grant an exemption to the public contracting rules for the examples mentioned above by Board Member Wilson.

Public testimony - None 

Staff recommendation was to approve the revisions as presented.

Motion by Board Member Buehner, seconded by Board Member Wilson, to adopt Local Contract Review Board Resolution No. 11-01.

LOCAL CONTRACT REVIEW BOARD RESOLUTION NO. 11-01 -- RESOLUTION ADOPTING REVISED PUBLIC CONTRACTING RULES

The motion was approved by a unanimous vote of Local Contract Review Board members present.

Chair Dirksen	Yes
Board Member Buehner	Yes
Board Member Henderson	Yes
Board Member Wilson	Yes
Board Member Woodard	Yes



The Local Contract Review Board meeting adjourned and the Tigard City Council meeting reconvened.



8. LEGISLATIVE PUBLIC HEARING TO AMEND THE TIGARD MUNICIPAL CODE TO REMAIN CONSISTENT WITH THE PUBLIC CONTRACTING

Mayor Dirksen opened the public hearing. 

Senior Management Analyst Barrett presented the staff report. In Tigard Municipal Code Chapter 2.46, there are two locations where dollar amounts no longer coincide with the public contracting rules. The proposed ordinance would update the code to reflect these updated numbers.

Mayor Dirksen asked if consideration was given to re-write the code language so no specific dollar amounts are mentioned or should this be done. Senior Management Analyst Barrett said the language could be changed to “mirror” the rules to the code.

There was no public testimony.

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Mayor Dirksen closed the public hearing.

Council consideration of Ordinance No. 11-08.

Motion by Councilor Wilson, seconded by Council President Buehner, to approve Ordinance No.11-08.

The motion passed by a unanimous vote of City Council present:

Mayor Dirksen	Yes
Council President Buehner	Yes
Councilor Henderson	Yes
Councilor Wilson	Yes
Councilor Woodard	Yes

- > City Attorney Ramis advised on process question that when the City Council reconvened after the Local Contract Review Board meeting, the Local Contract Review Board public hearing was closed even though the Mayor did not announce that the public hearing was closed.



9. COUNCIL LIAISON REPORTS

Council President Buehner reported on the Tigard/Lake Oswego Water Partnership Oversight Committee's meeting of September 12. She and Mayor Dirksen attended this meeting with two Lake Oswego council members serving on this committee. There was a discussion regarding a plan for an administrative delay. The Committee recommended to the Lake Oswego City Council that it adopt a proposed administrative delay policy, which would provide for a specific dollar amount authority to be given to the city manager or project director to deal with problems in an expeditious manner. If a decision was needed by the Lake Oswego City Council, the policy outlined provisions for a quick turnaround to deal with issues.



Council President Buehner said the Oversight Committee also discussed the Pilot Plant Project. The final piece to the project is anticipated to be in place by mid-October. Any councilor interested could make arrangements to observe the pilot project. She said if any City Council member would like to observe, to contact her or Mayor Dirksen.



Council President Buehner reported that the public outreach process on the water partnership is continuing and meetings have been proceeding with various groups (i.e., the Robin Hood Neighborhood). The raw water intake process is going before the City of Gladstone Planning Commission next week for a hearing. The pre-application process for the plant has been completed with the City of West Linn. The City of Lake Oswego is making some code adjustments to allow the plant to provide work needed for finished water. Some of the work on the Waluga Reservoir has been delayed until other projects are underway.

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Council President Buehner said work is being done to determine the crossing for raw water from Gladstone to the treatment plant. Mayor Dirksen said the biggest challenge is to determine how to bore the line under the Willamette River.

Councilor Henderson asked about a Clackamas River tour offered in a piece of literature in the council mail packet. Council President Buehner said that one of the members of the Intergovernmental Water Board will be going on the tour, which will show how the general plant and policies operate in Clackamas County. Clackamas County operates quite differently than Washington County. This is also a public relations effort. Mayor Dirksen said the tour will provide an opportunity to listen to what the Clackamas County officials have to say. Councilor Woodard is planning to go on this tour. Council President Buehner added that King City Councilor Winn is planning to attend as the Intergovernmental Water Board representative.



Councilor Woodard advised that the Metropolitan Area Communications Commission (MACC) quarterly board meeting is September 13. He will attend the meeting to represent the City of Tigard. The new facilities appear to be coming along within budget.

Councilor Woodard attended a Parks and Recreation Advisory Board (PRAB) on September 12. The PRAB will appear at the September 20 City Council meeting to provide council with an update. The bond measure dollars are being utilized and work is progressing on scheduled land acquisitions.



Councilor Henderson advised he will be attending the City Center Advisory Commission meeting on September 14.



Councilor Wilson said on October 5 he will attend the Regional Water Providers Consortium meeting. Tigard and Consortium staff members have been discussing modifying the conservation message from a broad message to targeting the summer peak flows to mitigate. He said with concurrence from the City Council, he will advocate for this modification as this could potentially mean a substantial reduction in costs. City Council members expressed support for Councilor Wilson to advocate to the modification. In response to a question from Councilor Henderson, Councilor Wilson said there is an Oregon Administrative Rule that requires us, as water providers, to do all we can to advocate for conservation. The greatest need for conservation is when the resources are the scarcest. He said it makes sense to target the message to meet the shortage.



Mayor Dirksen asked Councilor Woodard to pass along a question from him regarding why the cable television stations are advertising the Tigard Balloon Festival, which occurred in June.

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Council President Buehner referred to the new Water Partnership video. Mayor Dirksen said this video is now being edited; however, he was uncertain when the video would be aired – but it will be soon.

10. NON AGENDA ITEMS: None.

11. EXECUTIVE SESSION: Not held.



9:03 p.m.

12. ADJOURNMENT

Motion by Councilor Wilson, seconded by Councilor Woodard, to adjourn the meeting.

The motion passed by a unanimous vote of City Council present:

Mayor Dirksen	Yes
Council President Buehner	Yes
Councilor Henderson	Yes
Councilor Wilson	Yes
Councilor Woodard	Yes

Catherine Wheatley, City Recorder

Attest:

Mayor, City of Tigard

Date: _____

TIGARD CITY COUNCIL MEETING MINUTES – September 13, 2011



City of Tigard Tigard Business Meeting - Minutes

TIGARD CITY COUNCIL, LOCAL CONTRACT REVIEW BOARD AND CITY CENTER DEVELOPMENT AGENCY

MEETING DATE AND TIME:

October 11, 2011 – 6:30 p.m.

MEETING LOCATION:

City of Tigard - Town Hall - 13125 SW Hall Blvd.,
Tigard, OR 97223

- STUDY SESSION

Mayor Dirksen called the meeting to order at 6:30 p.m.

<u>Name</u>	<u>Present</u>	<u>Absent</u>
Mayor Dirksen	✓	
Council President Buehner	✓	
Councilor Henderson	✓	
Councilor Wilson	✓	
Councilor Woodard	✓	

Interim City Manager Newton, City Recorder Wheatley, City Attorney Bennett, City Attorney Ramis, Associate Planner Floyd, Assistant Public Works Director Rager, Community Development Director Bunch, Principal Planner McGuire, Redevelopment Project Manager Farrelly, Finance and Information Services Department Director LaFrance, Assistant Community Development Director Hartnett.

- EXECUTIVE SESSION: The Tigard City Council went into Executive Session at 6:30 p.m. to discuss real property transaction negotiations and consultation with legal counsel regarding pending litigation under ORS 192.660(2)(e) and (h).

Executive session concluded: 7:27 p.m.

A. ADMINISTRATIVE ITEMS

- Reviewed November, December and January calendars.
- Joint Meeting with the Tigard-Tualatin School Board – meeting date, time and location are to be announced.

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B. COUNCIL CALENDAR

October 18	Workshop Meeting	6:30 p.m.
October 25	Business Meeting	6:30 p.m.
November 8	Business Meeting Canceled	6:30 p.m.
November 14	Special Jt. Tigard/Lake Oswego Mtg.	6 or 6:30 p.m.
November 15	Workshop Meeting	6:30 p.m.
November 22	Business Meeting	6:30 p.m.

Study session concluded: 7:31 p.m.

1. BUSINESS MEETING - OCTOBER 11, 2011

A. Mayor Dirksen called the meeting to order at 7:37 p.m. 

B. Roll Call

<u>Name</u>	<u>Present</u>	<u>Absent</u>
Mayor Dirksen	✓	
Councilor President Buehner	✓	
Councilor Henderson	✓	
Councilor Wilson	✓	
Councilor Woodard	✓	

C. Pledge of Allegiance

D. Council Communications & Liaison Reports:

Council President Buehner advised she would give a Water Oversight meeting update at the end of tonight's meeting agenda.

Councilor Wilson advised he would report on recent activities of the Regional Water Providers Consortium, also at the end of tonight's meeting agenda.

E. Call to Council and Staff for Non-Agenda Items: None.

2. CITIZEN COMMUNICATION

A. Follow-up to Previous Citizen Communication

Interim City Manager Newton reported there was no follow-up to previous citizen communications. She announced the city received word today that the Oregon American Public Works Association (APWA) has named the Burnham Street project as "Project of the Year" in one of their categories. The McDonald/Greenburg/Main intersection project was named runner up in one of the categories.

TIGARD CITY COUNCIL MEETING MINUTES – October 11, 2011

- B. Tigard High School Student Envoy - Courtney Bither – Not present.

At the request of Councilor Henderson for comment from the Mayor, Mayor Dirksen reported on Tigard Turns the Tide, which is a local, non-profit organization that works with youth at the middle- and high-school levels. They sponsor a group that is called “Stop Tigard Underage Drinking” (STUD). Recently Tigard High School was recognized nationally as being a “Red Ribbon School” because of the efforts they have made to reduce underage drinking. Tigard students have shown measurable results, with underage drinking reduced by about thirty percent from what how it was measured ten years ago. Tigard High School students will be officially recognized as a “Red Ribbon School” on October 21. Only 56 schools in the United States received this recognition.



- C. Tigard Area Chamber of Commerce – Executive Director Debi Mollahan presented an update on Chamber activities. A summary of the report is on file with the council packet materials.

- D. Citizen Communication – Sign Up Sheet

Genevieve L. Ford presented a “50th Anniversary Calendar” and advised these are on sale at the Tigard Farmers Market.

Mr. John Frewing and Mr. Jim Long gave a report on the Metzger Centennial celebration held on October 1, 2011. They shared the events of the day and thanked the City of Tigard for its help with the Centennial. They presented a \$500 check in appreciation. The check was made out to the Tigard Police Officers Reserve Fund.



Mira Vowles, 7535 SW Onnaf Court, Tigard, OR 97224, gave testimony regarding the Lake Oswego/Tigard Water Partnership:

She urged to the council to commission an independent update of the cost assumptions and potential risks associated with the Lake Oswego/Tigard Water Partnership. She recommended that the council re-evaluate why the partnership was chosen and the goal of owning our water supply. The 2007 Carollo Study clearly states that the best option for Tigard was to continue to purchase water from Portland. Tigard will not own any of the water rights in the partnership. She urged the council to consider the risks associated with the water rights. This partnership hinges on Lake Oswego’s water rights, which may be tied up in the Court of Appeals for the next two years. She asked if the legal costs and potential fish remediation costs had been considered and if there was a back-up plan if Lake Oswego is unable to permit water rights or if the fish remediation costs are too high. She asked if we really want Clackamas River water and said that in the news this week, Lake Oswego customers were complaining about their Clackamas River water. The partnership costs have increased over 40 percent, which cannot be fully attributed to inflation as was reported and many factors threaten to push the cost even higher, including rerouting the supply line from the Clackamas River. She urged the

TIGARD CITY COUNCIL MEETING MINUTES – October 11, 2011

council to commission a new cost study that includes all of the known costs and a realistic contingency factor for the unknowns in addition to the proposed value engineering study. She said this partnership was supposed to lower water rates, but instead Tigard water rates will double and because of the escalating costs, those water rates are not expected to ever drop.

Ms. Vowles invited Tigard residents to learn more about the Lake Oswego/Tigard Water Partnership next Monday at the Tigard Library (October 17, 6:30 p.m., in the Tigard Library Community Room). She said that John Goodrich, the Tigard Utility Division Manager will be talking about the partnership at that time.



Council President Buehner commented to Ms. Vowles that there is an Oversight Committee, made up of two councilors from each council. Mayor Dirksen and Council President Buehner are the members from Tigard for that committee. The Oversight Committee reviews the budget at least quarterly and they have done an intense evaluation of costs as they have proceeded. There was an in-depth study completed after the preliminary Carollo report. She advised Ms. Vowles she would be glad to discuss this matter further and added that she was sure that Public Works Director Koellermeier or Utility Division Manager Goodrich would also be available to discuss.



Mayor Dirksen noted that Ms. Vowles urged the re-evaluation or new study of the costs. He assured Ms. Vowles that costs are constantly re-evaluated as we move through the project.

Ms. Vowles said the benefits and risks need to be reassessed. Mayor Dirksen said that options are always being evaluated; however, the options are limited. He thanked Ms. Vowles for her comments and said he appreciated her invitation so people could come hear more at the October 17 meeting at the library.



Mayor Dirksen reviewed the Consent Agenda:

3. CONSENT AGENDA: (Tigard City Council and Local Contract Review Board)
 - A. Approve Council Meeting Minutes
 1. July 26, 2011
 2. August 9, 2011
 - B. Receive and File:
 1. Council Calendar
 2. Tentative Agenda

TIGARD CITY COUNCIL MEETING MINUTES – October 11, 2011

- C. Endorse the Submittal of Periodic Review Grant Applications for Performing the Goal 10: Housing Work Task

RESOLUTION NO. 11-36 - A RESOLUTION SUPPORTING PERIODIC REVIEW GRANT APPLICATION TO COMPLETE GOAL 10: HOUSING WORK TASK

- D. Local Contract Review Board: (This item was considered separately; see below.*)
1. Award Contract to CFM Strategic Communications, Inc. to Provide Technical Advice and Direct Advocacy and Support for the City's Federal Intergovernmental Interests and Authorize the City Manager to Enter Into a Contract for the Period of October, 2011 through October, 2014, With an Option to Renew for up to Two 12-Month Extensions

Council President Buehner requested that Consent Agenda Item D be removed for separate discussion.

Motion by Council President Buehner, seconded by Councilor Woodard, to approve the Consent Agenda, except for Item D.

The motion was approved by a unanimous vote of City Council present.

Mayor Dirksen	Yes
Council President Buehner	Yes
Councilor Henderson	Yes
Councilor Wilson	Yes
Councilor Woodard	Yes

*D. Local Contract Review Board:

1. Award Contract to CFM Strategic Communications, Inc. to Provide Technical Advice and Direct Advocacy and Support for the City's Federal Intergovernmental Interests and Authorize the City Manager to Enter Into a Contract for the Period of October, 2011 through October, 2014, With an Option to Renew for up to Two 12-Month Extensions

Council President Buehner reported she was mildly concerned that only one bid was received. In an effort to assure due diligence was done, she asked this item be removed for discussion. Senior Management Analyst Wyatt gave a brief background on this item. At the August 23, 2011, City Council meeting the council directed staff to look into federal lobbying services. Staff issued a Request for Proposals on September 13, 2011, which appeared in the Daily Journal of Commerce and the city's web site until September 22, 2011. Staff received a few inquiries during that time. Two stipulations for minimum requirements were to:

- 1) Have an office in Washington D.C. and Portland.

TIGARD CITY COUNCIL MEETING MINUTES – October 11, 2011

2) Have experience working with cities.

Since only one bid was received, staff did some research to determine what other cities in the area are paying for these types of services and discovered there is a wide range – from \$60,000 - \$120,000 per year. The proposed contract for Tigard falls on the low end of this range.



Councilor Henderson said he was supportive of the proposal for lobbying services. This is an important part of the bigger picture. After reading what CFM plans to deliver to the City of Tigard for \$60,000, it appears that Tigard will have representation in Washington D.C. He said he is certain that the city would have benefited from such a service in the past.



Councilor Woodard agreed with Councilor Henderson's statements. It is important to leverage these types of services since federal and state funding is becoming scarcer and it is more difficult to compete for dollars. Professional expertise will help the city find funding to operate and move forward. He said he was supportive of the proposed contract. Councilor Woodard added he also agreed with Council President Buehner's concerns about receiving only one bid; however, it appears that this has been explained fully.



Mayor Dirksen said the agenda information indicates that the city is entering into a contract for technical advice and direct advocacy/support – but, basically the city is hiring a lobbyist. He acknowledged this could have a negative connotation, but the council recognizes that in the current budget climate, there will be fewer federal dollars for programs and the competition will be greater. The City of Tigard has some large needs for road improvements, infrastructure, and providing service such as police. Council expects that the money spent on a lobbyist would be returned to the city many fold as a result of services rendered.



Senior Management Analyst Wyatt said if the contract is approved, the strategy would be for a CFM mid-November visit with the council members and department heads.



Mayor Dirksen said this is one of the few federal lobbyists that have an office in Portland, so with the local connection the city could expect better personal support from CFM than a larger firm that was only located in Washington D.C.



Council President Buehner said she was also supportive of the proposed contract. She said she personally knows Mr. Conklin of CFM through her work at the legislature.

TIGARD CITY COUNCIL MEETING MINUTES – October 11, 2011



Councilor Henderson said he appreciated this discussion and that the item was pulled from the Consent Agenda since it is an important topic requiring communication with Tigard residents so they know this service is available and this is how their money is being spent.

Motion by Councilor Wilson, seconded by Councilor Henderson to approve Consent Agenda Item D.



The motion was approved by a unanimous vote of City Council present.

Mayor Dirksen	Yes
Council President Buehner	Yes
Councilor Henderson	Yes
Councilor Wilson	Yes
Councilor Woodard	Yes



4. PROCLAMATION - RECOGNIZING THAT SEPTEMBER 17-23 WAS U.S. CONSTITUTION WEEK, THE 224TH ANNIVERSARY OF THE DRAFTING OF THE CONSTITUTION

Mayor Dirksen issued the proclamation.



5. CONSIDER AMENDING TIGARD MUNICIPAL CODE CHAPTER 12, WATER AND SEWERS -- ORDINANCE NO. 11-09

Utility Division Manager Goodrich presented the staff report. The proposed ordinance would amend the Tigard Municipal Code Title 12, Water and Sewers, by adding a new chapter (12.01 – Utility Services Rules and Regulations). This new chapter provides a framework for the Title 12 Code by authorizing the use of administrative rules for city utility services. It also lays the groundwork to update other chapters within Title 12. These additional updates will come before the City Council later this year if this ordinance is adopted. Staff has approached council several times over the last year regarding the work in progress. The council reviewed Chapter 12.01 during the September 13, 2011, study session. Since then, only one change was made to the ordinance, which was to add the term “responsible party” to the list of definitions. The city attorney’s office provided direction and comments to staff during the development of this chapter.



Council President Buehner commented that this subject came before the Intergovernmental Water Board (IWB) about four years ago. There were requests, both from staff (utility billing)

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and customers who had questions on process, to make some changes. The IWB asked staff to move forward with the proposal before the City Council tonight and staff has done a great job.

Motion by Councilor Wilson, seconded by Council President Buehner, to approve Ordinance No. 11-09.

ORDINANCE NO. 11-09 -- AN ORDINANCE ADDING CHAPTER 12.01, UTILITY SERVICES RULES AND REGULATIONS TO TIGARD MUNICIPAL CODE TITLE 12, WATER AND SEWERS

The motion was approved by a unanimous vote of City Council present.

Mayor Dirksen	Yes
Council President Buehner	Yes
Councilor Henderson	Yes
Councilor Wilson	Yes
Councilor Woodard	Yes



6. PUBLIC HEARING - CONSIDERATION OF A SUPPLEMENTAL APPROPRIATION TO AMEND THE FISCAL YEAR 2012 ADOPTED BUDGET

-  Mayor Dirksen opened the public hearing.
- Finance and Information Services Department Director LaFrance presented the staff report.
- Public Testimony: None
- Council discussed the proposed supplemental appropriation for the 2012 budget and asked a few questions to receive clarification on water meters and the tree fund.
- Mayor Dirksen closed the public hearing.
-  City Council Consideration:

Motion by Council President Buehner, seconded by Councilor Woodard, to approve Resolution No. 11-37.

RESOLUTION NO. 11-37 -- A RESOLUTION TO ADOPT A SUPPLEMENTAL BUDGET TO ACHIEVE THE FOLLOWING: 1) BUDGET OF UNANTICIPATED EXPENDITURES IN PUBLIC WORKS, FINANCE & INFORMATION SERVICES, AND POLICE; AND 2) INCREASED TRANSFER BY \$30,992 FROM THE CRIMINAL FORFEITURE FUND TO THE GENERAL FUND FOR POLICE; AND 3) UPDATE OF THE FY 2012 MASTER FEES AND CHARGES SCHEDULE.

TIGARD CITY COUNCIL MEETING MINUTES – October 11, 2011

The motion was approved by a unanimous vote of City Council present.

Mayor Dirksen	Yes
Council President Buehner	Yes
Councilor Henderson	Yes
Councilor Wilson	Yes
Councilor Woodard	Yes

7. COUNCIL LIAISON REPORTS

 Tigard/Lake Oswego Water Partnership – Oversight Committee. Council President Buehner presented an update. At a recent meeting, the committee held a detailed discussion of “scope issues” relating to substantial changes in the variety of projects on the plant construction and water delivery system. Agreement was reached that if a scope change is “material” then that change should go before each of the City Councils for review.

The committee discussed status of planning among the various components of the plant and infrastructure: the reservoir, treatment plant, raw water crossing, intake, etc. Most of the planning is expected to be completed early next year.

The committee discussed the Willamette River raw water crossing options. Two options are available and the planner is almost finished with his design. A report from the planner is expected soon.

The committee discussed the ongoing outreach to various communities. There have been meetings with citizens regarding the new reservoir location. Upcoming meetings are scheduled for the Robinwood neighborhood. Meetings have been held with neighborhood associations in Lake Oswego regarding the finished water pipeline route. More meetings will be continuing through the next couple of months.

Mayor Dirksen commented on a discussion about increases in costs. One of the Lake Oswego neighborhoods suggested that a path be placed on top of where the pipe is placed and this triggered a discussion on who would pay for this: the partnership, the neighborhood, a capital improvement program item for Lake Oswego, etc.

Council President Buehner said there was discussion with the circumstance where Tigard might receive a benefit because of a change that occurred in Lake Oswego and whether Tigard should contribute some portion of the change in cost. Mayor Dirksen added this would be subject to discussion on a case-by-case basis.

 Mask and Mirror. Council President Buehner announced this new theater group was conducting a play reading at the Library Community Room on October 12 at 7 p.m. She said she would be participating.

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 Regional Water Providers Consortium. Councilor Wilson reported on a meeting last week. One of the agenda topics was to review the Five-Year Strategic Plan for the Consortium. He explained the Consortium is a group of most of the region's water providers who meet to discuss common interests – primarily conservation and emergency planning. He said he has long felt that the group's efforts should be focused on addressing peak consumption rather than conservation in general. He pointed out that we are building about 25 percent of our capacity for needs that occur for a week or two each year. If we can eliminate the peak, water providers could reduce overall costs.

The five-year strategic plan was a good opportunity to shift the emphasis of the group. At the last meeting Consortium members split into three groups to discuss the peak water usage. Unfortunately, there was no time at the end of the meeting to share the notes on this topic by the group. Councilor Wilson said he continues to feel that while the Consortium does good work, but he questions whether it is bringing full value to our ratepayers. Each member of the larger group (Consortium) has a slightly different situation and it is difficult to find common interests.

Council President Buehner said she has been reading information regarding global warming and, for our metropolitan area, it is anticipated that we will see longer, drier summers that will necessitate more storage capacity to accommodate the condition of less snow run-off during the summer. She asked Councilor Wilson if this item was discussed by the Consortium. Councilor Wilson said the strategic goals were much more general than that. He said there is not much opportunity for open discussion; rather, the meeting agenda is closely followed and individual members have little opportunity to influence the direction. At the last meeting, the group took the last year's five-year plan and reviewed each of the goals, opportunities, etc. Essentially it was a review of all of the bullet points of the plan. However, the Consortium has looked at studies by the University of Washington and there was some discussion on the topic brought up by Council President Buehner. He was not aware if anything actionable came out of this discussion – but it is on the “radar screen.” Council President Buehner said this is a topic that would pertain to everyone in the region. Councilor Wilson commented there is a wide degree of opinion on the global warming issue as there are on all issues. He said he thinks Tigard should continue to participate with the Consortium and suggested it might be more appropriate for a staff member to participate since there are a limited number of policy matters discussed by the group.

Mayor Dirksen suggested Councilor Wilson contact the chair of the Consortium for a follow up of the discussion at the last meeting. Councilor Wilson said he would continue to monitor the group. Mayor Dirksen agreed that consideration of a change of who represents the city should be explored.

Clackamas River Tour. Councilor Henderson asked Councilor Woodard to report on his recent tour of the water and sewage treatment facilities on the Clackamas River. Councilor Woodard commented on a youth camp in the area for young people who are interested in forestry, treating water, and the environment.

TIGARD CITY COUNCIL MEETING MINUTES – October 11, 2011

Councilor Woodard reported he found the tour interesting: freshwater intake, effluent management, old and new infrastructure (switching gear for generators), and emergency water release in the event of a catastrophic event.

- 8. NON AGENDA ITEMS: None.
- 9. EXECUTIVE SESSION: Not held.
- 10. ADJOURNMENT:  8:40 p.m.

Motion by Councilor Wilson, seconded by Councilor Woodard, to adjourn.

The motion was approved by a unanimous vote of City Council present.

Mayor Dirksen	Yes
Council President Buehner	Yes
Councilor Henderson	Yes
Councilor Wilson	Yes
Councilor Woodard	Yes

Catherine Wheatley, City Recorder

Attest:

Mayor, City of Tigard

Date: _____

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TIGARD CITY COUNCIL MEETING MINUTES – October 11, 2011

AIS-720

Item #: 4. B. 1.

Business Meeting

Date: 11/22/2011

Length (in minutes): Consent Item

Agenda Title: Contract Award - Hydro-geological Services Related to Aquifer Storage and Recovery Program

Prepared For: Joseph Barrett

Submitted By: Joseph Barrett
Financial and
Information Services

Item Type: Motion Requested

Meeting Type: Consent Agenda -
LCRB

ISSUE

Shall the Local Contract Review Board award a contract for hydro-geological services related to the city's aquifer storage and recovery program to GSI Water Solutions, Inc.?

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends the Local Contract Review Board award the contract for hydro-geological services to GSI Water Solutions, Inc. and authorizes the city manager to fully execute the contract.

KEY FACTS AND INFORMATION SUMMARY

The city has an active aquifer storage and recovery (ASR) program. In an ASR program, water is stored in the basalt aquifer beneath the city's service area during the winter and spring months (December through June) when demands are low. This stored water is recovered during the summer and fall months (July through November) to augment system capacity during peak demand periods or during an emergency condition. The city currently has three ASR wells in operation.

The Public Works Department requires the use of hydro-geological support services to provide operational support for the city's extensive Aquifer Storage Recovery (ASR) limited license program. These services for the next five years will include:

- Annual operational support services for the injection and recovery cycles, water quality monitoring, state reporting requirements, and long term monitoring of the city's ASR system.
- ASR Limited License Extension (Oregon Water Resources Department license expires in December 2011) including request by the city for beneficial modifications to the current license.
- Hydro-geotechnical engineering support for funded capital improvement projects for ASR expansion and Lake Oswego-Tigard Water Partnership projects.

The city issued a Request for Proposal for the required hydro-geological services on September 1, 2011 with responses due on September 29th. The city received only one response, as was anticipated, from GSI Solutions, Inc. A selection committee reviewed the receive proposal, found it to be responsive to the city's needs and has recommended GSI Solutions, Inc. be awarded the contract for the needed services. Staff anticipates the total amount that will be spent during the life of this contract is roughly \$360,000.

OTHER ALTERNATIVES

The Local Contract Review Board can choose to decline the award and direct staff to reissue the Request for Proposal in effort to receive additional proposals. Given this field is narrow; this may simply add staff and material costs while yielding the same result.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

N/A

DATES OF PREVIOUS COUNCIL CONSIDERATION

This is the first time this agreement has been before the Local Contract Review Board.

Fiscal Impact

Cost: \$360,000

Budgeted (yes or no): Yes

Where budgeted?: Water Fund

Additional Fiscal Notes:

This contract will be for up to five years with an estimated total of \$360,000 over the potential life of the contract. Appropriation in future fiscal years will be included in budget requests.

AIS-634

Item #: 5.

Business Meeting

Date: 11/22/2011

Length (in minutes): 30 Minutes

Agenda Title: Update from the Park and Recreation Advisory Board (PRAB) Regarding a City Recreation Program

Submitted By: Cathy Wheatley
Administrative Services

Item Type: Update, Discussion, Direct Staff

Meeting Type:

Council Business
Meeting - Main

ISSUE

The council will receive an update on PRAB activities related to a city recreation program.

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends the council receive the update.

KEY FACTS AND INFORMATION SUMMARY

The PRAB will provide an update on its activities to investigate a city recreation program.

The Board has heard presentations from recreation professionals working in neighboring cities.

Preliminary community attitudes survey results indicate 80 percent of those polled felt the city should play an active role in recreation. Survey results will be finalized and available for discussion at this meeting.

The PRAB may make a recommendation for the council regarding consideration of a city recreation program as a 2012 City Council goal.

OTHER ALTERNATIVES

Council could choose not hear the PRAB's recreation program update.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

2011 Tigard City Council Long Range Objective:

"Programs and activities are available in the community to meet the needs of a diverse population."

DATES OF PREVIOUS COUNCIL CONSIDERATION

The council last met with the PRAB and discussed recreation on September 20, 2011.

AIS-691

Item #: 6.

Business Meeting

Date: 11/22/2011

Length (in minutes): 10 Minutes

Agenda Title: Addition of Fully Funded 1.0 FTE Transit Officer to Police Department and Related Budget Amendment

Prepared For: Toby LaFrance

Submitted By:

Carissa Collins
Financial and
Information
Services

Item Type: Motion Requested
Resolution

Meeting Type:

Council Business
Meeting - Main

ISSUE

The city currently has an Intergovernmental Agreement (IGA) with TriMet and the City Portland that provides for the assignment of one sergeant and three police officers to the TriMet Transit Division in the City of Portland Police Department. This Division includes sworn officers from the City of Beaverton, City of Gresham, City of Milwaukie, Multnomah County, Washington County, Clackamas County and the City of Tigard.

The success of this program has created a greater opportunity to expand communication and cooperation between the participating jurisdictions as well as providing greater knowledge of policing in a mass transit environment. This has been of tremendous value with the commuter rail now operational through Tigard. As a result, TriMet has requested that the city provide an additional 1.0 FTE police officer position to be assigned to the Transit Division.

Approval of this item will add 1.0 FTE Police Officer position to the Police Operations Division. To support the position, the budget in the Police Operations Division, which is part of the Community Services Program, will be increased by \$74,673 for FY 2012. This increase in expenditures is offset with an equal increase in revenues from TriMet as part of the IGA.

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends approval of the additional 1.0 FTE Transit Officer position to the Police Department.

KEY FACTS AND INFORMATION SUMMARY

This request is to approve the addition of one FTE police officer position and related costs and supporting revenues to the FY 2012 Adopted Budget in Police. TriMet will reimburse the city for all personnel expenses including small equipment allowances. In addition, the city charges a 5% overhead fee to cover administrative costs which is also reimbursed by TriMet. Salary, benefits, materials and services along with overhead are estimated within mid-range for an overall total of \$74,673 for 9 months of the fiscal year.

OTHER ALTERNATIVES

Do not approve the additional 1.0 FTE to Police.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

6. Financial Stability

a. Hold the line on the General Fund Budget.

DATES OF PREVIOUS COUNCIL CONSIDERATION

N/A

Fiscal Impact

Cost: \$74,673

Budgeted (yes or no): No

Where Budgeted (department/program): Police/Operations

Additional Fiscal Notes:

The additional 1.0 FTE and related costs in Police is fully reimbursed by TriMet. The position salary is priced beginning at Step 3 of the salary range for a Police Officer pro-rated for 9 months of the fiscal year. The total impact of this action will increase requirements within the General Fund by a total of \$74,673, this amount is offset by revenues received from the Intergovernmental Agreement with TriMet and the City of Portland

<u>Fund</u>	<u>Budget Impact</u>	<u>Source</u>
General Fund	\$74,673	Intergovernmental Revenues

Attachments

Resolution

Exhibit-A

**CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 11-_____**

A RESOLUTION TO APPROVE THE ADDITION OF 1.0 FTE POLICE OFFICER AND RELATED COSTS AND SUPPORTING REVENUES TO THE FY 2012 ADOPTED BUDGET IN POLICE IN THE AMOUNT OF \$74,673.

WHEREAS, the city has an Intergovernmental Agreement (IGA) with TriMet and the City of Portland that provides for the assignment of one sergeant and three police officers to the TriMet Transit Division in the City of Portland Police Department; and

WHEREAS, the city participates in this program with sworn officers from the City of Beaverton, City of Gresham, City of Milwaukie, Multnomah County, as well as Clackamas County; and

WHEREAS, the success of this program has created a greater opportunity to expand communication and cooperation between the participating jurisdictions; and

WHEREAS, this program has given the city greater knowledge of policing in a mass transit environment due to the commuter rail; and

WHEREAS, the city approves the addition of a 1.0 FTE police officer along with the additional costs in the total amount of \$74,673 from the General Fund; and

WHEREAS, the city recognizes the position's supporting revenues to be reimbursed by TriMet and the City of Portland with proceeds going to the General Fund.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The FY 2011-12 Budget is hereby amended as detailed in Exhibit A.

SECTION 2: This resolution is effective immediately upon passage.

PASSED: This _____ day of _____ 2011.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

City of Tigard FY 2012 Supplemental Budget Amendment

Exhibit A

Fiscal Year 2011-12 Budget Amendment #12-02

1. Addition of 1.0 FTE for TriMet Transit Officer in Police

This request is to approve the addition of one FTE police officer position and related costs and supporting revenues to the FY 2012 Adopted Budget in Police. TriMet will reimburse the city for all personnel expenses including small equipment allowances. In addition, the city charges a 5% overhead fee to cover administrative costs which is also reimbursed by TriMet. Salary, benefits, materials and services along with overhead are estimated within mid-range for an overall total of \$74,673 for 9 months of the fiscal year.

		Adopted Budget	Amendment	Revised Budget
General Fund				
Resources				
Beginning Fund Balance		\$ 7,766,831		\$ 7,766,831
Property Taxes		\$ 12,435,379		\$ 12,435,379
Franchise Fees		\$ 4,797,202		\$ 4,797,202
Licenses & Permits		\$ 866,846		\$ 866,846
Intergovernmental		\$ 5,486,963	\$ 74,673	\$ 5,561,636
Charges for Services		\$ 258,155		\$ 258,155
Fines & Forfeitures		\$ 944,100		\$ 944,100
Interest Earnings		\$ 103,206		\$ 103,206
Miscellaneous		\$ 22,431		\$ 22,431
Other Financing Sources		\$ 375,000		\$ 375,000
Transfers In from Other Funds		\$ 3,045,293		\$ 3,045,293
Total Resources		\$ 36,101,406	\$ 74,673	\$ 36,176,079
Requirements				
Policy and Administration		\$ 854,157		\$ 854,157
Community Development		\$ 3,226,930		\$ 3,226,930
Community Services		\$ 20,744,094	\$ 74,673	\$ 20,818,767
Public Works		\$ 4,823,828		\$ 4,823,828
Program Expenditures Total		\$ 29,649,009	\$ 74,673	\$ 29,723,682
Loans		\$ 375,000		\$ 375,000
Transfers to Other Funds		\$ 1,061,630		\$ 1,061,630
Contingency		\$ 903,755		\$ 903,755
Total Budget		\$ 31,989,394	\$ 74,673	\$ 32,064,067
Reserve For Future Expenditure		\$ 4,112,012	\$ -	\$ 4,112,012
Total Requirements		\$ 36,101,406	\$ 74,673	\$ 36,176,079

AIS-637

Item #: 7.

Business Meeting

Date: 11/22/2011

Length (in minutes): 45 Minutes

Agenda Title: Discuss Amendments to Chapter 1.16 of the Tigard Municipal Code

Prepared For: Susan Hartnett

Submitted By:

Susan Hartnett
Community
Development

Item Type: Update, Discussion, Direct Staff

Meeting Type:

Council Business
Meeting - Main

ISSUE

Discuss and provide direction to staff regarding proposed amendments to Tigard Municipal Code (TMC) Chapter 1.16 related to the establishment of new cost efficient and effective tools for code enforcement. This is the first of two discussions council is requested to have regarding this matter. The second discussion is scheduled for December 13, 2011 and will address consolidating existing nuisance violations into a new TMC Title 6. A public hearing is scheduled on both sets of TMC amendments on January 24, 2012.

STAFF RECOMMENDATION / ACTION REQUEST

Receive information, discuss options and direct staff regarding the proposed amendments to TMC Chapter 1.16.

KEY FACTS AND INFORMATION SUMMARY

Introduction: Council is requested to review the first of two packages intended to amend the Tigard Municipal Code (TMC) to establish more cost efficient and effective code enforcement tools. The first set of amendments proposes changes to TMC Chapter 1.16 to create new administrative enforcement options and improve existing judicial remedies. The second package proposes to consolidate existing nuisance violations into a new Title 6. It is scheduled for discussion on December 13, 2011. At both of these work sessions, staff seeks council's feedback and direction prior to a public hearing.

Background: Fiscal Year 2010 -11 budget reductions resulted in elimination of the city's only remaining Code Enforcement Officer. It was decided that maintaining a credible code enforcement function required new administrative enforcement tools to provide more cost efficient and effective services. In response, City Council, at its February 15, 2011 meeting directed staff to prepare the necessary amendments to the Tigard Municipal Code. Over the next several months, council and staff developed the following general strategy regarding TMC amendments.

1. Provide for administrative remedies in Chapter 1.16 to augment existing judicial and emergency remedies;
2. Provide for administrative fees, also in Chapter 1.16, and add these to the Master Fees and Charges Schedule;
3. Consolidate nuisance regulations from multiple TMC locations into a new Title 6; and
4. Establish the authority to create administrative rules as needed.

Council subsequently directed staff to refine the above into specific TMC amendments for its consideration. The proposed amendments are summarized below and described in greater detail in Attachment 1, which is a cover memo accompanying Attachment 2, the proposed amendment package, which includes the following materials:

1. Proposed amendments to Chapter 1.16 formatted to show the final version of the language ("clean"). This version includes "comment balloons" that explain the major changes.
2. Proposed amendments to Chapter 1.16 formatted to show the changes to the existing language (strike-through and underline font). This version also includes "comment balloons" that explain the major changes.
3. A Table of Changes showing a section by section summary comparison of the existing and proposed text with notes describing key changes.
4. Two examples of Administrative Rules that would implement specific regulations of Chapter 1.16.

5. Cross Reference Updates showing other TMC provisions that will need to be updated because of renumbering in Chapter 1.16.

(Both attachments were provided to the City Council members on November 10 in a notebook.)

TMC Chapter 1.16 is proposed to be restructured from 46 sections into four articles with topically related sections. A Table of Contents for each article has been added. An administrative process has been added to enhance existing judicial provisions and general regulations have been separated from process specific ones. The proposed Chapter 1.16 Articles are: Article I - General Provisions; Article II - Judicial Enforcement; Article III - Administrative Enforcement and Article IV - Penalties, Fees and Costs.

In addition to the changes described above, TMC Chapter 1.16 has been cleaned up and its usability improved. For example, language was modernized, long and complex sentences were broken down and consistent use of terms was established. Also the city's AP standards were applied.

OTHER ALTERNATIVES

1. Council may choose to spend more time reviewing the proposed changes and also delay the public hearing.
2. Council may also choose to not proceed with amendments to Chapter 1.16.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

Goal #1. Implement Comprehensive Plan: The Code Compliance Program contributes to many of the Comprehensive Plan's goals and policies related to the community's livability and vitality.

Goal #4. Advance Methods of Communication: Consolidating nuisance citations in a single title will improve and simplify communication with the public on code violations. The addition of an administrative enforcement process will allow for less formal and less threatening communication with alleged violators.

DATES OF PREVIOUS COUNCIL CONSIDERATION

July 27, 2010; February 15, 2011; August 23, 2011; September 13, 2011

Attachments

Attachment 1 - Cover Memo

Attachment 2 - Proposed Amendment Package



City of Tigard Memorandum

To: Mayor Dirksen and Tigard City Councilors
From:  Susan Hartnett, Assistant Community Development Director
Re: First Package of Proposed Code Compliance TMC Amendments
Date: November 8, 2011

At the September 13, 2011 City Council meeting, staff presented a high level overview of the draft package of amendments to the Tigard Municipal Code (TMC) and Administrative Rules that are being proposed to enhance the city's code compliance program. Because of the anticipated volume and complexity of the amendments, council indicated a desire to divide the materials into pieces that could be reviewed and discussed at several meetings.

On October 7, 2011, staff provided a memo outlining the anticipated schedule for distribution of two packages of material, which also described the use of a 3-ring loose leaf binder with tabs for each major component of the TMC being amended. The attached notebook will allow materials to be added and updated easily throughout the review, revision and adoption process. Each packet of material will be distributed two weeks before the scheduled discussion of those components.

The entire code compliance team is very pleased to present the first package of proposed amendments and related materials contained in the attached notebook. A brief reminder of the anticipated schedule for the review and adoption process will be followed by a summary of the contents of this package and suggestions on different ways the material can be reviewed depending on individual preferences.

At the business meeting on November 22, 2011 council will discuss the proposed amendments to Chapter 1.16, which create administrative remedy options and augment the existing judicial remedies. At the conclusion of that discussion, staff will seek direction on the next steps. At this time, the second package, which consolidates existing nuisance violations into a new Title 6, is scheduled for distribution to council members on November 29 with discussion at the December 13 meeting. A public hearing to consider all of these amendments is scheduled for January 24, 2012. However, the hearing can be delayed if additional time for discussion is desired.

The key elements of the proposed amendments to Chapter 1.16 - Civil Infractions are described below.

Restructuring the chapter into four articles

The current chapter has forty-six sections but no articles. Articles are a convenient way to break long chapters into coherent pieces that contain topically related sections. In adding an administrative process to a chapter that already contained a judicial process, staff felt that utilizing articles improves the usability of the chapter and makes it easier to separate general regulations from process specific regulations. A Table of Contents for each article has also been added to assist with locating specific sections quickly.

Article I - General Provisions covers regulations that apply to the entire chapter. The topics in Article I have been extensively expanded to cover regulations that were previously missing, such as warrants (1.16.110-1.16.114) and liability (1.16-065). Article I also includes the authority to use administrative rules (1.16.105) to implement specific aspects of the regulations. Finally, the definitions section in Article I has been expanded and the use of defined terms has been consistently applied throughout the chapter.

Article II - Judicial Enforcement contains primarily existing language that has been updated and clarified. Portions of the existing text that should apply more broadly have been moved to either Article I or Article IV. Article III - Administrative Enforcement is primarily new and establishes the administrative options.

Article IV - Penalties, Fees and Costs covers both penalties applied in the judicial process and fees applied in the administrative process. It also consolidates the regulations related to assessing, collecting and utilizing liens to apply them to both processes.

General clean up, application of AP style, improvements to usability

Throughout the chapter attention has been paid to modernizing language and consistent use of terms, especially defined terms. Care was also taken to break down some of the existing long, complex sentences and paragraphs into more easily understood elements. In general, the goal is to have only one regulation or process step per section, subsection, paragraph or subparagraph. This approach results in more pages of text but the clarity of the text is greatly enhanced. In addition, the chapter has been conformed to the newly adopted AP guidelines for punctuation. To the extent possible, renumbering has been avoided because of the need to locate and update cross references in other sections of the TMC.

The notebook contains the following materials:

- Tab 1 – Proposed amendments to Chapter 1.16 formatted to show the final version of the language (“clean”). This version includes “comment balloons” that explain the major changes.
- Tab 2 – Proposed amendments to Chapter 1.16 formatted to show the changes to the existing language (strike-through and underline font). This version also includes “comment balloons” that explain the major changes.
- Tab 3 – A Table of Changes showing a section by section summary comparison of the existing and proposed text with notes describing key changes.
- Tab 4 – Two examples of Administrative Rules that would implement specific regulations of Chapter 1.16.

Tab 5 – Cross Reference Updates showing other TMC provisions that will need to be updated because of renumbering in Chapter 1.16.

The “clean” version of the amendments allows review of the proposed text in its final form and will be most useful to the reader who wants to focus on the outcome without seeing the “in line” text changes. To aid in using this version, “comment balloons”, which give a very short summary of the changes made to the existing text, are included.

The “strike-through/underline” version shows the existing text with “in line” changes that create the proposed text and includes the “comment balloons” as well. This version provides complete detail, such as format changes to renumber subsections and paragraphs and will be most useful to the reader who is interested in details and is comfortable reviewing text in a variety of font styles and colors.

The Table of Changes may be helpful as an adjunct to the “clean” version for a reader who wants to check to see what might have changed in certain (or all) sections. The table can also be used to get an overall sense of the nature and quantity of the changes.

The example administrative rules are intended to show how the rulemaking authority proposed in 1.16.105 is implemented for two sections, 1.16.120 and 1.16.640.A.2. These are provided to allow an assessment of the link between the authority being granted and the anticipated way it will be utilized.

The final section simply shows the other sections of the TMC that will need to be amended due to renumbering and, while these changes will be required as part of the adopting ordinance, they are not really relevant to the core purposes of the Chapter 1.16 amendments.

At the November 22 meeting, staff is seeking council's input on the proposed amendments but is not posing specific questions. Staff suggests that the council consider an article by article discussion of the materials.

At the conclusion of the discussion, staff will ask the following two questions of the council:

- 1) Does the City Council wish to schedule additional time for discussion of the proposed amendments to Chapter 1.16?
- 2) Does the City Council wish to receive the second package of amendments, which create a new Title 6, on November 29, 2011?

When the second package is distributed it will include tabs and a cover memo similar to this one. Council members will easily be able to add the new materials to this notebook. If revised versions of the documents are provided during the review process, council members will be able to cross reference prior versions to track changes if desired.

The project staff looks forward to council's discussion and feedback on this first package.

CODE COMPLIANCE

LIVABILITY AND “A PLACE TO CALL HOME”

Proposed Changes to Tigard Municipal Code

Chapter 1.16, Civil Infractions Title 6, Nuisance Violations

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2. Ch. 1.16 Proposed Text (strike-through)
3. Ch. 1.16 Table of Changes
4. Ch. 1.16 Administrative Rules
5. Cross-Reference Updates

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6. Title 6 Proposed Text (“clean”)
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ARTICLE I. GENERAL PROVISIONS		
<p>1.16.010 Title for Provisions</p> <p>The ordinance codified in this chapter shall be known as the “civil infractions ordinance,” and may also be referred to herein as “this chapter.” (Ord. 86-20 §1(Exhibit A(1)), 1986).</p>	<p>infractions procedures are intended to be used for all violations of the TMC other than certain violations of Title 7 and Title 10.</p>	<p>Comment [SL1]: 1.16.010. Existing text.</p>
<p>1.16.020 Establishment and Purpose</p> <p>A. The purpose of this chapter is to establish civil procedures for the enforcement of certain provisions of the Tigard Municipal Code (TMC).</p> <p>B. The procedures for the judicial enforcement process and the administrative enforcement process established herein are for the purpose of decriminalizing penalties for infractions of certain civil ordinances and for the purpose of providing a convenient and practical forum for the hearing and determination of cases arising out of such infractions. The civil</p>	<p>C. The civil infractions abatement procedures established herein are for the purpose of authorizing the city to proceed to abate such infractions:</p> <ol style="list-style-type: none"> 1. if it is determined that the infraction presents an immediate danger to the public health, safety or welfare; or 2. if it is determined that the property owner or responsible person is incapable of or unwilling to abate the infraction within a timeline satisfactory to the city. <p>D. This chapter is adopted pursuant to the home rule powers granted the City of Tigard by Article IV, Section 1 and Article XI, Section 2 of the Oregon Constitution; Oregon Revised Statutes 30.315 and Sections 4 and 21 of the Charter of the City of Tigard. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(2)), 1986).</p>	<p>Comment [SL2]: 1.16.020. Existing text, modified to add administrative processes.</p> <p>Comment [a4]: 1.16.020.C.2. Added to provide for administrative abatement.</p> <p>Comment [SL3]: 1.16.020.B. Modified to allow for both judicial and administrative abatement</p>

1.16.030 Definitions

For the purposes of this chapter, the following definitions shall apply:

A. **“Abate”** means to restore a property to its condition prior to the infraction, or similar condition that is free of the subject infractions. In the case of graffiti, “abate” means to remove graffiti from the public view.

B. **“City manager”** means the city manager or any other city employee designated by the city manager.

C. **“Civil infraction”** or **“infraction”** means:

1. the failure to comply with a provision of this code other than certain provisions of Title 7 and Title 10 and

2. the process of imposing a civil penalty under this chapter.

References to “uniform infraction” throughout the code other than in certain provisions of Title 7 and Title 10 shall be deemed to be references to “civil infraction.” (Ord. 07-03, Ord. 05-08, Ord. 02-27, Ord. 86-20 §1(Exhibit A(4)), 1986).

D. **“Civil infractions hearings officer”** means the municipal judge or the individual appointed by the municipal judge with the delegated authority to preside over the code enforcement hearings and to perform the related functions as specified by this chapter.

E. **“Costs”** means any expenses incurred and charges associated with any action taken by the city under this chapter including but not limited to the cost to the public of the staff time invested and, regarding items confiscated for violation of Sections 6.03.010 and 6.03.020, all expenses incurred and charges associated with the removal, storage, detention, processing, disposition and maintenance thereof.

F. **“Code enforcement officer”** means the individual or individuals appointed or

designated by the director of community development or the city manager to enforce the provisions of this chapter. For enforcement of Chapters 10.16 through 10.32, Section 6.02.060 and Chapter 7.60, “code enforcement officer” also includes community service officers of the police department

G. **“Finance officer”** means the senior financial officer of the city or the designee of the senior financial officer.

H. **“Letter of Complaint”** means a letter of notification to a responsible party that the city has received a complaint indicating that a violation may exist on the party’s property.

I. **“Notice of Assessment”** means a formal letter or form notifying a respondent or recipient that an administrative fee, administrative costs or costs of abatement have been assessed against them or against property in which they hold an interest.

J. **“Notice of Violation”** means a formal letter or form notifying a responsible party that the city has probable cause to believe that a violation has been found to exist on the party’s property.

K. **“Order to Abate”** means an order to a respondent or responsible party to abate an infraction from the municipal court as provided in Article II, or from the code enforcement officer as provided in Article III.

L. **“Person”** means an individual human being and may also refer to a firm, corporation, unincorporated association, partnership, limited liability company, trust, estate or any other legal entity.

M. **“Recipient”** means a person who has received a Letter of Complaint under the administrative process.

N. **“Respondent”** means a person charged with a civil infraction. A respondent will have received a Notice of Violation or a summons and complaint as provided in Article II or an Order to Abate as provided in Article III.

Comment [SL5]: 1.16.030. Modified and expanded with substantial additions for clarity and precision

Comment [a6]: 1.16.030.A. From 7.40.125, Modified to add graffiti.

Comment [a13]: 1.16.030G. New.

Comment [a7]: 1.16.030.B. From 7.40.150 and 7.61.010.

Comment [a14]: 1.16.030.H. New

Comment [a8]: 1.16.030.C. From existing 1.16.030

Comment [a15]: 1.16.030.I. New

Comment [a16]: 1.16.030.J. New

Comment [a17]: 1.16.030.K. New

Comment [a9]: 1.16.030.D. From existing 1.16.030

Comment [a18]: 1.16.030.L. New

Comment [a10]: 1.16.030.E. From 7.61.010, Modified for clarity.

Comment [a19]: 1.16.030.M. New

Comment [a11]: These sections deal with confiscation of signs and other materials illegally placed or abandoned in the right of way. The text is currently found at 7.61.015 and 7.61.020.

Comment [a20]: 1.16.030.N. From existing 1.16.030, Modified to add administrative process.

Comment [a12]: 1.16.030.F. From original 1.16.030

O. "Responsible party" means any one of the following:

1. an owner,
2. an entity or person acting as an agent for an owner by agreement that has authority over the property, is responsible for the property's maintenance or management, or is responsible for curing or abating an infraction,
3. any person occupying the property, including bailee, lessee, tenant or other having possession or
4. the person who is alleged to have committed the acts or omissions, created or allowed the condition to exist, or placed the object or allowed the object to exist on the property.

There may be more than one responsible party for a particular property or infraction.

P. "Violation" means failure to comply with a requirement imposed directly or indirectly by this code. "Violation" may also mean civil infraction, except as used in those portions of Chapter 7 and of Chapter 10 that do not use the civil infraction procedure.

Q. "Voluntary Compliance Agreement" means an agreement, whether written or verbal, between the city and the recipient or respondent, which is intended to resolve the alleged civil infraction.

1.16.040 Use of Language

As used in this chapter, pronouns indicating the masculine gender shall include the feminine gender; singular pronouns shall include the plural; and "person" shall, where appropriate, include any partnership, corporation, unincorporated association, the State of Oregon or other entity. (Ord. 86-20 §1(Exhibit A(14)), 1986).

1.16.050 Reference to State Law

Any reference to a state statute incorporates into this chapter by reference the statute in effect on the effective date of the ordinance codified in this chapter. (Ord. 86-20 §1(Exhibit A(11)), 1986).

1.16.060 Culpability, Not Exclusive, Remedies Cumulative

A. Acts or omissions to act which are designated as an infraction by any city ordinance do not require a culpable mental state as an element of the infraction.

B. The procedures prescribed by this chapter shall be the exclusive procedures for imposing civil penalties; however, this section shall not be read to prohibit in any way alternative remedies set out in the Tigard Municipal Code which are intended to abate or alleviate code infractions, nor shall the city be prevented from recovering, in any manner prescribed by law, any costs incurred by it in abating or removing ordinance infractions pursuant to any code provision. (Ord. 86-20 §1(Exhibit A(3)), 1986).

C. The remedies and procedures for abatement of civil infractions provided in this chapter are in addition to all other remedies and procedures provided by law. Nothing in this chapter shall limit or restrict in any way the city's right to obtain abatement by means of a civil infraction, judicial action, an administrative enforcement action, a criminal action, a civil lawsuit or any other form of procedure to obtain abatement.

1.16.065 Liability

A. The city shall not be liable to any person for any loss or injury to person or property growing out of any casualty or incident happening to such person or property on account of a property owner, lessee or occupant of property who fails or neglects to promptly comply with the duties imposed by this section.

B. The city shall be exempt from all liability, including but not limited to common-law liability that it might otherwise

Comment [a21]: 1.16.030.O. From 7.40.020, 7.40.125, and 7.61.010.

Comment [SL26]: 1.16.060. Existing text, expanded for clarity and to encompass administrative process

Comment [a22]: 1.16.030.P. From existing 1.16.030

Comment [SL27]: 1.16.060.C. Added for clarity

Comment [a23]: 1.16.030.Q. From existing 1.16.030

Comment [SL24]: 1.16.040. Existing text

Comment [SL28]: 1.16.065. New section added for clarity

Comment [SL25]: 1.16.050. Existing text

incur to an injured party as a result of the city’s negligent failure to abate an infraction.

C. If any property owner, lessee or occupant, by his or her failure or neglect to perform any duty required of him or her by the terms of this section, contributes in causing injury or damages, they shall reimburse the city for all damages or injury it has sustained or has been compelled to pay in such case, including but not limited to reasonable attorney fees for the defense of the same, and such payments as may be enforced in any court having jurisdiction.

1.16.070 Effect of This Chapter

A. Citations or complaints issued and filed with the municipal court prior to the effective date of the ordinance codified in this chapter shall be processed in accordance with the provisions in effect at the time the complaint was issued.

B. Nothing in this chapter shall be construed as a waiver of any prior assessment, bail or fine ordered by the municipal court. (Ord. 86-20 §1(Exhibit A (12)), 1986).

1.16.080 Severability

The provisions of this chapter are severable. If any section, sentence, clause or phrase of this chapter is adjudged to be invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of the chapter. (Ord. 86-20 §1(Exhibit A(13)), 1986).

1.16.090 Reports of Infractions

All reports or complaints of infractions covered by this chapter shall be made or referred to an authorized code enforcement officer. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(A)), 1986).

1.16.100 Assessment by Code Enforcement Officer

A. Upon receiving a report or complaint or otherwise becoming aware of a

violation of this code, the code enforcement officer shall review the facts and circumstances surrounding the alleged infraction and if he or she deems it appropriate will proceed with appropriate enforcement actions.

B. The code enforcement officer shall not proceed further with the matter if the officer determines that there is not sufficient evidence to support the allegation, or if the officer determines that it is not in the best interest of the city to proceed. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(B)), 1986).

1.16.105 Administrative Rules

The city manager is authorized to draft and adopt administrative rules to define procedures to work with respondents or recipients toward the abatement of civil infractions. Any such administrative rules and regulations shall be adopted pursuant to the provisions of Chapter 2.04, be consistent with this chapter and shall include the following:

A. specific form documents or templates for all written communications referenced in this chapter to ensure that communications from the city are uniform, including a:

1. Letter of Complaint
2. Notice of Violation
3. Order to Abate
4. Notice of Assessment

B. procedures for the preparation, execution, delivery, and posting of notices of a:

1. Letter of Complaint
2. Notice of Violation
3. Order to Abate
4. Notice of Assessment

C. procedures for review by the civil infractions hearing officer to consider

Comment [SL33]: 1.16.105. Added to authorize administrative rules per 2.04. See draft example administrative rules under 4th tab.

Comment [SL29]: 1.16.070. Existing text.

Comment [SL30]: 1.16.080. Existing text

Comment [SL31]: 1.16.090. Existing text.

Comment [SL32]: 1.16.100. Title and text modified for clarity.

protest by a responsible party of an administrative Order to Abate consistent with Section 1.16.420.

D. procedures for determination of the time allowed to abate an infraction or otherwise respond as provided in a:

1. Letter of Complaint
2. Notice of Violation
3. Order to Abate

E. procedures for the calculation of administrative fees.

F. standards for confidential or anonymous reporting and circumstances in which such reporting is allowed.

1.16.110 Warrants - Right of Entry

A. The city manager or designee may enter property, including the interior of structures, at all reasonable times whenever an inspection is necessary to enforce any regulations of this code, or whenever the city manager or designee has reasonable cause to believe that there exists in any structure or upon any property any condition which constitutes a violation of provisions of this code.

B. In the case of entry into areas of property that are plainly enclosed to create privacy and prevent access by unauthorized persons, the following steps shall be taken.

1. The code enforcement officer shall first make a reasonable attempt to locate the owner or other persons having charge or control of the property, present proper credentials and request entry.

2. If entry is refused or if the owner or other persons having charge or control of the property cannot be located, the code enforcement officer may attempt to obtain entry by obtaining a warrant.

1.16.111 Warrants - Grounds for Issuance

A. A warrant for inspection, investigation, removal or abatement purposes shall only be issued upon cause, supported by affidavit, particularly describing:

1. the applicant's status in applying for the warrant;
2. the statute, ordinance or regulation requiring or authorizing the inspection or investigation or the removal and abatement of the violation;
3. the building or property to be inspected, investigated or entered;
4. the purpose for which the inspection, investigation, removal or abatement is to be made;

5. the basis upon which cause exists to inspect, investigate, remove or abate the violation; and

6. in the case of removal or abatement, a statement of the general types and estimated quantity of the items to be removed or conditions abated.

B. Cause shall be deemed to exist if:

1. reasonable legislative or administrative standards for conducting a routine, periodic, or area inspection or for removing and abating violations are satisfied with respect to any building or upon any property, or

2. an investigation is reasonably believed to be necessary in order to discover or verify the condition of the property for conformity with regulations, or

3. there is cause to believe that a violation exists for which removal or abatement is required or authorized by this chapter.

Comment [SL35]: 1.16.111. New section, added to codify warrant procedures. Approved by city attorney.

Comment [SL34]: 1.16.110. New section, added to codify warrant procedures. Approved by city attorney.

1.16.112 Warrants - Procedure for Issuance

A. Before issuing a warrant, the judge may examine the applicant and any other witness under oath and shall be satisfied of the existence of grounds for granting such application.

B. If the judge is satisfied that cause for the inspection, investigation, removal or abatement of any infraction exists and that the other requirements for granting the application are satisfied, the judge shall issue the warrant, particularly describing:

1. the person or persons authorized to execute the warrant,
2. the property to be entered, and
3. the purpose of the inspection or investigation or a statement of the general types and estimated quantity of the items to be removed or conditions abated.

C. 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 6:00 p.m., or where the judge has specifically 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.

D. In issuing a warrant, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to remove any person or obstacle and to assist the representative of the city in any way necessary to enter the property and complete the investigation or remove and abate the infraction.

1.16.113 Warrants - Execution

A. In executing a warrant on occupied property the person authorized to execute the warrant shall, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and

purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request.

B. In executing a warrant on unoccupied property, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in subsection A above, but may promptly enter the designated property if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition. In such case a copy of the warrant shall be conspicuously posted on the property.

C. A warrant must be executed within 10 working days of its issue and returned to the judge by whom it was issued within 10 working days from its date of execution. After the expiration of the time prescribed by this subsection, the warrant unless executed is void.

1.16.114 Warrants - Disposal of Seized Property

The city manager or designee may cause any items removed pursuant to an abatement warrant to be disposed of in an approved manner whenever the city manager or designee, in his or her sole discretion, finds that the fair and reasonable value of the items at resale would be less than the cost of storing and selling the items. In making the above determination, the city manager or designee may include in the costs of sale the reasonable cost of removing the items to a place of storage, of storing the items for resale, of holding the resale including reasonable staff allowances and all other reasonable and necessary costs of holding the sale.

1.16.115 Voluntary Compliance Agreement

A. The code enforcement officer may, at any time prior to a first appearance in court, enter into a Voluntary Compliance Agreement with a respondent or recipient. The

Comment [SL36]: 1.16.112. New section, added to codify warrant procedures. Approved by city attorney.

Comment [SL38]: 1.16.114. New section, added to codify warrant procedures. Approved by city attorney.

Comment [SL37]: 1.16.113. New section, added to codify warrant procedures. Approved by city attorney.

Comment [SL39]: 1.16.115. Existing text moved to Article I from current 1.16.200 with minor revisions. Applies to both judicial and administrative processes.

agreement shall include the time allowed to abate the infraction and shall be binding on the respondent or recipient.

B. The fact that a person alleged to have committed a civil infraction enters into a Voluntary Compliance Agreement shall not be considered an admission of having committed the infraction for any purpose.

C. The city shall suspend further processing of the alleged infraction during the time allowed in the Voluntary Compliance Agreement for the completion of the necessary corrective action. The city shall take no further action concerning the alleged violation if all terms of the Voluntary Compliance Agreement are satisfied, other than steps necessary to terminate the enforcement action.

D. Failure to comply with any term of a signed Voluntary Compliance Agreement constitutes an additional and separate infraction which shall be handled in accordance with the procedures established by this chapter. After the Voluntary Compliance Agreement has been signed no further notice need be given before a civil infraction summons and complaint based on this infraction is issued. The city may also proceed on the alleged infraction that gave rise to the Voluntary Compliance Agreement. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(C)(10)), 1986).

1.16.120 Notice - Notice of Violation and Letter of Complaint

A. Upon receiving a report or complaint or otherwise becoming aware of a violation of this code, the code enforcement officer may cause a notice of the alleged civil infraction to be given to any responsible party for the property containing the alleged infraction.

B. Under the judicial enforcement process set forth in Article II, a Notice of Violation for the alleged civil infraction may be given to the responsible party before a civil infraction summons and complaint is issued for an infraction. Verification of the violation is a

requirement for a Notice of Violation. A Notice of Violation is not required before a summons and complaint is issued. The use of a Notice of Violation is at the sole discretion of the code enforcement officer.

C. Under the administrative enforcement process set forth in Article III, a Letter of Complaint may be mailed to any responsible party for the property containing the alleged civil infraction. Verification of the violation is not a requirement for issuing a Letter of Complaint but the issuance of a Letter of Complaint is a required first step in the administrative process. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(C)(2)), 1986).

1.16.140 Time to Abate Infraction After Notice

A. If a Notice of Violation or a Letter of Complaint is given to a recipient or respondent pursuant to this chapter, the code enforcement officer shall give the recipient or respondent a reasonable time to cure or abate the alleged infraction after the notice is given.

B. The time allowed shall not be less than 24 hours for a Notice of Violation or five days for a Letter of Complaint, nor more than 30 days except in cases where compliance is voluntary and the code enforcement officer deems it appropriate to enter into a Voluntary Compliance Agreement with the owner or the responsible party.

C. The code enforcement officer may grant additional time to the respondent if, in the officer's judgment, compliance within the 30-day timeline would constitute a significant hardship to the respondent or other significant mitigating circumstances exist. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(C)(4)), 1986).

1.16.150 Immediate Abatement Action Required When

A. Notwithstanding the abatement time periods contained in Section 1.16.140, if the code enforcement officer determines that the alleged infraction presents an immediate danger

Comment [a41]: 1.16.130. Section repealed and deleted. Number not reassigned.

Comment [SL42]: 1.16.140. Retitled and expanded to include Voluntary Compliance Agreement and administrative process

Comment [SL40]: 1.16.120. Retitled and significantly modified to incorporate both the judicial and administrative processes.

Comment [SL43]: 1.16.150. Retitled, existing text for Subsections A and B.

to the public health, safety or welfare, or that any continuance of the violation would allow the recipient or respondent to profit from the violation or would otherwise be offensive to the public at large the officer may require immediate remedial action.

B. If, in such cases, the code enforcement officer is unable to serve a Notice of Violation or Letter of Complaint on the recipient or respondent or, if after such service the recipient or respondent refuses or is unable to remedy the infraction, the city may proceed to remedy the infraction as provided in subsection C below. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(C)(5)), 1986).

C. In the case of an immediate danger to the public health, safety or welfare determined under subsection A, the city may abate the infraction and charge the abatement cost back to the respondent, after obtaining a warrant to enter the property and abate the infraction. If the immediate danger constitutes an emergency threatening immediate death or physical injury to persons, the city may abate the infraction without obtaining a warrant if the delay associated with obtaining the warrant would result in increased risk of death or injury, and may charge the abatement costs back to the respondent.

Comment [a44]: 1.16.150.C moved from current 1.16.340 to apply in all circumstances.

ARTICLE II. JUDICIAL ENFORCEMENT

- 1.16.160 Notice - Methods of Service**
- 1.16.170 Notice - Computation of Time Period**
- 1.16.180 Notice - Information**
- 1.16.190 Failure to Respond to Notice**
- 1.16.200 Voluntary Compliance Agreement**
- 1.16.210 Civil Infraction Summons and Complaint - Timing**
- 1.16.220 Civil Infraction Summons and Complaint - Process Requirements**
- 1.16.230 Civil Infraction Summons and Complaint - Service - Failure to Receive - Default**
- 1.16.240 Civil Infraction Summons and Complaint - Respondent's Response Required**
- 1.16.250 No Right to Jury**
- 1.16.260 Representation by Counsel**
- 1.16.270 Opportunity to be Heard - Cross-Examination**
- 1.16.280 Witnesses**
- 1.16.290 Hearing - Admissible Evidence**
- 1.16.295 Burden of Proof**
- 1.16.300 Hearing - Decision by Hearings Officer**
- 1.16.310 Order to Abate - Judicial**
- 1.16.320 Hearing - Records**
- 1.16.330 Finality of Decision - Appeals.**
- 1.16.340 Remedial Action by City - Summary Abatement**
- 1.16.350 Default Judgment**

ARTICLE II. JUDICIAL ENFORCEMENT

1.16.160 Notice - Methods of Service

If a Notice of Violation is given to a respondent pursuant to this chapter, service of such notice may be made as follows:

A. a Notice of Violation may be given to the respondent in person by the code enforcement officer.

B. a Notice of Violation may be given by a telephone call to the respondent. If notice is given in this manner, the respondent may be given, at the code enforcement officer's discretion, a Notice of Violation by

Comment [SL45]: 1.16.160. Retitled and modified to clarify the Notice of Violation process

first class mail sent to his last known address as soon as possible after the initial notice by telephone.

C. a Notice of Violation may be given by mailing to the respondent at his last known address.

D. a Notice of Violation may be given by affixing to the main door of the property or premises. If notice is given in this manner, the code enforcement officer may, at his or her discretion, also provide the respondent with a Notice of Violation by mail sent to the respondent's last known address as soon as possible after the initial notice by posting. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(C)(6)), 1986).

1.16.170 Notice - Computation of Time Period

A. Where the Notice of Violation is delivered in person or by telephone the time period to abate the infraction shall begin immediately upon such delivery.

B. Where the Notice of Violation is mailed to the respondent, notice to abate the infraction shall be considered complete three days after such mailing, if the address to which it is mailed is within the state, and seven days after mailing if the address to which it is mailed is outside the state.

C. Where the Notice of Violation is affixed to the main door of the property or premises, for purposes of computing the time period to abate the infraction, notice shall be considered complete three days after such affixation. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(C)(7)), 1986).

1.16.180 Notice - Information

A. The following information shall be included in the Notice of Violation if one is given:

1. a description or identification of the activity or condition constituting the alleged infraction, and the identification of the recipient as the respondent;

2. a statement that the code enforcement officer has determined the activity or condition to be an infraction;

3. a statement of the action required to abate the alleged infraction and the time and date by which abatement must be completed unless a Voluntary Compliance Agreement is executed;

4. a statement advising the respondent that if the required abatement is not completed within the time specified and the respondent has not entered into a Voluntary Compliance Agreement, a civil infraction summons and complaint will be issued and civil penalties for the particular infraction may be imposed.

B. At the discretion of the code enforcement officer the Notice of Violation may include an invitation to contact the code enforcement officer to discuss any questions the respondent may have about the alleged violation, the requirements for compliance and any possibility of entering into a Voluntary Compliance Agreement. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(C)(8)), 1986).

1.16.190 Failure to Respond to Notice

If notice is given, and the respondent either receives or rejects the Notice of Violation and fails to abate the alleged infraction within the time specified in the Notice of Violation, the code enforcement officer may serve the respondent with a civil infraction summons and complaint. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(C)(9)), 1986).

1.16.210 Civil Infraction Summons and Complaint - Timing

Comment [SL46]: 1.16.170. Existing text with minor modification for clarity.

Comment [SL48]: 1.16.190. Existing text with minor modification for clarity.

Comment [SL47]: 1.16.180. Existing text with minor modification for clarity.

Comment [SL49]: 1.16.200. Moved to 1.16.115

Comment [SL50]: 1.16.210. Existing text with minor modification for clarity.

A civil infraction summons and complaint may be served on the respondent:

A. immediately upon discovery of the infraction;

B. where a Notice of Violation is given and the response period in the violation notification has expired; or

C. where a Voluntary Compliance Agreement has been executed, whether verbal or written, when the period for compliance has expired and the infraction has not been abated. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(D)(1)), 1986) .

1.16.220 Civil Infraction Summons and Complaint - Process Requirements

A. The physical form taken by a civil infraction summons and complaint is not material. What is material is the substance, the information contained therein. The city may utilize various physical formats for the summons and complaint. The state uniform citation may be used. Any form prepared by the city should normally contain or solicit the following information, but no complaint or summons shall be considered invalid for failure to comply with these rules, so long as the basic information regarding the infraction and the court date is included.

B. The civil infractions summons and complaint shall contain the following information:

1. the name and address of the respondent;

2. a description of the infraction that can be understood by a person making a reasonable effort to do so;

3. the date, time and place at which the infraction is alleged to have been committed. If the infraction is alleged to be ongoing, the civil infractions summons and complaint shall so state and shall list a date on

which the infraction was observed;

4. a file or reference number;

5. the date the civil infraction summons and complaint was issued;

6. the name of the code enforcement officer issuing the citation;

7. the time, date and location at which the respondent is to appear in court;

8. a notice that a complaint based on the violation will be filed with the court;

9. the amount of the maximum civil penalty for the infraction;

10. an explanation of the respondent's obligation to appear at the hearing and that a monetary judgment may be entered for up to the maximum civil penalties if the respondent fails to make all required court appearances;

11. a space wherein the respondent may admit having committed the alleged infraction;

12. the time period for returning the form to the court;

13. a notice that, if the respondent admits having committed the infraction as charged, payment, in the amount shown on the summons and complaint or as agreed with the code enforcement officer pursuant to 1.16.660 of this chapter, as may be appropriate, must accompany the admission; and

14. a form of verification that the person signing the complaint swears that the person has reasonable grounds to believe, and does so believe, that the respondent committed the alleged infraction.

Comment [SL51]: 1.16.220. Existing text with minor modification for clarity.

(Ord. 02-27, Ord. 86-41 §§1 - 4, 1986; Ord. 86-35 §§1 - 4, 1986; Ord. 86-20 §1(Exhibit A(5)(D)(2)), 1986).

1.16.230 Civil Infraction Summons and Complaint - Service - Failure To Receive - Default

A. Service of the civil infraction summons and complaint may be made by:

1. personal service on the respondent or an agent for the respondent,
2. substitute service at the respondent's dwelling or office,
3. affixing to the main door of the property or premises, or by
4. certified mail, return receipt requested, to the respondent at his last known address.

B. In the event of substitute service at the respondent's dwelling, the person served must be at least 14 years of age and residing in the respondent's place of abode.

C. Service at the respondent's office must be made during regular business hours. Substitute service at the respondent's office must be made to the person who is apparently in charge.

D. If substitute service is used a true copy of the summons and complaint, together with a statement of the date, time and place at which service was made, must be mailed to the respondent at the respondent's last known address. Service will be considered complete upon such a mailing.

E. Service by any other method reasonably calculated, under all the circumstances, to apprise the respondent of the existence and pendency of the infraction and to afford a reasonable opportunity to respond shall be acceptable.

F. Service on particular respondents, such as minors, incapacitated persons, corporations, limited partnerships, the state, other public bodies and general partnerships shall be as prescribed for the service of a civil summons and complaint by the Oregon Rules of Civil Procedure.

Comment [SL52]: 1.16.230. Existing text with minor modification for clarity

G. No default shall be entered against any respondent without proof that the respondent had notice of the civil infraction summons and complaint. A sworn affidavit of the code enforcement officer outlining the method of service, including the date, time and place of service shall create a rebuttable presumption that the respondent had such notice. (Ord. 02-27, Ord. 89-21 §1, 1989; Ord. 86-20 §1(Exhibit A(5)(D)(3)), 1986).

1.16.240 Civil Infractions Summons and Complaint - Respondent's Response Required

Comment [SL53]: 1.16.240. Existing text with minor modification for clarity.

A. A respondent served with a civil infraction summons and complaint shall respond to the complaint by personally appearing at the scheduled first appearance in court or by making a written response by mail or personal delivery to the court.

B. If the respondent admits the infraction, the respondent may so indicate on the summons and forward the form to the court. Payment in the amount of the civil penalty for the infraction, as shown on the summons or as agreed with the code enforcement officer pursuant to section 1.16.660 of this chapter shall be submitted with the response. An appropriate findings shall be entered in the records of the civil infraction hearings officer indicating the receipt of the civil penalty.

C. If the respondent does not admit the infraction, the respondent must appear at the scheduled first appearance in court.

1. At the first appearance, the respondent may deny the

infraction and request a hearing, admit the infraction, or not contest the infraction.

2. If the respondent either admits or does not contest the infraction the respondent shall be given the opportunity to provide a statement. Based on the statement provided by the respondent and any additional information provided by the code enforcement officer, the civil infractions hearings officer shall impose a civil penalty not to exceed the maximum civil penalty allowed for the infraction.

3. If the respondent requests a hearing, a hearing shall be scheduled. (Ord. 02-27, Ord. 86-41 §5, 1986; Ord. 86-35 §5, 1986; Ord. 86-20 §1(Exhibit A(5)(E)), 1986).

1.16.250 No Right to Jury

Any hearing to determine whether an infraction has been committed shall be held before the civil infraction hearings officer without a jury. (Ord. 86-20 §1(Exhibit A(5)(F)(1)), 1986).

1.16.260 Representation by Counsel

The respondent may be represented by legal counsel; however, legal counsel shall not be provided at public expense. Written notice shall be provided to the hearings officer and code enforcement officer no later than five days prior to any appearance by legal counsel at an appearance or hearing. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(F)(2)), 1986).

1.16.270 Opportunity to be Heard - Cross-Examination

At a hearing a respondent shall have the right to present evidence and witnesses in the respondent's favor, to cross-examine any witnesses who testify against the respondent, and to submit rebuttal evidence. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(F)(3)), 1986).

1.16.280 Witnesses

A. The respondent may request that witnesses be ordered by subpoena to appear at the hearing. The respondent shall make such request in writing to the court at least five days prior to the scheduled hearing.

B. Subject to the same five-day limitation, the code enforcement officer, the citizen who signed the complaint or the city attorney, as appropriate, may also request in writing that the court order certain witnesses to appear by subpoena.

C. If a civil penalty is declared in the final order, the order shall also provide that the respondent shall pay any witness fees payable in connection with the hearing. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(F)(4)), 1986).

1.16.290 Hearing - Admissible Evidence

A. The hearing shall be limited to production of evidence only on the infraction alleged in the complaint.

B. Oral evidence shall be taken only upon oath or affirmation administered by the civil infractions hearings officer.

C. Evidence shall be admitted if it is of the type which responsible persons are accustomed to rely on in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might render such evidence inadmissible in civil actions in courts of competent jurisdiction in this state.

D. Irrelevant or unduly repetitious evidence shall be excluded.

1.16.295 Burden of Proof

The complainant or, if the city is the complainant, the code enforcement officer, shall have the burden of proving the alleged civil infraction by a preponderance of the

Comment [SL57]: 1.16.280. Existing text

Comment [SL54]: 1.16.250. Existing text.

Comment [SL58]: 1.16.290. Existing text with minor modification for clarity.

Comment [SL55]: 1.16.260. Existing text

Comment [SL56]: 1.16.270. Existing text

Comment [a59]: Current 1.16.290.2 moved to new Section 1.16.295 for clarity.

Comment [SL60]: 1.16.295. New section, existing text extracted from 1.16.290

evidence. (Ord. 86-20 §1(Exhibit A(5)(F)(5) and (6)), 1986).

1.16.300 Hearing - Decision by Hearings Officer

A. The hearings officer shall determine if the respondent committed the infraction as alleged in the complaint.

B. When the infraction has not been proven, a written order dismissing the complaint shall be entered in the court records.

C. When the hearings officer finds that the infraction was committed, written findings shall be prepared which set out sufficient information to substantiate the commission of the infraction.

D. Written orders, including findings, shall be prepared within ten working days of the oral decision. The court shall serve true copies of the hearings officer's findings, order and judgment on all parties, either personally or by mail. (Ord. 02-27, Ord. 89-21 §2, 1989; Ord. 86-20 §1(Exhibit A(5)(F)(7)), 1986).

1.16.310 Order to Abate - Judicial

Upon a finding that the infraction was committed by the respondent, the hearings officer may issue an Order to Abate requiring the respondent to abate the ordinance infraction within a specified time period identified in the final order. Orders to Abate issued under this section may only be appealed pursuant to 1.16.330. (Ord. 89-21 §3, 1989).

1.16.320 Hearing - Records

The court shall maintain a record of the hearing proceedings. A mechanical

recording of the hearing, accompanied by any written documents, correspondence or physical evidence associated with the matter shall be sufficient to meet the requirements of this section. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(F)(9)), 1986).

1.16.330 Finality of Decision - Appeals

The determination of the hearings officer shall be final. Review of the hearing officer's determination shall be to the circuit court by writ of review, pursuant to Chapter 34 of the Oregon Revised Statutes. (Ord. 86-20 §1(Exhibit A(5)(F)(10)), 1986).

1.16.340 Remedial Action by the City - Summary Abatement

Upon finding that an infraction was committed, as determined by a final decision of the hearings officer, the city may, after obtaining a warrant to enter the property and abate the infraction, proceed to abate the infraction and charge the abatement costs back to the respondent pursuant to 1.16.680.C. For the purposes of this subsection "a final decision of the hearings officer" means a final decision for which judicial review was not sought within the time allowed by law or a decision of the hearings officer that was upheld by a final decision in the judicial review and appeal process.

1.16.350 Default Judgment

Subject to the limitations set forth in Section 1.16.230, a default judgment shall be entered in an amount up to the maximum civil penalty applicable to the charged infraction if the respondent fails to appear at the scheduled hearing. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(7)), 1986).

Comment [SL61]: 1.16.300. Existing text

Comment [SL66]: 1.16.330, Existing text

Comment [SL67]: 1.16.340. Existing text with minor modification for clarity. Subsections 2 – 6 relocated. See comments at those subsections.

Comment [a62]: 1.16.310. Current text moved from current 1.16.305. Retitled and modified to address appeals process.

Comment [a63]: 1.16.310. Current text moved to 1.16.680.A

Comment [a68]: 1.16.340.2. Text moved to 1.16.150.C.

Comment [a69]: 1.16.340.3. Text moved to 1.16.110.

Comment [a70]: 1.16.340.4. Text moved to 1.16.680.C.

Comment [a71]: 1.16.350.5. Text moved to 1.16.690.C

Comment [a72]: 1.16.340.6. Text moved to 1.16.710.C.

Comment [SL73]: 1.16.350. Existing text with minor modification for clarity

Comment [a64]: 1.16.310. Proposed text was moved from 1.16.305 and modified.

Comment [SL65]: 1.16.320. Existing text

ARTICLE III. ADMINISTRATIVE ENFORCEMENT

- 1.16.400 Order to Abate - Administrative**
- 1.16.410 Abatement by the Responsible Party**
- 1.16.420 Order to Abate - Administrative - Appeals Process**
- 1.16.430 Abatement by the City**
- 1.16.440 Judicial Review**

ARTICLE III. ADMINISTRATIVE ENFORCEMENT

1.16.400 Order to Abate - Administrative

A. Upon finding any of the following the code enforcement officer may cause an Order to Abate to be posted on the subject property and mailed to the owner and each other known responsible party:

- 1. a violation exists, or
- 2. any responsible party is not responsive or cooperative after receiving a Letter of Complaint, or
- 3. a recipient failed to comply with the terms of a Voluntary Compliance Agreement,

B. The order shall require the respondent to abate the ordinance infraction within a specified time period.

C. Prior to mailing or posting an Order to Abate, the code enforcement officer must have probable cause to believe that a civil infraction exists, based on personal observation of the violation by the code enforcement officer or other credible authority.

D. The code enforcement officer shall cause a copy of the Order to Abate to be posted on the premises at the site of the violation.

E. An Order to Abate shall be mailed by first class or certified mail to the last known address of the responsible party. An Order to Abate shall contain:

1. a description of the real property, by street address or otherwise, on which the infraction exists.

2. the date of the order.

3. a direction to abate the infraction within no less than 10 days and no more than 30 days from the date of the order.

4. a description of the infraction.

5. a statement that, unless the infraction is removed:

a. a warrant may be obtained,

b. the city may abate the infraction, and

c. the cost of abatement will be charged to the responsible party.

6. a statement that failure to abate an infraction may result in imposition of an administrative fee or lien on the property.

7. a statement that the responsible party may protest the Order to Abate by giving notice to the code enforcement within 10 days following the date of the order. Contact information for the code enforcement officer shall be included in the Order to Abate.

F. Upon completion of mailing and posting, the persons mailing and posting shall execute and file certificates stating the

Comment [a74]: 1.16.400. New section establishing administrative Order to Abate.

date and place of the mailing and posting, respectively.

G. An error in the address or name of the responsible party shall not make the Order to Abate void, and in such case the posted notice shall be sufficient.

1.16.410 Abatement by the Responsible Party

A. Within the timeline specified in the Order to Abate, the responsible party shall abate the infraction or appeal the Order to Abate pursuant to 1.16.420.

B. Any responsible party intending to abate the infraction shall provide notice to the code enforcement officer before abating the infraction and shall allow the city to inspect during and on completion of the abatement. The notification shall state how the infraction will be abated, when it will be abated, and who will be abating it.

1.16.420 Order to Abate - Administrative - Appeal Process

A. A responsible party protesting that the alleged infraction does not exist shall file with the code enforcement officer a written statement specifying the basis for the protest before the abatement date specified in the order or at most within 10 days of the date of the notice. Standing to protest is limited to a responsible party.

B. Upon receipt of a written statement of protest from a responsible party, the code enforcement officer shall, within 10 days of receipt of the protest, schedule a hearing before the civil infractions hearings officer, to be held within 30 days of receipt.

C. At the hearing set for consideration of the infraction, the person protesting may appear and be heard by the civil infractions hearings officer and the civil infractions hearings officer shall determine whether or not an infraction in fact exists.

The city manager is authorized to draft and adopt rules and policies to provide for a civil infractions hearings officer review process consistent with this subsection and principles of due process. The civil infractions hearings officer's determination shall be required only in those cases where a written protest has been filed as provided in this section.

D. If the civil infractions hearings officer determines that an infraction does in fact exist, the responsible party shall, within five days after the civil infractions hearings officer's determination, abate the infraction, unless the civil infractions hearings officer determines that the responsible party should not be given the opportunity to abate or unless the civil infractions hearings officer decision allows a period of time greater than five days.

E. The civil infractions hearings officer may determine that the responsible party for the infraction should not be given the opportunity to abate only if the civil infractions hearings officer finds that the responsible party for the infraction is unlikely to properly abate the infraction. The determination that a responsible party is unlikely to properly abate the infraction shall be based on the findings as to one of the following:

1. whether the person acted intentionally or whether the infraction is egregious; or
2. whether the person had knowledge that the action was a violation of state law or city code; or
3. whether the person has the professional expertise to perform the abatement.

1.16.430 Abatement by the City

If, within the time allowed, the infraction has not been abated by the responsible party, the city manager may cause the infraction to be abated by securing an

Comment [a75]: 1.16.410. New section requiring abatement by responsible party
Comment [a76]: 1.16.410. Existing text moved to 1.16.640.

Comment [SL77]: 1.16.415. Moved to 1.16.650

Comment [a78]: 1.16.420. New section providing appeal process for administrative enforcement option.
Comment [a79]: 1.16.420. Existing text moved to 1.16.670.

Comment [a80]: 1.16.425. Existing text moved to 1.16.670.
Comment [SL81]: 1.16.430. New section providing for abatement by the city under warrant

abatement warrant pursuant to sections 1.16.110 through 1.16.114.

Judicial review of a decision of the civil infractions hearings officer on the appeal of an Order to Abate shall be on the record by writ of review pursuant to ORS Chapter 34 and not otherwise.

1.16.440 Judicial Review

Comment [SL82]: 1.16.440. New section regarding judicial review of a decision by the civil infractions hearing officer of an appeal

ARTICLE IV. PENALTIES, FEES AND COSTS

- 1.16.600 Continuous Infractions**
- 1.16.610 Failure to Comply With Judgment Order, Order to Abate or Notice of Assessment**
- 1.16.620 Penalties, Fees and Costs - Payment**
- 1.16.630 Penalties and Fees - Classifications**
- 1.16.640 Penalties and Fees - Amounts to be Assessed**
- 1.16.650 Penalties and Fees - Repeat Violations**
- 1.16.660 Penalties and Fees - Prior to First Appearance in Court**
- 1.16.670 Delinquent Civil Penalties, Fees and Costs**
- 1.16.680 Penalties, Fees and Costs - Assessment**
- 1.16.690 Administrative Fees and Costs - Notice of Assessment**
- 1.16.700 Administrative Fees and Costs - Notice of Objection and Hearing**
- 1.16.710 Penalties, Fees and Costs - Collection, Lien Filing and Docketing**

ARTICLE IV. PENALTIES, FEES AND COSTS

Class I Civil Infraction.

1.16.600 Continuous Infractions

When an infraction is of a continuous nature, unless otherwise specifically provided, a separate infraction shall be deemed to occur on each calendar day the infraction continues to exist. (Ord. 86-20 §1(Exhibit A(8)(A)), 1986).

C. Failure to comply with a judgment order, an Order to Abate or a Notice of Assessment is a continuous infraction and a separate infraction will be deemed to occur each calendar day the failure to comply infraction continues to exist past the time allowed in the judgment order. (Ord. 89-21 §4, 1989).

Comment [SL83]: 1.16.600. Existing text, moved from current 1.16.380.

1.16.610 Failure to Comply With Judgment Order, Order to Abate or Notice of Assessment

A. Failure to comply with a judicial Order to Abate an infraction or pay a civil penalty or court costs imposed within the time allowed for abatement or payment shall constitute a Class 1 civil infraction.

1.16.620 Penalties, Fees and Costs - Payment Due When

Any civil penalty administrative fees, or costs assessed shall be paid no later than 30 days after the final order or the date of notice. Such period may be extended by the code enforcement officer for the administration process or upon order of the hearings officer. (Ord. 86-20 §1(Exhibit A(8)(B)), 1986).

Comment [a85]: 1.16.620. Existing text, moved from current 1.16.390.

Comment [SL84]: 1.16.610. Existing text, moved from current 1.16.385, expanded to include administrative process.

B. Failure to comply with an administrative Order to Abate an infraction or to pay an administrative fee or statement of administrative or abatement costs within the time allowed for such abatement or payment in a Notice of Assessment shall constitute a

1.16.630 Penalties and Fees - Classifications

For the purpose of determining civil penalties and administrative fees, infractions are classified in the following categories:

Comment [SL86]: 1.16.630. Existing text, moved from current 1.16.400

- A. Class 1 infractions;
- B. Class 2 infractions;
- C. Class 3 infractions. (Ord. 86-20 §1(Exhibit A(8)(C)), 1986).

1.16.640 Penalties and Fees - Amounts to be Assessed

The civil penalty or administrative fee to be assessed for a specific infraction shall be as follows:

- A. For Class 1 infractions,
 - 1. an amount not to exceed \$250 per day under either the judicial or the administrative enforcement process, or
 - 2. under the administrative enforcement process, an amount:
 - a. computed in a manner established by administrative rule pursuant to 1.16.105
 - b. for the entire period the violation exists and not for each day of the violation.
- B. For Class 2 infractions, an amount not to exceed \$150 per day;
- C. For Class 3 infractions, an amount not to exceed \$50 per day. (Ord. 86-20 §1(Exhibit A(8)(D)), 1986).

1.16.650 Penalties and Fees - Repeat Violations

The maximum amounts of the civil penalties and administrative fees set forth in 1.16.640.A.1, 1.16.640.B and 1.16.640.C shall be doubled in the event that the respondent is found in violation of a second and similar violation within 24 months of the initial violation and quadrupled in the event of a third or subsequent repetition within 24 months of the initial violation. (Ord. 02-27).

1.16.660 Penalties and Fees - Prior to First Appearance in Court

The code enforcement officer is authorized to reduce the amount of a civil penalty that could be imposed or the amount of an administrative fee if compliance has been achieved and the amount is to be paid in full on or before the time and date of the first appearance in court or before the timeline set out in a Letter of Complaint or an Order to Abate. (Ord. 02-27).

Comment [SL89]: 1.16.660. Existing text, moved from current 1.16.420 and expanded to include administrative process and fees

Comment [SL87]: 1.16.640. Existing text moved from current 1.16.410.

1.16.670 Delinquent Penalties, Fees and Costs

Delinquent civil penalties, administrative fees or costs and penalties imposed by default judgment may be collected or enforced pursuant to Oregon Revised Statutes 30.310 or any other method. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(8)(E)), 1986).

Comment [a90]: 1.16.670. Existing text, moved from 1.16.425 and expanded to include administrative fees.

1.16.680 Penalties, Fees and Costs - Assessment

A. Upon a finding by the civil infractions hearings officer that an infraction was committed by the respondent, the civil infractions hearings officer may assess a civil penalty pursuant to Sections 1.16.600 through 1.16.650, plus costs.

Comment [SL91]: 1.16.680. New section, subsection A is text from current 1.16.310 with B and C added to encompass administrative fees and abatement costs

B. Upon a finding by the code enforcement officer that an infraction was committed by the respondent and if, within the time allowed in an Order to Abate, the infraction has not been abated by the responsible party, the code enforcement officer may assess an administrative fee pursuant to Sections 1.16.600 through 1.16.650, plus costs.

Comment [SL88]: 1.16.650. Existing text, moved from current 1.16.415 with minor revisions

C. For abatement of a violation by the city by judicial process pursuant to Section 1.16.340 or administrative process pursuant to Section 1.16.430 the code enforcement officer shall keep an accurate record of the costs incurred by the city in abating the violation. The total amount of

these charges will be assessed against the responsible party as the cost of abatement.

1.16.690 Administrative Fees and Costs - Notice of Assessment

Upon the assessment of administrative fees or costs pursuant to Section 1.16.680 the code enforcement officer shall forward to all persons responsible for the violation a Notice of Assessment stating:

- A. the total administrative fees and costs, if any, assessed for the violation;
- B. that the total amount of the fees and costs as indicated will be assessed to and become a lien against the property of persons responsible for the violation unless paid within 30 days from the date of the notice;
- C. that any responsible party for the fees and costs may file a written notice of objection to the amount of the fees and costs with the code enforcement officer not more than 10 days from the date of the notice.

1.16.700 Administrative Fees and Costs - Notice of Objection and Hearing

If an objection to an administrative fee or costs is filed as provided in Section 1.16.690, the code enforcement officer shall, within 10 days, cause a hearing to be scheduled to be held within 30 days before the civil infractions hearings officer. The civil infractions hearing officer shall hear the objection and determine the amount of the fee and costs to be assessed including the costs to the city of responding to the objection if the city's position is sustained.

1.16.710 Penalties, Fees and Costs - Collection, Lien Filing and Docketing

A. When a judgment is rendered by the hearings officer in favor of the city for

the sum of \$100 or more, exclusive of costs, the code enforcement officer shall, at any time thereafter while the judgment is enforceable, file with the city finance officer a certified transcript of all those entries made in the docket of the hearings officer with respect to the action in which the judgment was entered.

B. An assessment of the administrative fees and costs as stated in the Notice of Assessment shall be made if:

- 1. no objection to administrative fees and costs is filed as provided in Section 1.16.700 or;
- 2. fees or costs remain applicable following a hearing on an objection and the fees and costs are not paid within 30 days from the date of the notice or the date of the hearing order.

C. The code enforcement officer shall file with the city finance officer a certified statement of the total fees and costs due.

D. Upon receiving the statement of total fees and costs due or the certified transcript, the city finance officer shall enter that total on the city's lien docket.

E. The city may bring legal action to collect any civil penalties, fees, costs or interest provided for in this chapter. The city may also use a professional collection agency, or cause the full amount of civil penalties, fees, costs or interest owed to be entered into the city's lien docket and, from the time of entry on the city's lien docket it shall constitute a lien upon property of all persons responsible for the violation.

F. A lien shall bear interest at the rate of nine percent per year. Such interest shall commence to run from date of the entry of the lien in the lien docket.

G. An error in the name of any person to whom notice is sent shall not void

Comment [a92]: 1.16.690. New section creating Notice of Assessment.

Comment [SL93]: 1.16.700. New section to provide for an appeal of an assessment of fees and costs

Comment [SL94]: 1.16.710. New section to provide for documentation of penalties, fees, and costs and the means of collecting them. Subsections A, D, and H are drawn from current 1.16.370.1, 2, & 5. Subsections B, D, E, F, & G added to clarify and modernize the described process.

the assessment, nor will a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against property of the responsible party for the violation.

H. The finance officer shall file the statement of total fees and costs due or the transcript of the court judgment with the Washington County Clerk for entry in the judgment docket of the circuit court. All costs associated with the filing of the transcript shall be added to the amount of the statement.

Chapter 1.16 CIVIL INFRACTIONS.

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ARTICLE I. GENERAL PROVISIONS

- ~~1.16.010 Title for Provisions~~
- 1.16.010 Title for Provisions

The ordinance codified in this chapter shall be known as the “civil infractions ordinance,” and may also be referred to herein as “this chapter.” (Ord. 86-20 §1(Exhibit A(1)), 1986).

1.16.020 Establishment and Purpose

~~A.~~ The purpose of this chapter is to establish civil procedures for the enforcement of certain provisions of the Tigard Municipal Code (TMC).

~~B.~~ The ~~civil infraction~~ procedures for the ~~judicial enforcement process and the administrative enforcement process~~ established herein are for the purpose of decriminalizing penalties for infractions of certain civil ordinances and for the purpose of providing a convenient and practical forum for the hearing

and determination of cases arising out of such infractions. The civil infractions procedures ~~are~~ is intended to be used for all violations of the TMC other than certain violations of Title 7 and Title 10.

~~3C.~~ The civil infractions abatement procedures established herein are for the purpose of authorizing the ~~City-city~~ to proceed to abate such infractions:

~~1.~~ if it is determined that the infraction presents an immediate danger to the public health, safety or welfare; ~~or~~

~~2.~~ if it is determined that the property owner or responsible person is incapable of or unwilling to abate the infraction within a timeline satisfactory to the city.

~~4D.~~ This chapter is adopted pursuant to the home rule powers granted the City of Tigard by Article IV, Section 1; and Article XI, Section 2; of the Oregon Constitution; Oregon Revised Statutes 30.315; and Sections 4 and 21

Comment [SL1]: 1.16.010. Existing text.

Comment [SL2]: 1.16.020. Existing text, modified to add administrative processes.

Comment [a4]: 1.16.020.C.2. Added to provide for administrative abatement.

Comment [SL3]: 1.16.020.B. Modified to allow for both judicial and administrative abatement

of the Charter of the City of Tigard. (Ord. 02-

27, Ord. 86-20 §1(Exhibit A(2)), 1986).

all expenses incurred and charges associated with the removal, storage, detention, processing, disposition and maintenance thereof.

1.16.030 Definitions

For the purposes of this chapter, the following definitions shall apply:

A. "Abate" means to restore a property to its condition prior to the infraction, or similar condition that is free of the subject infractions. In the case of graffiti, "abate" means to remove graffiti from the public view.

B. "City manager" means the city manager or any other city employee designated by the city manager.

C. "Civil infraction" shall or "infraction" means:

1. the failure to comply with a code provision of this code other than certain provisions of Chapter Title 7 and Chapter Title 10 and shall also mean

2. the process of imposing a civil penalty under this chapter.

References to "uniform infraction" throughout the code other than in certain provisions of Chapter Title 7 and Chapter Title 10 shall be deemed to be references to "civil infraction." (Ord. 07-03, Ord. 05-08, Ord. 02-27, Ord. 86-20 §1(Exhibit A(4)), 1986).

D. "Civil infractions hearings officer" means the municipal judge or the individual appointed by the municipal judge with the delegated authority to preside over the code enforcement hearings and to perform the related functions as specified by this chapter.

E. "Costs" means any expenses incurred and charges associated with any action taken by the city under this chapter including but not limited to the cost to the public of the staff time invested and, regarding items confiscated for violation of Sections 6.03.010 and 6.03.020,

F. "Code enforcement officer" means the individual or individuals appointed or designated by the director of Community Development or the city manager to enforce the provisions of this chapter. For enforcement of Chapters 10.16 through 10.32, Section 7.40.1256.02.060; and Chapter 7.60, "code enforcement officer" also includes community service officers of the police department

G. "Finance officer" means the senior financial officer of the city or the designee of the senior financial officer.

H. "Letter of Complaint" means a letter of notification to a responsible party that the city has received a complaint indicating that a violation may exist on the party's property.

I. "Notice of Assessment" means a formal letter or form notifying a respondent or recipient that an administrative fee, administrative costs, or costs of abatement have been assessed against them or against property in which they hold an interest.

J. "Notice of Violation" means a formal letter or form notifying a responsible party that the city has probable cause to believe that a violation has been found to exist on the party's property.

K. "Order to Abate" means an order to a respondent or responsible party to abate an infraction from the municipal court as provided in Article II, or from the code enforcement officer as provided in Article III.

L. "Person" means an individual human being and may also refer to a firm, corporation, unincorporated association, partnership, limited liability company, trust, estate or any other legal entity.

Comment [SL5]: 1.16.030. Modified and expanded with substantial additions for clarity and precision

Comment [a12]: 1.16.030.F. From original 1.16.030

Comment [a6]: 1.16.030.A. From 7.40.125, Modified to add graffiti.

Comment [a7]: 1.16.030.B. From 7.40.150 and 7.61.010.

Comment [a13]: 1.16.030G. New.

Comment [a8]: 1.16.030.C. From existing 1.16.030

Comment [a14]: 1.16.030.H. New

Comment [a15]: 1.16.030.I. New

Comment [a16]: 1.16.030.J. New

Comment [a9]: 1.16.030.D. From existing 1.16.030

Comment [a17]: 1.16.030.K. New

Comment [a10]: 1.16.030.E. From 7.61.010, Modified for clarity.

Comment [a18]: 1.16.030.L. New

Comment [a11]: These sections deal with confiscation of signs and other materials illegally placed or abandoned in the right of way. The text is currently found at 7.61.015 and 7.61.020.

M. **“Recipient”** means a person who has received a Letter of Complaint under the administrative process.

Comment [a19]: 1.16.030.M. New

N. **“Respondent”** means a person charged with a civil infraction. A respondent will have received a Notice of Violation or a summons and complaint as provided in Article II or an Order to Abate as provided in Article III.

1.16.040 Use Of Language

Comment [SL24]: 1.16.040. Existing text

As used in this chapter, pronouns indicating the masculine gender shall include the feminine gender; singular pronouns shall include the plural; and “person” shall, where appropriate, include any partnership, corporation, unincorporated association, the State of Oregon, or other entity. (Ord. 86-20 §1(Exhibit A(14)), 1986).

Comment [a20]: 1.16.030.N. From existing 1.16.030, Modified to add administrative process.

O. **“Responsible party”** means any one of the following:

1.16.050 Reference To State Law

Comment [a21]: 1.16.030.O. From 7.40.020, 7.40.125, and 7.61.010.

Comment [SL25]: 1.16.050. Existing text

Any reference to a state statute incorporates into this chapter by reference the statute in effect on the effective date of the ordinance codified in this chapter. (Ord. 86-20 §1(Exhibit A(11)), 1986).

1. an owner,

2. an entity or person acting as an agent for an owner by agreement that has authority over the property, is responsible for the property’s maintenance or management, or is responsible for curing or abating an infraction,

1.16.060 Culpability - Chapter Provisions Not Exclusive, Remedies Cumulative

Comment [SL26]: 1.16.060. Existing text, expanded for clarity and to encompass administrative process

A. Acts or omissions to act which are designated as an infraction by any ~~City~~ city ordinance do not require a culpable mental state as an element of the infraction.

3. any person occupying the property, including bailee, lessee, tenant or other having possession or

4. the person who is alleged to have committed the acts or omissions, created or allowed the condition to exist, or placed the object or allowed the object to exist on the property.

There may be more than one responsible party for a particular property or infraction.

P. **“Violation”** means failure to comply with a requirement imposed directly or indirectly by this code. “Violation” may also mean civil infraction, except as used in those portions of Chapter 7 and of Chapter 10 that do not use the civil infraction procedure.

Comment [a22]: 1.16.030.P. From existing 1.16.030

Q. **“Voluntary Compliance Agreement”** means an agreement, whether written or verbal, between the ~~Code Enforcement Officer~~ city and the recipient or respondent, which is intended to resolve the alleged civil infraction.

C. The remedies and procedures for abatement of civil infractions provided in this chapter are in addition to all other remedies and procedures provided by law. Nothing in this chapter shall limit or restrict in any way the city’s right to obtain abatement by means of a civil infraction, judicial action, an administrative

Comment [SL27]: 1.16.060.C. Added for clarity

Comment [a23]: 1.16.030.Q. From existing 1.16.030

enforcement action, a criminal action, a civil lawsuit or any other form of procedure to obtain abatement.

1.16.065 Liability

A. The city shall not be liable to any person for any loss or injury to person or property growing out of any casualty or incident happening to such person or property on account of a property owner, lessee or occupant of property who fails or neglects to promptly comply with the duties imposed by this section.

B. The city shall be exempt from all liability, including but not limited to common-law liability that it might otherwise incur to an injured party as a result of the city's negligent failure to abate an infraction.

C. If any property owner, lessee or occupant, by his or her failure or neglect to perform any duty required of him or her by the terms of this section, contributes in causing injury or damages, they shall reimburse the city for all damages or injury it has sustained or has been compelled to pay in such case, including but not limited to reasonable attorney fees for the defense of the same, and such payments as may be enforced in any court having jurisdiction.

1.16.070 Effect of This Chapter

A. Citations or complaints issued and filed with the Municipal Court prior to the effective date of the ordinance codified in this chapter shall be processed in accordance with the provisions in effect at the time the complaint was issued.

B. Nothing in this chapter shall be construed as a waiver of any prior assessment, bail or fine ordered by the Municipal Court. (Ord. 86-20 §1(Exhibit A (12)), 1986).

1.16.080 Severability

The provisions of this chapter are

severable. If any section, sentence, clause or phrase of this chapter is adjudged to be invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of the chapter. (Ord. 86-20 §1(Exhibit A(13)), 1986).

1.16.090 Reports of Infractions

All reports or complaints of infractions covered by this chapter shall be made or referred to an authorized Code Enforcement Officer. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(A)), 1986).

1.16.100 Assessment by Code Enforcement Officer

A. Assessment. Upon receiving a report or complaint or otherwise becoming aware of a violation of this code when an alleged infraction is reported to the Code Enforcement Officer, the Code Enforcement Officer shall review the facts and circumstances surrounding the alleged infraction and if he or she deems it appropriate will proceed with appropriate enforcement actions.

B. Sufficiency of Evidence. The Code Enforcement Officer shall not proceed further with the matter if the officer determines that there is not sufficient evidence to support the allegation, or if the officer determines that it is not in the best interest of the City to proceed. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(B)), 1986).

1.16.105 Administrative Rules

The city manager is authorized to draft and adopt administrative rules to define procedures to work with respondents or recipients toward the abatement of civil infractions. Any such administrative rules and regulations shall be adopted pursuant to the provisions of Chapter 2.04, be consistent with this chapter and shall include the following:

Comment [SL28]: 1.16.065. New section added for clarity

Comment [SL31]: 1.16.090. Existing text.

Comment [SL32]: 1.16.100. Title and text modified for clarity.

Comment [SL29]: 1.16.070. Existing text.

Comment [SL33]: 1.16.105. Added to authorize administrative rules per 2.04. See draft example administrative rules under 4th tab.

Comment [SL30]: 1.16.080. Existing text

A. specific form documents or templates for all written communications referenced in this chapter to ensure that communications from the city are uniform, including a:

1. Letter of Complaint
2. Notice of Violation
3. Order to Abate
4. Notice of Assessment

B. procedures for the preparation, execution, delivery, and posting of notices of a:

1. Letter of Complaint
2. Notice of Violation
3. Order to Abate
4. Notice of Assessment

C. procedures for review by the civil infractions hearing officer to consider protest by a responsible party of an administrative Order to Abate consistent with Section 1.16.420.

D. procedures for determination of the time allowed to abate an infraction or otherwise respond as provided in a:

1. Letter of Complaint
2. Notice of Violation
3. Order to Abate

E. procedures for the calculation of administrative fees.

F. standards for confidential or anonymous reporting and circumstances in which such reporting is allowed.

~~1.16.110~~ Notice - Validity.

~~Repealed by Ord. 02-27.~~

1.16.110 Warrants - Right of Entry

A. The city manager or designee may enter property, including the interior of structures, at all reasonable times whenever an inspection is necessary to enforce any regulations of this code, or whenever the city manager or designee has reasonable cause to believe that there exists in any structure or upon any property any condition which constitutes a violation of provisions of this code.

B. In the case of entry into areas of property that are plainly enclosed to create privacy and prevent access by unauthorized persons, the following steps shall be taken.

1. The code enforcement officer shall first make a reasonable attempt to locate the owner or other persons having charge or control of the property, present proper credentials and request entry.

2. If entry is refused or if the owner or other persons having charge or control of the property cannot be located, the code enforcement officer may attempt to obtain entry by obtaining a warrant.

1.16.111 Warrants - Grounds for Issuance

A. A warrant for inspection, investigation, removal or abatement purposes shall only be issued upon cause, supported by affidavit, particularly describing:

1. the applicant's status in applying for the warrant;

2. the statute, ordinance or regulation requiring or authorizing the inspection or investigation or the removal and abatement of the violation;

3. the building or property to be inspected, investigated or entered;

Comment [SL34]: 1.16.110. New section, added to codify warrant procedures. Approved by city attorney.

Comment [SL35]: 1.16.111. New section, added to codify warrant procedures. Approved by city attorney.

4. the purpose for which the inspection, investigation, removal or abatement is to be made;

5. the basis upon which cause exists to inspect, investigate, remove or abate the violation; and

6. in the case of removal or abatement, a statement of the general types and estimated quantity of the items to be removed or conditions abated.

B. Cause shall be deemed to exist if:

1. reasonable legislative or administrative standards for conducting a routine, periodic, or area inspection or for removing and abating violations are satisfied with respect to any building or upon any property, or

2. an investigation is reasonably believed to be necessary in order to discover or verify the condition of the property for conformity with regulations, or

3. there is cause to believe that a violation exists for which removal or abatement is required or authorized by this chapter.

1.16.112 Warrants - Procedure for Issuance

A. Before issuing a warrant, the judge may examine the applicant and any other witness under oath and shall be satisfied of the existence of grounds for granting such application.

B. If the judge is satisfied that cause for the inspection, investigation, removal or abatement of any infraction exists and that the other requirements for granting the application are satisfied, the judge shall issue the warrant, particularly describing:

1. the person or persons authorized to execute the warrant,

2. the property to be entered, and

3. the purpose of the inspection or investigation or a statement of the general types and estimated quantity of the items to be removed or conditions abated.

C. 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 6:00 p.m., or where the judge has specifically 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.

D. In issuing a warrant, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to remove any person or obstacle and to assist the representative of the city in any way necessary to enter the property and complete the investigation or remove and abate the infraction.

1.16.113 Warrants - Execution

A. In executing a warrant on occupied property the person authorized to execute the warrant shall, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request.

B. In executing a warrant on unoccupied property, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in subsection A- above, but may promptly enter the designated property if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition. In such case a copy of the

Comment [SL37]: 1.16.113. New section, added to codify warrant procedures. Approved by city attorney.

Comment [SL36]: 1.16.112. New section, added to codify warrant procedures. Approved by city attorney.

warrant shall be conspicuously posted on the property.

C. A warrant must be executed within 10 working days of its issue and returned to the judge by whom it was issued within 10 working days from its date of execution. After the expiration of the time prescribed by this subsection, the warrant unless executed is void.

1.16.114 Warrants -- Disposal of Seized Property

The city manager or designee may cause any items removed pursuant to an abatement warrant to be disposed of in an approved manner whenever the city manager or designee, in his or her sole discretion, finds that the fair and reasonable value of the items at resale would be less than the cost of storing and selling the items. In making the above determination, the city manager or designee may include in the costs of sale the reasonable cost of removing the items to a place of storage, of storing the items for resale, of holding the resale including reasonable staff allowances and all other reasonable and necessary costs of holding the sale.

1.16.115 Voluntary Compliance Agreement

A. The Code Enforcement Officer may, at any time prior to a first appearance in court, enter into a Voluntary Compliance Agreement with the respondent or recipient. The agreement shall include the time allowed to abate the infraction and shall be binding on the respondent or recipient.

B. The fact that a person alleged to have committed a civil infraction enters into a Voluntary Compliance Agreement shall not be considered an admission of having committed the infraction for any purpose.

C. The city shall abate—suspend further processing of the alleged infraction during the time allowed in the Voluntary Compliance Agreement for the completion of

the necessary corrective action. The City shall take no further action concerning the alleged violation if all terms of the Voluntary Compliance Agreement are satisfied, other than steps necessary to terminate the enforcement action.

D. Failure to comply with any term of the signed Voluntary Compliance Agreement constitutes an additional and separate infraction which shall be handled in accordance with the procedures established by this chapter, except that after the Voluntary Compliance Agreement has been signed no further notice need be given before a civil infraction summons and complaint based on this infraction is issued. The City may also proceed on the alleged infraction that gave rise to the Voluntary Compliance Agreement. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(C)(10)), 1986).

1.16.120 Notice - Notice of Violation and Letter of Complaint

A. Upon receiving a report or complaint or otherwise becoming aware of a violation of this code, the code enforcement officer may cause a notice of the alleged civil infraction to be given to the respondent any responsible party for the property containing the alleged infraction.

B. Under the judicial enforcement process set forth in Article II, a Notice of Violation for the alleged civil infraction may be given to the responsible party before a civil infraction summons and complaint is issued for an infraction. Verification of the violation is a requirement for a Notice of Violation. A Notice of Violation is not a prerequisite required before to the issuance of the a summons and complaint is issued. The use of a Notice of Violation and the giving of notices at the sole discretion of the Code Enforcement Officer.

C. Under the administrative enforcement process set forth in Article III, a Letter of Complaint may be mailed to any responsible party for the property containing the alleged civil infraction. Verification of the

Comment [SL38]: 1.16.114. New section, added to codify warrant procedures. Approved by city attorney.

Comment [SL40]: 1.16.120. Retitled and significantly modified to incorporate both the judicial and administrative processes.

Comment [SL39]: 1.16.115. Existing text moved to Article I from current 1.16.200 with minor revisions. Applies to both judicial and administrative processes.

violation is not a requirement for issuing a Letter of Complaint but the issuance of a Letter of Complaint is a required first step in the administrative process. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(C)@2)), 1986).

~~1.16.130 Notice Class 2 And 3 Infractions (Repealed by Ord. 02-27)~~

1.16.140 Time to Remedy Abate Infraction After Notice

A. If a Notice of Violation or a Letter of Complaint is given to a recipient or respondent pursuant to this chapter, the Code Enforcement Officer shall give the recipient or respondent a reasonable time to cure or abate the alleged infraction after the notice is given.

B. The time allowed shall not be less than ~~twenty four~~24 hours for a Notice of Violation or five days for a Letter of Complaint, nor more than ~~thirty~~30 days except in cases where compliance is voluntary and the code enforcement officer deems it appropriate to enter into a Voluntary Compliance Agreement with the owner or the responsible party.

C. ~~Where there is an extreme hardship, as determined by the Code Enforcement Officer, the code enforcement code enforcement officer may grant additional time to the respondent if, in the officer's judgment, compliance within the 30-day~~30-day timeline would constitute a significant hardship to the respondent or other significant mitigating circumstances exist. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(C)(4)), 1986).

1.16.150 Immediate Remedial Abatement Action Required When:

A. Notwithstanding the remedial abatement time periods contained in Section 1.16.140, if the Code Enforcement Officer determines that the alleged infraction presents an immediate danger to the public health, safety or welfare, or that any continuance of the violation would allow the recipient or respondent to profit from the violation or would otherwise be offensive to the public at large the Officer may require immediate remedial action.

B. If, in such cases, the code enforcement officer is unable to serve a Notice of ~~infraction~~ Violation or Letter of Complaint on the recipient or respondent or, if after such service the recipient or respondent refuses or is unable to remedy the infraction, the City may proceed to remedy the infraction as provided in ~~Subsection C 1.16.340~~ below. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(C)(5)), 1986).

C. In the case of an immediate danger to the public health, safety or welfare ~~declared~~ determined under Subsection A, the city may abate the infraction and charge the abatement cost back to the respondent, after obtaining a warrant to enter the property and abate the infraction. If the immediate danger constitutes an emergency threatening immediate death or physical injury to persons, the city may abate the infraction without obtaining a warrant if the delay associated with obtaining the warrant would result in increased risk of death or injury, and may charge the abatement costs back to the respondent.

Comment [SL43]: 1.16.150. Retitled, existing text for Subsections A and B.

Comment [a41]: 1.16.130. Section repealed and deleted. Number not reassigned.

Comment [SL42]: 1.16.140. Retitled and expanded to include Voluntary Compliance Agreement and administrative process

Comment [a44]: 1.16.150.C moved from current 1.16.340 to apply in all circumstances.

ARTICLE II. JUDICIAL ENFORCEMENT

1.16.160 Notice - Methods of Service

1.16.170 Notice - Computation of Time Period

1.16.180 Notice - Information

- [1.16.190 Failure to Respond to Notice](#)
- [1.16.200 Voluntary Compliance Agreement](#)
- [1.16.210 Civil Infraction Summons and Complaint - Timing](#)
- [1.16.220 Civil Infraction Summons and Complaint - Process Requirements](#)
- [1.16.230 Civil Infraction Summons and Complaint - Service - Failure to Receive - Default](#)
- [1.16.240 Civil Infraction Summons and Complaint - Respondent's Response Required](#)
- [1.16.250 No Right to Jury](#)
- [1.16.260 Representation by Counsel](#)
- [1.16.270 Opportunity to be Heard - Cross-Examination](#)
- [1.16.280 Witnesses](#)
- [1.16.290 Hearing - Admissible Evidence](#)
- [1.16.295 Burden of Proof](#)
- [1.16.300 Hearing - Decision by Hearings Officer](#)
- [1.16.310 Order to Abate - Judicial](#)
- [1.16.320 Hearing - Records](#)
- [1.16.330 Finality of Decision - Appeals.](#)
- [1.16.340 Remedial Action by City - Summary Abatement](#)
- [1.16.350 Default Judgment](#)

ARTICLE II. JUDICIAL ENFORCEMENT

1.16.160 Notice - Methods of Service.

If a ~~Notice of Violation~~ Violation Notice of Infraction is given to a respondent pursuant to this chapter, service of such notice may be made as follows:

~~1A.~~ 1A. a ~~Notice of Violation notice of the alleged infraction~~ may be given to the respondent in person by the ~~Code Enforcement Officer~~ code enforcement officer.

~~2B.~~ 2B. a ~~Notice of Violation Notice of the alleged infraction~~ may be given by a telephone call to the respondent. If notice is given in this manner, the respondent may be given, at the ~~Code Enforcement Officer's~~ code enforcement officer's discretion, a ~~notice of infraction~~ Notice of Violation by first class mail sent to his last known address as soon as possible after the initial notice by telephone.

~~3C.~~ 3C. A ~~Notice of Violation notice of the alleged infraction~~ may be given by mailing to the respondent at his last known

address.

~~4D.~~ 4D. a ~~Notice of Violation notice of the alleged infraction~~ may be given by affixing to the main door of the property or premises. If notice is given in this manner, the ~~Code Enforcement Officer~~ code enforcement officer may, at his or her discretion, also provide the respondent with a ~~Notice of infraction~~ Violation by mail sent to the respondent's last known address as soon as possible after the initial notice by posting. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(C)(6)), 1986).

1.16.170 Notice - Computation of Time Period.

~~1A.~~ 1A. Where the ~~Notice of Violation notice of infraction~~ is delivered in person or by telephone the time period to abate the infraction shall begin ~~to run~~ immediately upon such delivery.

~~2B.~~ 2B. Where the ~~Notice of Violation notice of infraction~~ is mailed to the respondent, ~~for the purposes of computing any time period prescribed by this chapter,~~ to abate the infraction shall be considered complete three days after such mailing, if the

Comment [SL45]: 1.16.160. Retitled and modified to clarify the Notice of Violation process

Comment [SL46]: 1.16.170. Existing text with minor modification for clarity.

address to which it is mailed is within the state, and seven days after mailing if the address to which it is mailed is outside the state.

3C. Where the Notice of Violation ~~notice of infraction~~ is affixed to the main door of the property or premises, for purposes of computing the time period to abate the infraction, notice shall be considered complete three days after such affixation. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(C)(7)), 1986).

1.16.180 Notice - Information.

A. The following information shall be included in the Notice of Violation ~~notice of infraction~~ if one is given:

1a. Aa description or identification of the activity or condition constituting the alleged infraction, and the identification of the recipient as the respondent;

2b. Aa statement that the cCode eEnforcement oOfficer has determined the activity or condition to be an infraction;

3e. a statement of the action required to remedyabate or cure the alleged infraction and the time and date by which the remedyabatement must be completed unless a voluntary compliance agreement Voluntary Compliance Agreement is executed;

4d.A a statement advising the respondent that if the required remedyabatement is not completed within the time specified and the respondent has not entered into a voluntary compliance agreement Voluntary Compliance Agreement, a civil infraction summons and complaint will be issued and a forfeiture in the maximum amount provided and civil penalties for the particular infraction may be imposed.

B. 2. The following

~~information may be included in the notice of infraction~~ aAt the discretion of the cCode eEnforcement oOfficer, the Notice of Violation may include an invitation to contact the cCode eEnforcement oOfficer to discuss any questions the respondent may have about the alleged violation, the requirements for compliance, and any possibility of entering into a voluntary compliance agreement Voluntary Compliance Agreement. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(C)(8)), 1986).

1.16.190 Failure to Respond to Notice.

If notice is given, and the respondent either receives or rejects the notice of infraction Notice of Violation and fails to remedyabate or cure the alleged infraction within the time specified in the Notice of Violation notice of infraction, the cCode eEnforcement oOfficer ~~shall~~ may serve the respondent with a civil infraction summons and complaint. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(C)(9)), 1986).

1.16.200 Voluntary Compliance Agreement.

1. Effect of Agreement.

a. The Code Enforcement Officer ~~may enter into a voluntary compliance agreement with the respondent. The agreement shall include time limits for compliance and shall be binding on the respondent.~~

b. The fact that a person alleged to have committed a civil infraction enters into a voluntary compliance agreement shall not be considered an admission of having committed the infraction for any purpose.

c. The City shall abate further processing of the alleged infraction during the time allowed in the voluntary compliance agreement for the completion of the necessary

Comment [SL47]: 1.16.180. Existing text with minor modification for clarity.

Comment [SL48]: 1.16.190. Existing text with minor modification for clarity.

Comment [SL49]: 1.16.200. Moved to 1.16.115

~~corrective action. The City shall take no further action concerning the alleged violation if all terms of the voluntary compliance agreement are satisfied, other than steps necessary to terminate the enforcement action.~~

~~2. Failure to Comply with Agreement. The failure to comply with any term of the voluntary compliance agreement constitutes an additional and separate infraction, and shall be handled in accordance with the procedures established by this chapter, except that after the voluntary compliance agreement has been signed no further notice need be given before a civil infraction summons and complaint is issued. The City may also proceed on the alleged infraction that gave rise to the voluntary compliance agreement. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(C)(10)), 1986).~~

1.16.210 Civil Infraction Summons And Complaint - Timing.

A civil infraction summons and complaint may be served on the respondent:

~~1.A.~~ ~~i~~Immediately upon discovery of the infraction;

~~2.B.~~ ~~w~~Where a ~~n~~Notice of ~~infraction~~ ~~v~~Violation is given and the response period in the violation notification has expired; or

~~3.C.~~ ~~w~~Where a ~~v~~oluntary ~~compliance agreement~~ ~~Voluntary Compliance Agreement~~ has been executed, whether verbal or written, when the period for compliance has expired and the infraction has not been ~~e~~red~~a~~bated. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(D)(1)), 1986) .

1.16.220 Civil Infraction Summons And Complaint - Process Requirements.

~~1.A.~~ The physical form taken by a civil infraction summons and complaint is not

material. What is material is the substance, the information contained therein. The ~~C~~city may utilize various physical formats for the summons and complaint. ~~A "long form" and a "short form" are specifically authorized but other formats may be used.~~ The state uniform citation may be used. Any form prepared by the ~~c~~City should normally contain or solicit the following information, but no complaint or summons shall be considered invalid for failure to comply with these rules, so long as the basic information regarding the infraction and the court date is included.

~~2.B.~~ The civil infractions summons and complaint shall contain the following information:

~~1.a1.~~ The name and address of the respondent;

~~2.b2.~~ A description of the infraction that can be understood by a person making a reasonable effort to do so;

~~3.e3.~~ The date, time, and place at which the infraction is alleged to have been committed. If the infraction is alleged to be ongoing, the civil, infractions summons and complaint shall so state and shall list a date on which the infraction was observed;

~~4.d4.~~ a file or reference number;

~~5.e5.~~ the date the civil infraction summons and complaint was issued;

~~6.f6.~~ the name of the code enforcement officer issuing the citation;

~~7.g7.~~ the time, date, and location at which the respondent is to appear in court;

~~8.h8.~~ a notice that a complaint based on the violation will be filed with the court;

Comment [SL50]: 1.16.210. Existing text with minor modification for clarity

Comment [SL51]: 1.16.220. Existing text with minor modification for clarity.

~~9.~~ the amount of the maximum civil penalty for the infraction;

~~10.~~ an explanation of the respondent's obligation to appear at the hearing and that a monetary judgment may be entered for up to the maximum civil penalties if the respondent fails to make all required court appearances;

~~11.~~ a space wherein the respondent may admit having committed the alleged infraction;

~~12.~~ the time period for returning the form to the court;

~~13.~~ a notice that, if the respondent admits having committed the infraction as charged, payment, in the amount shown on the summons and complaint or as agreed with the code enforcement officer pursuant to 1.16.660 of this chapter, as may be appropriate, must accompany the admission; and

~~14.~~ a form of verification that the person signing the complaint swears that the person has reasonable grounds to believe, and does so believe, that the respondent committed the alleged infraction. (Ord. 02-27, Ord. 86-41 §§1 - 4, 1986; Ord. 86-35 §§1 - 4, 1986; Ord. 86-20 §1(Exhibit A(5)(D)(2)), 1986).

**1.16.230 Civil Infraction Summons
And Complaint - Service -
Failure To Receive -
Default.**

~~A.~~ Service of the civil infraction summons and complaint may be made by:

~~1.~~ personal service on the respondent or an agent for the respondent,

~~2.~~ by substitute service at the respondent's dwelling or office;

~~3.~~ by affixing to the main door of the property or premises, or by

~~4.~~ certified mail, return receipt requested, to the respondent at his last known address.

~~B.~~ In the event of substitute service at the respondent's dwelling, the person served must be at least ~~fourteen~~-14 years of age and residing in the respondent's place of abode.

~~C.~~ Service at the respondent's office, must be made during regular business hours. Substitute service at the respondent's office must be made to the person who is apparently in charge.

~~D.~~ If substitute service is used, a true copy of the summons and complaint, together with a statement of the date, time and place at which service was made, must be mailed to the respondent at the respondent's last known address. Service will be considered complete upon such a mailing.

~~E.~~ Service by any other method reasonably calculated, under all the circumstances, to apprise the respondent of the existence and pendency of the infraction and to afford a reasonable opportunity to respond shall be acceptable.

~~F.~~ Service on particular respondents, such as minors, incapacitated persons, corporations, limited partnerships, the state, other public bodies and general partnerships shall be as prescribed for the service of a civil summons and complaint by the Oregon Rules of Civil Procedure.

~~G.~~ No default shall be entered against any respondent without proof that the respondent had notice of the civil infraction summons and complaint. A sworn affidavit of the ~~Code~~ ~~Enforcement~~ ~~Officer~~ outlining

Comment [SL52]: 1.16.230. Existing text with minor modification for clarity

the method of service, including the date, time and place of service shall create a rebuttable presumption that the respondent had such notice. (Ord. 02-27, Ord. 89-21 §1, 1989; Ord. 86-20 §1(Exhibit A(5)(D)(3)), 1986).

**1.16.240 Civil Infractions Summons
a And Complaint -
Respondent's Response
Required.**

~~A.~~ ~~Response Required.~~ A respondent served with a civil infraction summons and complaint shall respond to the complaint by personally appearing at the scheduled first appearance in court or by making a written response by mail or personal delivery to the cCourt.

~~B.~~ ~~Admission.~~ If the respondent admits the infraction, the respondent may so indicate on the summons and forward the form to the Ccourt. Payment in the amount of the civil penalty for the infraction, as shown on the summons or as agreed with the Ecode ~~Enforcement enforcement Officer officer~~ pursuant to section 1.16.420 ~~660 of 660 of~~ this ~~chapter chapter~~ shall be submitted with the response. An appropriate findings shall be entered in the records of the Civil civil ~~i~~nfraction ~~Hearings hearings Officer officer~~ indicating the receipt of the civil penalty.

~~C.~~ ~~First Appearance.~~ If the respondent does not admit the infraction, the respondent must appear at the scheduled first appearance in court.

1. At the first appearance, the respondent may deny the infraction and request a hearing, admit the infraction, or not contest the infraction.

2. If the respondent either admits or does not contest the infraction the respondent shall be given the opportunity to provide a statement. Based on the statement provided by the respondent and any additional information provided by the cCode ~~E~~nforcement officer, the cCivil ~~i~~nfractions

~~h~~Hearings officer shall impose a civil penalty not to exceed the maximum civil penalty allowed for the infraction.

3. If the respondent requests a hearing, a hearing shall be scheduled. (Ord. 02-27, Ord. 86-41 §5, 1986; Ord. 86-35 §5, 1986; Ord. 86-20 §1(Exhibit A(5)(E)), 1986).

1.16.250 No Right ~~t~~o Jury.

Any hearing to determine whether an infraction has been committed shall be held before the Civil civil Infraction infraction ~~Hearings hearings Officer officer~~ without a jury. (Ord. 86-20 §1(Exhibit A(5)(F)(1)), 1986).

**1.16.260 Representation ~~b~~By
Counsel.**

The respondent may be represented by legal counsel; however, legal counsel shall not be provided at public expense. Written notice shall be provided to the Hearings ~~Officer officer~~ and Code code ~~Enforcement enforcement Officer officer~~ no later than five days prior to any appearance by legal counsel at an appearance or hearing. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(F)(2)), 1986).

**1.16.270 Opportunity ~~t~~o ~~b~~e Heard
- Cross-Examination.**

At a hearing a respondent shall have the right to present evidence and witnesses in the respondent's favor, to cross-examine any witnesses who testify against the respondent, and to submit rebuttal evidence. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(F)(3)), 1986).

1.16.280 Witnesses.

A. ~~1.~~ The respondent may request that witnesses be ordered by subpoena to appear at the hearing. The respondent shall

Comment [SL53]: 1.16.240. Existing text with minor modification for clarity.

Comment [SL54]: 1.16.250. Existing text.

Comment [SL55]: 1.16.260. Existing text

Comment [SL56]: 1.16.270. Existing text

Comment [SL57]: 1.16.280. Existing text

make such request in writing to the Ccourt at least five days prior to the scheduled hearing.

B. 2. Subject to the same five-day limitation, the Code Enforcement Officer Code enforcement officer, the citizen who signed the complaint, or the City attorney, as appropriate, may also request in writing that the Ccourt order certain witnesses to appear by subpoena.

C. If a civil penalty is declared in the final order, the order shall also provide that the respondent shall pay any witness fees payable in connection with the hearing. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(F)(4)), 1986).

1.16.290 Hearing - Admissible Evidence.

A. 1. Admissible Evidence.
a. Relevant Evidence. The hearing shall be limited to production of evidence only on the infraction alleged in the complaint.

B. Oral Evidence. Oral evidence shall be taken only upon oath or affirmation administered by the Ccivil infractions Hearings Officer.

C. Admissibility of Evidence. Evidence shall be admitted if it is of the type which responsible persons are accustomed to rely on in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might render such evidence inadmissible in civil actions in courts of competent jurisdiction in this state.

D. Exclusion of Evidence. Irrelevant or unduly ~~repetitions~~ repetitious evidence shall be excluded.

2. Burden of Proof. The complainant or, if the City is the complainant, the Code Enforcement Officer, shall have the burden of

~~proving the alleged civil infraction by a preponderance of the evidence. (Ord. 86-20 §1(Exhibit A(5)(F)(5) and (6)), 1986).~~

1.16.295 Burden of Proof

The complainant or, if the City is the complainant, the Code Enforcement Officer, shall have the burden of proving the alleged civil infraction by a preponderance of the evidence. (Ord. 86-20 §1(Exhibit A(5)(F)(5) and (6)), 1986).

1.16.300 Hearing - Decision By Hearings Officer

A. The Hearings Officer shall determine if the respondent committed the infraction as alleged in the complaint.

B. When the infraction has not been proven, a written order dismissing the complaint shall be entered in the Ccourt records.

C. When the Hearings Officer finds that the infraction was committed, written findings shall be prepared which set out sufficient information to substantiate the commission of the infraction.

D. Written orders, including findings, shall be prepared within ten working days of the oral decision. The Ccourt shall serve true copies of the Hearings Officer's findings, order and judgment on all parties, either personally or by mail. (Ord. 02-27, Ord. 89-21 §2, 1989; Ord. 86-20 §1(Exhibit A(5)(F)(7)), 1986).

1.16.305 Civil Penalty Abatement Requirements.

~~Upon a finding that the infraction was committed by the respondent, the Hearings Officer may require the respondent to abate the ordinance infraction within a specified time period identified in the final order. (Ord. 89-21 §3, 1989).~~

Comment [a59]: Current 1.16.290.2 moved to new Section 1.16.295 for clarity.

Comment [SL60]: 1.16.295. New section, existing text extracted from 1.16.290

Comment [SL61]: 1.16.300. Existing text

Comment [SL58]: 1.16.290. Existing text with minor modification for clarity.

Comment [SL62]: 1.16.305. Text from current TMC 1.16.305 moved to a new Section 1.16.310 and modified.

1.16.310 ~~Civil Penalty - Assessment Of Fees, Order to Abate - Judicial~~

~~Upon a finding that the infraction was committed by the respondent, the Hearings Officer may assess a civil penalty pursuant to Sections 1.16.380 through 1.16.420 of this chapter, plus hearing costs and witness fees, if any. (Ord. 86-20 §1(Exhibit A(5)(F)(8)), 1986).~~

Upon a finding that the infraction was committed by the respondent, the ~~h~~Hearings ~~o~~fficer may ~~require the~~ issue an Order to Abate requiring the respondent to abate the ordinance infraction within a specified time period identified in the final order. Orders to Abate issued under this section may only be appealed pursuant to 1.16.330. (Ord. 89-21 §3, 1989).

1.16.320 ~~Hearing - Records~~

The ~~Court~~ court shall maintain a record of the hearing proceedings. A mechanical recording of the hearing, accompanied by any written documents, correspondence or physical evidence associated with the ~~matter,~~ matter shall be sufficient to meet the requirements of this section. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(5)(F)(9)), 1986).

1.16.330 ~~Finality Of Decision - Appeals~~

The determination of the ~~H~~Hearings ~~Officer-officer~~ shall be final. Review of the ~~Hearing-hearing~~ Officer's-officer's determination shall be to the circuit court by writ of review, pursuant to Chapter 34 of the Oregon Revised Statutes. (Ord. 86-20 §1(Exhibit A(5)(F)(10)), 1986).

1.16.340 ~~Remedial Action Bby the City - Costs Summary Abatement~~

~~1. Upon finding that an infraction was committed, as determined by a final decision of the Hhearings Oofficer, the Ccity may, after obtaining a warrant to enter the property and abate the infraction, remedy proceed to the abate the infraction and charge the remedial-abatement costs back to the respondent pursuant to 1.16.15680.C. For the purposes of this subsection "a final decision of the Hhearings Oofficer" means a final decision for which judicial review was not sought within the time allowed by law or a decision of the Hhearings Oofficer that was upheld by a final decision in the judicial review and appeal process.~~

~~2. In the case of an immediate danger to the public health, safety or welfare declared under Section 1.16.150 of this code, the City may remedy the infraction and charge the remedial cost back to the respondent, after obtaining a warrant to enter the property and abate the infraction. If the immediate danger constitutes an emergency threatening immediate death or physical injury to persons, the City may abate the infraction without obtaining a warrant if the delay associated with obtaining the warrant would result in increased risk of death or injury, and may charge the remedial costs back to the respondent.~~

~~3. The Code Enforcement Officer shall have the right at reasonable times to enter into or upon property in accordance with law to investigate or to remedy the infraction. This provision does not authorize a warrantless entry when a warrant is required by state or federal law.~~

~~4. The Finance Officer shall keep an accurate record of all costs incurred by the City in remedying the infraction. The Finance Officer shall notify the respondent by certified mail, return receipt requested, of these costs, and advise the respondent that the costs will~~

Comment [SL68]: 1.16.340. Existing text with minor modification for clarity. Subsections 2 – 6 relocated. See comments at those subsections.

Comment [a63]: 1.16.310. Current text moved from current 1.16.305. Retitled and modified to address appeals process.

Comment [a64]: 1.16.310. Current text moved to 1.16.680.A

Comment [a65]: 1.16.310. Proposed text was moved from 1.16.305 and modified.

Comment [SL66]: 1.16.320. Existing text

Comment [a69]: 1.16.340.2. Text moved to 1.16.150.C.

Comment [SL67]: 1.16.330, Existing text

Comment [a70]: 1.16.340.3. Text moved to 1.16.110.

~~be assessed to and become a lien against the respondent's property if not paid within thirty days of the notice, and shall further notify the respondent that the respondent is entitled to a hearing to contest the amount of the costs to be assessed.~~

~~5. The respondent shall be entitled to request a hearing to consider the amount of the costs assessed to remedy the alleged infraction. That hearing shall be conducted pursuant to the procedures established in Sections 1.16.250 through 1.16.330 of this chapter.~~

~~6. If the remedial costs are not paid, the Finance Officer shall follow the procedures for lien filing and docketing as contained in Section 1.16.370 of this chapter. (Ord. 02-27, Ord. 99-01; Ord. 86-20 a71(Exhibit A(6)), 1986).~~

1.16.350 Default Judgment.

Subject to the limitations set forth in Section 1.16.230.3, a default judgment shall be entered in an amount up to the maximum civil penalty applicable to the charged infraction if the respondent fails to appear at the scheduled hearing. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(7)), 1986).

1.16.360 Enforcement Rules And Regulations.

~~The Code Enforcement Officer is authorized to promulgate any rules he or she considers necessary to enforce this chapter. To be effective, such rules must be approved by the City Council by resolution. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(10)), 1986).~~

1.16.370 Lien Filing And Docketing.

~~1. When a judgment is rendered by the Hearings Officer in favor of the City for the sum of ten dollars or more, exclusive of costs and disbursements, the Code Enforcement~~

~~Officer shall, at any time thereafter while the judgment is enforceable, file with the City Finance Officer a certified transcript of all those entries made in the docket of the Hearings Officer with respect to the action in which the judgment was entered.~~

~~2. Upon receipt of this transcript, the Finance Officer shall enter the judgment of the Hearings Officer on the City's lien docket.~~

~~3. From the time of entry of the judgment on the City's lien docket, the judgment shall be a lien upon the real property of the person against whom the judgment was entered in the hearing. Except as provided in 1.16.370.4 of this section, entry of the judgment in the City's lien docket shall not thereby extend the lien of the judgment more than ten years from the original entry of the judgment at the hearing.~~

~~4. Whenever a judgment of the Hearings Officer which has been entered pursuant to this subsection is renewed by the Hearings Officer, the lien established by 1.16.370.3 of this section is automatically extended ten years from the date of the renewal order.~~

~~5. The Finance Officer shall file the transcript of the judgment with the Washington County Clerk for entry in the judgment docket of the circuit court. All costs associated with the filing of the transcript shall be added to the amount of the judgment. (Ord. 86-20 §1(Exhibit A(9)), 1986).~~

1.16.380 Continuous Infractions.

~~When an infraction is of continuous nature, unless otherwise specifically provided, a separate infraction shall be deemed to occur on each calendar day the infraction continues to exist. (Ord. 86-20 §1(Exhibit A(8)(A)), 1986).~~

1.16.385 Failure To Comply With Judgment Order.

Comment [a71]: 1.16.340.4. Text moved to 1.16.680.C.

Comment [a72]: 1.16.350.5. Text moved to 1.16.690.C

Comment [a73]: 1.16.340.6. Text moved to 1.16.710.C.

Comment [SL74]: 1.16.350. Existing text with minor modification for clarity

Comment [SL75]: 1.16.360. Replaced with administrative rules in 1.16.105.

Comment [SL77]: Original text moved to 1.16.600

Comment [SL76]: 1.16.370. Moved to 1.16.710 and modified.

Comment [SL78]: Original text moved to 1.16.620 and modified.

~~— Failure to abate an infraction or pay the civil penalty or court costs imposed within the time allowed for abatement or payment shall constitute a Class 1 civil infraction. Failure to comply with a judgment order is a continuous infraction and a separate infraction will be deemed to occur each calendar day the failure to comply infraction continues to exist past the time allowed in the judgment order. (Ord. 89-21 §4, 1989).~~

1.16.390 — Penalty — Payment Due When.

~~— Any civil penalty assessed shall be paid no later than thirty days after the final order. Such period may be extended upon order of the Hearings Officer. (Ord. 86-20 §1(Exhibit A(8)(B)), 1986).~~

Comment [SL79]: Original text moved to 1.16.610 and modified.

ARTICLE III. ADMINISTRATIVE ENFORCEMENT

- 1.16.400** **Order to Abate - Administrative**
- 1.16.410** **Abatement by the Responsible Party**
- 1.16.420** **Order to Abate - Administrative - Appeals Process**
- 1.16.430** **Abatement by the City**
- 1.16.440** **Judicial Review**

ARTICLE III. ADMINISTRATIVE ENFORCEMENT

1.16.400 ~~Penalty—~~
~~Classifications.~~ **Order to Abate – Administrative**

~~For the purpose of determining civil penalties, infractions are classified in the following categories:~~

- ~~1. Class 1 infractions;~~
- ~~2. Class 2 infractions;~~
- ~~3. Class 3 infractions. (Ord. 86-20 §1(Exhibit A(8)(C)), 1986).~~

A. Upon finding any of the following the code enforcement officer may cause an Order to Abate to be posted on the subject property and mailed to the owner and each other known responsible party:

- 1. a violation exists, or
- 2. any responsible party is not responsive or cooperative after receiving a Letter of Complaint, or
- 3. a recipient failed to comply with the terms of a Voluntary Compliance Agreement,

B. The order shall require the respondent to abate the ordinance infraction within a specified time period.

C. Prior to mailing or posting an Order to Abate, the code enforcement officer must have probable cause to believe that a civil infraction exists, based on personal observation of the violation by the code enforcement officer or other credible authority.

D. The code enforcement officer shall cause a copy of the Order to Abate to be posted on the premises at the site of the violation.

E. An Order to Abate shall be mailed by first class or certified mail to the last known address of the responsible party. An Order to Abate shall contain:

- 1. a description of the real property, by street address or otherwise, on which the infraction exists.
- 2. the date of the order.
- 3. a direction to abate the infraction within no less than 10 days and no more than 30 days from the date of the order.
- 4. a description of the infraction.
- 5. a statement that, unless the infraction is removed:
 - a. a warrant may be obtained.

Comment [a80]: 1.16.400. New section establishing administrative Order to Abate.

Comment [a81]: 1.16.400. Existing text moved to 1.16.630.

b. the city may abate the infraction, and

c. the cost of abatement will be charged to the responsible party.

6. a statement that failure to abate an infraction may result in imposition of an administrative fee or lien on the property.

7. a statement that the responsible party may protest the Order to Abate by giving notice to the code enforcement within 10 days following the date of the order. Contact information for the code enforcement officer shall be included in the Order to Abate.

F. Upon completion of mailing and posting, the persons mailing and posting shall execute and file certificates stating the date and place of the mailing and posting, respectively.

G. An error in the address or name of the responsible party shall not make the Order to Abate void, and in such case the posted notice shall be sufficient.

1.16.410 ~~Penalty-- Assessment~~ Abatement by the Responsible Party

~~The civil penalty to be assessed for a specific infraction shall be as follows:~~

- ~~1. For Class 1 infractions, an amount not to exceed two hundred fifty dollars;~~
- ~~2. For Class 2 infractions, an amount not to exceed one hundred fifty dollars;~~
- ~~3. For Class 3 infractions, an amount not to exceed~~

~~fifty dollars. (Ord. 86-20 §1(Exhibit A(8)(D)), 1986).~~

Comment [a83]: 1.16.410. Existing text moved to 1.16.640.

A. Within the timeline specified in the Order to Abate, the responsible party shall abate the infraction or appeal the Order to Abate pursuant to 1.16.420.

B. Any responsible party intending to abate the infraction shall provide notice to the Code Enforcement Officer before abating the infraction and shall allow the City to inspect during and on completion of the abatement. The notification shall state how the infraction will be abated, when it will be abated, and who will be abating it.

~~1.16.415~~ ~~Penalty -- Repeat Violations.~~

Comment [SL84]: 1.16.415. Moved to 1.16.650

~~The maximum amounts of the civil penalties set forth in section 1.16.410 above shall be doubled in the event that the respondent is found in violation of a second and similar violation within 24 months of the initial violation and quadrupled in the event of a third or subsequent repetition within 24 months of the initial violation. (Ord. 02-27).~~

Comment [a82]: 1.16.410. New section requiring abatement by responsible party

~~1.16.420~~ ~~Penalty -- Prior to Hearing~~ Order to Abate -- Administrative -- Appeal Process

Comment [a85]: 1.16.420. New section providing appeal process for administrative enforcement option.

~~The Code Enforcement Officer is~~ authorized to reduce the amount of the penalty to be paid by the respondent, if the penalty amount is paid in full on or before the time and date of the first

appearance. (Ord. 02-27).

A. A responsible party, protesting that the alleged infraction does not exist shall file with the code enforcement officer a written statement specifying the basis for the protest before the abatement date specified in the order or at most within 10 days of the date of the notice. Standing to protest is limited to a responsible party.

B. Upon receipt of a written statement of protest from a responsible party, the code enforcement officer shall, within 10 days of receipt of the protest, schedule a hearing before the civil infractions hearings officer, to be held within 30 days of receipt.

C. At the hearing set for consideration of the infraction, the person protesting may appear and be heard by the civil infractions hearings officer and the civil infractions hearings officer shall determine whether or not an infraction in fact exists. The city manager is authorized to draft and adopt rules and policies to provide for a civil infractions hearings officer review process consistent with this subsection and principles of due process. The civil infractions hearings officer's determination shall be required only in those cases where a written protest has been filed as provided in this section.

D. If the civil infractions hearings officer determines that an infraction does in fact exist, the responsible party shall, within five days after the civil infractions hearings officer's determination, abate the infraction, unless the civil infractions hearings officer determines that the responsible party should not be given the opportunity to abate or unless the civil infractions hearings officer decision allows a period of time greater than five days.

E. The civil infractions hearings officer may determine that the responsible

party for the infraction should not be given the opportunity to abate only if the civil infractions hearings officer finds that the responsible party for the infraction is unlikely to properly abate the infraction. The determination that a responsible party is unlikely to properly abate the infraction shall be based on the findings as to one of the following:

1. whether the person acted intentionally or whether the infraction is egregious; or

2. whether the person had knowledge that the action was a violation of state law or city code; or

3. whether the person has the professional expertise to perform the abatement.

1.16.425 Delinquent Civil Penalties.

~~— Delinquent civil penalties and those imposed by default judgment which were assessed for infractions may, in addition to any other method, be collected or enforced pursuant to Oregon Revised Statutes 30.310. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(8)(E)), 1986). ■~~

1.16.430 Abatement by the City

If, within the time allowed, the infraction has not been abated by the responsible party, the city manager may cause the infraction to be abated by securing an abatement warrant pursuant to sections 1.16.110 through 1.16.114.

1.16.440 Judicial Review

Judicial review of a decision of the civil infractions hearings officer on the appeal of an Order to Abate shall be on the record by writ of review pursuant to ORS Chapter 34 and not otherwise.

Comment [a86]: 1.16.420. Existing text moved to 1.16.670.

Comment [a87]: 1.16.425. Existing text moved to 1.16.670.

Comment [SL88]: 1.16.430. New section providing for abatement by the city under warrant

Comment [SL89]: 1.16.440. New section regarding judicial review of a decision by the civil infractions hearing officer of an appeal

ARTICLE IV. PENALTIES, FEES AND COSTS

- 1.16.600 Continuous Infractions
- 1.16.610 Failure to Comply With Judgment Order, Order to Abate or Notice of Assessment
- 1.16.620 Penalties, Fees and Costs - Payment
- 1.16.630 Penalties and Fees - Classifications
- 1.16.640 Penalties and Fees - Amounts to be Assessed
- 1.16.650 Penalties and Fees - Repeat Violations
- 1.16.660 Penalties and Fees - Prior to First Appearance in Court
- 1.16.670 Delinquent Civil Penalties, Fees and Costs
- 1.16.680 Penalties, Fees and Costs - Assessment
- 1.16.690 Administrative Fees and Costs - Notice of Assessment
- 1.16.700 Administrative Fees and Costs - Notice of Objection and Hearing
- 1.16.710 Penalties, Fees and Costs - Collection, Lien Filing and Docketing

ARTICLE IV. PENALTIES, FEES AND COSTS

1.16.380600 Continuous Infractions

When an infraction is of a continuous nature, unless otherwise specifically provided, a separate infraction shall be deemed to occur on each calendar day the infraction continues to exist. (Ord. 86-20 §1(Exhibit A(8)(A)), 1986).

1.16.385610 Failure To Comply With Judgment Order, Order to Abate or Notice of Assessment

A. Failure to comply with a judicial Order to Abate an infraction or pay the civil penalty or court costs imposed within the time allowed for abatement or payment shall constitute a Class 1 civil infraction.

B. Failure to comply with an administrative Order to Abate an infraction or to pay an administrative fee or statement of administrative or abatement costs within the time allowed for such abatement or payment in a Notice of Assessment shall constitute a Class I Civil Infraction.

C. Failure to comply with a judgment order, an Order to Abate or a Notice of Assessment is a continuous infraction and a separate infraction will be deemed to occur each calendar day the failure to comply infraction continues to exist past the time allowed in the judgment order. (Ord. 89-21 §4, 1989).

1.16.390620 Penalties, Fees and Costs - Payment Due When

Any civil penalty, administrative fees, or costs assessed shall be paid no later than 30 days—days thirty days after the final order or the date of notice. Such period may be extended upon order of the Hearings Officer by the code enforcement officer for the administration process or upon order of the hearings officer—officer. (Ord. 86-20 §1(Exhibit A(8)(B)), 1986).

1.16.400630 Penalties and Fees - Classifications

For the purpose of determining civil penalties and administrative fees, infractions are classified in the following categories:

Comment [SL90]: 1.16.600. Existing text, moved from current 1.16.380.

Comment [a92]: 1.16.620. Existing text, moved from current 1.16.390.

Comment [SL91]: 1.16.610. Existing text, moved from current 1.16.385, expanded to include administrative process.

Comment [SL93]: 1.16.630. Existing text, moved from current 1.16.400

- A. Class 1 infractions;
- B. Class 2 infractions;
- C. Class 3 infractions. (Ord. 86-20 §1(Exhibit A(8)(C)), 1986).

1.16.410640 Penalties and Fees -- Amounts to be Assessed

The civil penalty or administrative fee to be assessed for a specific infraction shall be as follows:

- A.** For Class 1 infractions,

1. an amount not to exceed ~~two hundred fifty dollars~~ \$250 per day under either the judicial or the administrative enforcement process, or

2. under the administrative enforcement process, an amount:

a. computed in a manner established by administrative rule pursuant to 1.16.105

b. for the entire period the violation exists and not for each day of the violation.

B. For Class 2 infractions, an amount not to exceed ~~one hundred fifty dollars~~ \$150 per day;

C. For Class 3 infractions, an amount not to exceed ~~fifty dollars~~ \$50 per day. (Ord. 86-20 §1(Exhibit A(8)(D)), 1986).

1.16.415650 Penalties and Fees -- Repeat Violations

The maximum amounts of the civil penalties and administrative fees set forth in ~~section 1.16.4101.16.640.A.1, 1.16.640.B and 1.16.640.C~~ above shall be doubled in the event that the respondent is

found in violation of a second and similar violation within 24 months of the initial violation and quadrupled in the event of a third or subsequent repetition within 24-months of the initial violation. (Ord. 02-27).

1.16.420660 Penalties and Fees -- Prior to First Appearance in Court

The Code Enforcement Officer is authorized to reduce the amount of ~~the a civil penalty that could be imposed or the amount of an administrative fee to be paid by the respondent, if compliance has been achieved and the penalty amount is to be paid in full on or before the time and date of the first appearance in court or before the timeline set out in a Letter of Complaint or an Order to Abate.~~ (Ord. 02-27).

1.16.425670 Delinquent Civil Penalties, Fees and Costs

Delinquent civil penalties, administrative fees, or costs and ~~those penalties imposed by default judgment which were assessed for infractions may, in addition to any other method,~~ be collected or enforced pursuant to Oregon Revised Statutes 30.310 or any other method. (Ord. 02-27, Ord. 86-20 §1(Exhibit A(8)(E)), 1986).

1.16.680 Penalties, Fees and Costs - Assessment

A. Upon a finding by the civil infractions hearings officer that an infraction was committed by the respondent, the civil infractions hearings officer may assess a civil penalty pursuant to Sections ~~1.16.380 1.16.600~~ through ~~1.16.420 1.16.650~~ of this chapter, plus hearing costs, and witness fees if any.

B. Upon a finding by the code enforcement officer that an infraction was committed by the respondent and if, within

Comment [SL96]: 1.16.660. Existing text, moved from current 1.16.420 and expanded to include administrative process and fees

Comment [SL94]: 1.16.640. Existing text moved from current 1.16.410.

Comment [a97]: 1.16.670. Existing text, moved from 1.16.425 and expanded to include administrative fees.

Comment [SL98]: 1.16.680. New section, subsection A is text from current 1.16.310 with B and C added to encompass administrative fees and abatement costs

Comment [SL95]: 1.16.650. Existing text, moved from current 1.16.415 with minor revisions

the time allowed in an Order to Abate, the infraction has not been abated by the responsible party, the code enforcement officer may assess an administrative fee pursuant to Sections 1.16.600 through 1.16.650, plus costs.

C. For abatement of a violation by the city by judicial process pursuant to Section 1.16.340 or administrative process pursuant to Section 1.16.430 the code enforcement officer shall keep an accurate record of the costs incurred by the city in abating the violation. The total amount of these charges will be assessed against the responsible party as the cost of abatement.

1.16.690 Administrative Fees and Costs - Notice of Assessment

Upon the assessment of administrative fees or costs pursuant to Section 1.16.680 the code enforcement officer shall forward to all persons responsible for the violation a Notice of Assessment stating:

A. the total administrative fees and costs, if any, assessed for the violation;

B. that the total amount of the fees and costs as indicated will be assessed to and become a lien against the property of persons responsible for the violation unless paid within 30 days from the date of the notice;

C. that any responsible party for the fees and costs may file a written notice of objection to the amount of the fees and costs with the code enforcement officer not more than 10 days from the date of the notice.

1.16.700 Administrative Fees and Costs - Notice of Objection and Hearing

~~A.~~ If an objection to an administrative fee or costs is filed as provided in Section 1.16.690, the code enforcement

officer shall, within 10 days, cause a hearing to be scheduled to be held within 30 days before the civil infractions hearings officer. The civil infractions hearing officer shall hear the objection and determine the amount of the fee and costs to be assessed including the costs to the city of responding to the objection if the city's position is sustained.

1.16.710 Penalties, Fees and Costs -- Collection, Lien Filing and Docketing

~~A.~~ When a judgment is rendered by the hearings officer in favor of the city for the sum of ~~ten dollars~~ \$100 or more, exclusive of costs and disbursements, the ~~C~~code ~~E~~enforcement ~~O~~fficer shall, at any time thereafter while the judgment is enforceable, file with the ~~C~~city ~~F~~inance ~~O~~fficer a certified transcript of all those entries made in the docket of the hearings officer with respect to the action in which the judgment was entered.

~~B.~~ Upon receipt of this transcript, the Finance Officer shall enter the judgment of the Hearings Officer on the City's lien docket. An assessment of the administrative fees and costs as stated in the Notice of Assessment shall be made if:

1. no objection to administrative fees and costs is filed as provided in Section 1.16.700 or;

2. fees or costs remain applicable following a hearing on an objection and the fees and costs are not paid within 30 days from the date of the notice or the date of the hearing order.

C. The code enforcement officer shall file with the city finance officer a certified statement of the total fees and costs due.

D. Upon receiving the statement of total fees and costs due or the certified

Comment [SL101]: 1.16.710. New section to provide for documentation of penalties, fees, and costs and the means of collecting them. Subsections A, D, and H are drawn from current 1.16.370.1, 2, & 5. Subsections B, D, E, F, & G added to clarify and modernize the described process.

Comment [a99]: 1.16.690. New section creating Notice of Assessment.

Comment [SL100]: 1.16.700. New section to provide for an appeal of an assessment of fees and costs

transcript, the City Finance Officer shall enter that total on the City's lien docket.

E. The city may bring legal action to collect any civil penalties, fees, costs or interest provided for in this chapter. The city may also use a professional collection agency, or cause the full amount of civil penalties, fees, costs or interest owed to be entered into the city's lien docket and, from the time of entry on the city's lien docket it shall constitute a lien upon property of all persons responsible for the violation.

F. A lien shall bear interest at the rate of nine percent per year. Such interest shall commence to run from date of the entry of the lien in the lien docket.

G. An error in the name of any person to whom notice is sent shall not void the assessment, nor will a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against property of the responsible party for the violation.

H. The Finance Officer shall file the statement of total fees and costs due or the transcript of the court judgment with the Washington County Clerk for entry in the judgment docket of the circuit court. All costs associated with the filing of the transcript shall be added to the amount of the judgment statement.

Table of Proposed Revisions in 1.16

Section Number in New Chapter 1.16	Section Title in New Chapter 1.16	Section Number in Original TMC	Section Title Original TMC	Explanation of Revision	New pg. # (on clean copy)
ARTICLE I. GENERAL PROVISIONS					
1.16.010	Title For Provisions	Same Number	Same Title	AP changes only	p. 3
1.16.020	Establishment and Purpose	Same Number	Same Title	Modified to allow for both judicial and administrative abatement	p. 3
1.16.030	Definitions	Same Number	Same Title	Modified and Expanded - Substantial additions	p. 4
1.16.040	Use Of Language	Same Number	Same Title	AP changes only	p. 5
1.16.050	Reference To State Law	Same Number	Same Title	AP changes only	p. 5
1.16.060	Culpability, Not Exclusive, Remedies Cumulative	Same Number	Culpability - Chapter Provisions Not Exclusive	Modified to allow for both judicial and administrative process	p. 5
1.16.065	Liability	-	-	New Section - added for clarity	p. 5
1.16.070	Effect Of This Chapter	Same Number	Same Title	AP changes only	p. 6
1.16.080	Severability	Same Number	Same Title	AP changes only	p. 6
1.16.090	Reports Of Infractions	Same Number	Same Title	AP changes only	p. 6
1.16.100	Assessment by Code Enforcement Officer	Same Number	Assessment	Title and text modified for clarity	p. 6
1.16.105	Administrative Rules	-	-	New Section - added to authorize administrative rules per 2.04	p. 6
1.16.110	Warrants - Right of Entry	-	Notice - Validity (repealed Ord. 02-27)	New Section - added to codify warrant procedures	p. 7
1.16.111	Warrants - Grounds for Issuance	-	-	New Section - added to codify warrant procedures	p. 7
1.16.112	Warrants - Procedure for Issuance	-	-	New Section - added to codify warrant procedures	p. 8
1.16.113	Warrants - Execution	-	-	New Section - added to codify warrant procedures	p. 8

Table of Proposed Revisions in 1.16

Section Number in New Chapter 1.16	Section Title in New Chapter 1.16	Section Number in Original TMC	Section Title Original TMC	Explanation of Revision	New pg. # (on clean copy)
1.16.114	Warrants - Disposal of Seized Property	-	-	New Section - added to codify warrant procedures	p. 8
1.16.115	Voluntary Compliance Agreement	1.16.200	Same Title	Moved to Article I and modified - minor revisions	p. 8
1.16.120	Notice - Notice of Violation and Letter of Complaint	Same Number	Notice	Modified - Retitled and administrative process added	p. 9
1.16.130	DELETED (number not reassigned)	-	Notice - Class 2 and 3 Infractions	REPEALED Ord. 02-27	-
1.16.140	Time To Abate Infraction After Notice	Same Number	Same Title	Modified - adds administrative process	p. 9
1.16.150	Immediate Remedial Action Required When	Same Number	Same Title	Modified - adds administrative process. Proposed subsection C moved from current TMC 1.16.340.2 for clarity and consistency	p. 9
ARTICLE II. JUDICIAL ENFORCEMENT					
1.16.160	Notice - Methods of Service	Same Number	Notice - Methods	Modified - Retitled and modified to clarify the Notice of Violation process	p. 10
1.16.170	Notice - Computation Of Time Period	Same Number	Same Title	Modified - minor update	p. 11
1.16.180	Notice - Information	Same Number	Same Title	Modified - minor update	p. 11
1.16.190	Failure To Respond To Notice	Same Number	Same Title	Modified - minor update	p. 11
1.16.200	DELETED (number not reassigned)	1.16.200	Voluntary Compliance Agreement	Moved original text to 1.16.115 and modified to add administrative process	-F31
1.16.210	Civil Infraction Summons And Complaint - Timing	Same Number	Same Title	Modified - minor update	p. 11

Table of Proposed Revisions in 1.16

<u>Section Number in New Chapter 1.16</u>	<u>Section Title in New Chapter 1.16</u>	<u>Section Number in Original TMC</u>	<u>Section Title Original TMC</u>	<u>Explanation of Revision</u>	<u>New pg. # (on clean copy)</u>
1.16.220	Civil Infraction Summons And Complaint – Process Requirements	Same Number	Same Title	Modified - minor update	p. 12
1.16.230	Civil Infraction Summons And Complaint - Service-Failure To Receive - Default	Same Number	Same Title	Modified - minor update	p. 13
1.16.240	Civil Infraction Summons And Complaint - Respondent's Response Required	Same Number	Same Title	Modified - minor update	p. 13
1.16.250	No Right To Jury	Same Number	Same Title	AP changes only	p. 14
1.16.260	Representation By Counsel	Same Number	Same Title	AP changes only	p. 14
1.16.270	Opportunity To Be Heard - Cross-Examination	Same Number	Same Title	AP changes only	p. 14
1.16.280	Witnesses	Same Number	Same Title	AP changes only	p. 14
1.16.290	Hearing - Admissible Evidence.	Same Number	Same Title	Modified - minor update	p. 14
1.16.295	Burden of Proof	1.16.290.B	Same Title	New section - extracted from 1.16.290 into separate provision	p. 14
1.16.300	Hearing - Decision By Hearings Officer	Same Number	Same Title	AP changes only	p. 15
1.16.305	DELETED (number not reassigned)	1.16.305	Civil Penalty - Abatement Requirements	Text from current TMC 1.16.305 has been placed into 1.16.310. Provision number 1.16.305 has been deleted.	-F43

Table of Proposed Revisions in 1.16

Section Number in New Chapter 1.16	Section Title in New Chapter 1.16	Section Number in Original TMC	Section Title Original TMC	Explanation of Revision	New pg. # (on clean copy)
1.16.310	Order to Abate - Judicial	1.16.310	Civil Penalty - Assessment of Fees	Moved into 1.16.680.A with minor update, replaced with text from 1.16.305	p. 15
1.16.320	Hearing - Records	Same Number	Hearing - Records	AP changes only	p. 15
1.16.330	Finality Of Decision - Appeals	Same Number	Same Title	AP changes only	p. 15
1.16.340	Remedial Action By City – Summary Abatement	Same Number	Remedial Action By City - Costs (see explanation)	Modified - Subsections moved to clarify processes <ul style="list-style-type: none"> • 1.16.340.3 moved to 1.16.110 • 1.16.340.4 moved to 1.16.680.C • 1.16.340.5 moved to 1.16.690.C • 1.16.340.6 moved to 1.16.710.C • 1.16.340.7 moved to 1.16.150.C 	p. 15
1.16.350	Default Judgment	Same Number	Default Judgment	Minor update	p. 15
1.16.360	DELETED (number not reassigned)	1.16.360	Enforcement - Rules And Regulations	Replaced with Section 1.16.105, Administrative Rules	-
1.16.370	DELETED (number not reassigned)	1.16.370	Lien Filing And Docketing	Lien Filing And Docketing - Text moved to 1.16.710 and modified to include administrative process	-
1.16.380	DELETED (number not reassigned)	1.16.380	Continuous Infractions	Original text moved to 1.16.600	-

Table of Proposed Revisions in 1.16

Section Number in New Chapter 1.16	Section Title in New Chapter 1.16	Section Number in Original TMC	Section Title Original TMC	Explanation of Revision	New pg. # (on clean copy)
1.16.385	DELETED (number not reassigned)	1.16.385	Failure to Comply with Judgment Order	Original text moved to 1.16.610	-
1.16.390	DELETED (number not reassigned)	1.16.390	Penalty - Payment Due When	Original text moved to 1.16.620	-
ARTICLE IV. ADMINISTRATIVE ENFORCEMENT					
1.16.400	Order to Abate - Administrative	1.16.400	Penalty - Classification	New Section - Original text moved to 1.16.630	p. 16
1.16.410	Abatement by Responsible Party	1.16.410	Penalty - Assessment	New Section - Original text moved to 1.16.640	p. 17
1.16.415	DELETED (number not reassigned)	1.16.415	Penalty - Repeat Violation	Moved original text to 1.16.650	-
1.16.420	Order to Abate - Administrative - Appeal Process	1.16.420	Penalty Prior to Hearing	New Section - Original text moved to 1.16.660	p. 17
1.16.425	DELETED (number not reassigned)	1.16.425	Delinquent Civil Penalties	(Delinquent Civil Penalties moved to 1.16.670)	-
1.16.430	Abatement by the City	-	-	New Section	p. 17
1.16.440	Judicial Review	-	-	New Section	p. 18
ARTICLE III. PENALTIES, FEES AND COSTS					
1.16.600	Continuous Infractions	1.16.380	Continuous Infractions	Moved and modified to add administrative process	p. 18
1.16.610	Failure To Comply With Judgment Order, Order to Abate or Notice of Assessment	1.16.385	Failure To Comply With Judgment Order	Moved and modified to add administrative process	p. 18

Table of Proposed Revisions in 1.16

<u>Section Number in New Chapter 1.16</u>	<u>Section Title in New Chapter 1.16</u>	<u>Section Number in Original TMC</u>	<u>Section Title Original TMC</u>	<u>Explanation of Revision</u>	<u>New pg. # (on clean copy)</u>
1.16.620	Penalties, Fees and Costs - Payment	1.16.390	Penalty - Payment Due When	Moved and modified to add administrative process	p. 18
1.16.630	Penalty and Fees - Classifications	1.16.400	Penalty - Classifications	Moved and modified - minor update	p. 18
1.16.640	Penalty and Fees - Amounts to be Assessed	1.16.410	Penalty - Assessment	Moved and modified to add administrative process	p. 19
1.16.650	Penalty and Fees - Repeat Violation	1.16.415	Penalty - Repeat Violation	Moved and modified - minor update	p. 19
1.16.660	Penalty and Fees - Prior to First Appearance in Court	1.16.420	Penalty - Prior to Hearing	Moved and modified - minor update	p. 19
1.16.670	Delinquent Civil Penalties, Fees and Costs	1.16.425	Delinquent Civil Penalties	Moved and AP changes only	p. 19
1.16.680	Penalties, Fees and Costs - Assessment	1.16.310	Civil Penalties Assessment of Fees	Moved and modified to add administrative process	p. 20
1.16.690	Administrative Fees and Costs - Notice	-	-	New Section	p. 20
1.16.700	Administrative Fees and Costs - Notice of Objection and Hearing	-	-	New Section	p. 20
1.16.710	Judicial Penalties, Administrative Fees and Costs - Lien Filing and Docketing	1.16.340 and 1.16.370	Remedial Action by the City and Lien Filing and Docketing	Consolidated from 1.16.340 and 1.16.370 - modified to add administrative process	p. 20



Title: Letter of Complaint Issuance Procedure

Administrative Rule No. 01.16.120 - 01 - 01
TMC # Rule # Version #

Effective Date: TBD – Example Draft Administrative Rule

1. Description

Section 1.16.120 of the Tigard Municipal Code authorizes a code enforcement officer to issue a Letter of Complaint to a responsible party for an apparent violation of the code. Section 1.16.105 authorizes the city manager or designee to formulate administrative rules regarding procedures for such issuance. The following administrative rules will be followed by staff in providing such notice.

2. Sections

A. Staff will send a Letter of Complaint to the responsible parties for a property after:

- (1) A complaint about a nuisance violation has been received or the city has otherwise become aware of a potential violation;
- (2) The complaint has been accepted as being valid;
- (3) The owner and/or occupant has been identified;
- (4) A decision has been made to follow the administrative enforcement process.

B. A Letter of Complaint shall be phrased as a request for compliance (as opposed to an Order to Abate) and shall include the following items and information:

- (1) Name and address of the responsible party;
- (2) The address of the alleged violation.
- (3) Tigard case number (Accela Record Number);
- (4) A description of the alleged violation, e.g., “high weeds and grass;”
- (5) Optional: a text description of the violation, e.g., “high weeds and grass in the front and rear yards;”
- (6) A citation of the relevant section of the Municipal Code.
- (7) A statement as to whether the alleged violation has been verified.
- (8) A statement that the alleged violation constitutes a Class One Civil Infraction subject to penalties of up to \$250 per day.
- (9) A timeline for bringing the property into compliance.
- (10) An invitation to contact Code Compliance if the addressee believes that they are not out of compliance or that there has been some other error.
- (11) A statement that the city may use an abatement service to correct violations.

C. An example letter is attached as Exhibit 1.

Approved by:

Martha L. Wine, City Manager

Date

DRAFT

<date>

<violator name>
<violator address>
<violator city>

Re: Code Compliance Request Record Number: <Record Number>

Dear <violator name>:

This requests your cooperation in resolving a complaint that we have received regarding your property at <violation address> in Tigard.

Code compliance is an important aspect of neighborhood livability and community pride. The City of Tigard values the quality of our neighborhoods and favors timely response to code compliance requests. The city particularly appreciates having your voluntary cooperation and compliance and we look forward to hearing from you.

The complaint indicates that your property is in violation of Tigard Municipal Code provisions regarding:
<violation(s)>

<violation text>

We have not yet verified these violations nor have we assessed any penalties. If you can confirm that no violation exists or if you correct it voluntarily within 20 days as discussed below, we will not assess penalties and there will be no court record.

Each violation described above constitutes a Class One Civil Infraction under the code and is subject to a penalty of up to \$250 per day per violation and/or abatement by the city at the property owner's expense.

Included below are the relevant regulations pertaining to property use and maintenance, as well as a description of the city's code compliance process.

<code citation(s)>

You have 20 calendar days from the date of this letter to respond to this compliance request. The city requires confirmation that your property is in compliance with all regulations cited above in one of two ways:

- If your property is not currently in compliance, please take appropriate action to bring your property into compliance and notify the city of this action.
- If you believe you have received this letter in error or you believe your property is not out of compliance, please contact us so we can discuss this further.

Please respond in writing and reference record number <Record Number>. You can send photos or other documentation to codecompliance@tigard-or.gov, or mail it to City of Tigard Code Compliance, 13125 SW Hall Blvd., Tigard, OR 97223. If you do not contact us, we will have no way of knowing that the potential code infraction has been resolved or that the request was in error and we may then follow up with other actions including on-site inspection and a possible summons and complaint.

This letter also serves as your first formal notice that the City of Tigard may use an abatement service to correct persistent code infractions. The cost of this service is at the expense of the property owner and can include a lien on the property. This is in addition to the potential civil penalties discussed above.

Your prompt response will be appreciated. It is important to us that Tigard remain a safe, clean, and attractive community. Thank you for your assistance in maintaining Tigard as “A Place to Call Home.”

Sincerely,

Code Compliance
City of Tigard



Title: Administrative Fee Determination Procedure

Administrative Rule No. 01.16.640 - 01 - 01
TMC # Rule # Version #

Effective Date: TBD – This is an example of possible rules

1. Description

Pursuant to TMC 1.16.640.A.2 staff will determine the amount of any administrative fee to be imposed for a Class I Civil Infraction using the following procedure with reference to the Administrative Fee Calculation Schedule shown as Exhibit 1 attached. The numbered steps below correspond to the numbered steps on the schedule.

2. Sections

A. Evaluate the respondent's role in causing and curing the violation in terms of:

- (1) Step 1. Effort,
- (2) Step 2. Promptness of response,
- (3) Step 3. Degree of cooperation,
- (4) Step 4. Cause of the violation,
- (5) Step 5. Knowledge or awareness, and
- (6) Step 6. Severity of the violation.

B. Enter those evaluations in the Administrative Fee Calculation Schedule using the 1, 2, or 3 ratings shown in the schedule. This may be done using the Excel version of the schedule or manually, using a hard copy. Excel will automatically perform the mathematical calculations marked with an asterisk (*) below. For any ratings other than 1 enter explanatory notes on page two of the schedule.

- (1) Step 7. Add the six evaluation ratings.*

C. Determine the Full Base Penalty.

- (1) Step 8. Multiply by twenty-five dollars (\$25.00) to determine the Full Base Penalty.*

D. Discount Penalty for Timely Compliance.

- (1) Step 9. Enter 1 if compliance was achieved after the given timeline but within 30 days, 0 if not within 30 days.

- (2) Step 10. Discount the Full Base Penalty (#8) by 50% for compliance within 30 days.*
- (3) Step 11. Enter 1 if compliance was achieved within the given timeline, 0 if not.
- (4) Step 12. Reduce penalty to zero for compliance within timeline.*

E. Determine Late Compliance Penalty.

- (1) Step 13. Enter the number of months in violation with 0 for less than one month.
- (2) Step 14. Multiply the number of months times the Full Base Penalty (#8) to determine the Late Compliance Penalty.*

F. Determine Total First Violation Penalty

- (1) Step 15. If #9 + #11 is greater than zero, enter zero, otherwise add #8 + #14 to determine Total First Violation Penalty.*

G. Modify Penalty for Compassionate Adjustment.

- (1) Step 16. Enter a percentage for a Compassionate Adjustment, if appropriate, e.g., if respondent is elderly, incapacitated, or otherwise impaired from coming into prompt compliance. Choose 0, 25, 50, or 100%.
- (2) Step 17. Multiply #15 by #16 to determine Adjusted First Violation Penalty.*

H. Increase Penalty for Repeat Violations.

- (1) Step 18. Enter 1 if this is the second such violation within 24 months, otherwise enter 0.
- (2) Step 19. Multiply #18 by \$250.00 to determine Second Repeater Penalty.*
- (3) Step 20. Enter 1 if this is the third such violation within 24 months, otherwise enter 0.
- (4) Step 21. Multiply #20 by \$250.00 to determine Third Repeater Penalty.*

I. Determine Total Penalty.

- (1) Step 22. Determine Total Penalty This Violation by:
 - a. If #16 is greater than zero, add #17 + #19 + #21,* otherwise
 - b. If #9 + #11 = zero, add #15 + #19 + #21,* otherwise
 - c. Let #22 = #15.*

Approved by:

Martha Wine, City Manager

Date

City of Tigard Nuisance Code Enforcement -- Administrative Fee Calculation

Instructions: Enter your rating for 1-6 (required), and 8, 10, 12, 15, 17, 19 as appropriate.

1.	EFFORT	1	1 = Active attempt to correct violation. 2 = Minor attempt to correct violation. 3 = Little or no effort to correct violation.
2.	PROMPTNESS OF RESPONSE	1	1= Very prompt response. 2= Delayed response. 3 = Dilatory response.
3.	DEGREE OF COOPERATION	1	1= Highly cooperative. 2 = Reluctant but voluntary. 3 = Uncooperative.
4.	CAUSE OF THE VIOLATION	1	1 = Unintentional or caused by others. 2 = Negligence. 3 = Intentional or Reckless Disregard.
5.	KNOWLEDGE/AWARENESS	1	1 = Unaware action constituted a violation. 2 = Reasonably should have known. 3 = Aware from previous enforcement, permits, etc.
6.	SEVERITY OF THE VIOLATION	1	1 = No fire, life safety, injury, or property damage hazard. 2 = No fire, life safety, or injury hazard; some damage to property or environment. 3 = Fire, life safety, or injury hazard; significant damage. to property or environment.
7.	SUM OF 1 - 6	6	
		X \$25.00	
8.	<u>FULL BASE PENALTY</u>	\$150.00	(Sum of 1 -6) x \$25.00
<u>TIMELY COMPLIANCE</u>			
9.	30 DAY COMPLIANCE	0	1 = Yes, if complied after Time Line but within 30 days. 0 = Not within 30 days.
10.	DISCOUNTED BASE PENALTY	0	Base Penalty Discounted 50% for compliance within 30 days.
11.	TIME LINE COMPLIANCE	0	1 = Yes, if complied within Time Line. 0 = Not within Time Line.
12.	TIME LINE PENALTY	0	Base Penalty Reduced to zero for compliance within Time Line.
<u>LATE COMPLIANCE</u>			
13.	MONTHS IN VIOLATION	0	Months in violation from first notice. 0 = <1; 1 = >1; 2 = >2; 3 = >3.
14.	LATE COMPLIANCE PENALTY	\$0.00	Number of months times base penalty.
15.	<u>TOTAL FIRST VIOLATION PENALTY</u>	\$150.00	<u>TOTAL PENALTY FOR FIRST VIOLATION</u>
16.	COMPASSIONATE ADJUSTMENT	0%	Enter 0, 25, 50, OR 100 (leave off the percent sign)
17.	<u>ADJUSTED FIRST VIOL. PENALTY</u>	\$150.00	<u>TOTAL ADJUSTED PENALTY FOR FIRST VIOLATION</u>
<u>REPETITION OF THE SAME VIOLATION WITHIN 24 MONTHS:</u>			
18.	2ND REPEAT VIOLATION	0	1 = Yes, 0 = No for second same violation withing 24 months.
19.	2ND REPEATER PENALTY	0	\$250.00
20.	3RD REPEAT VIOLATION	0	1 = Yes, 0 = No for third same violation withing 24 months.
21.	3RD REPEATER PENALTY	0	\$250.00
22.	<u>TOTAL PENALTY</u>	\$150.00	<u>TOTAL PENALTY THIS VIOLATION</u>

Please complete memoranda on othe side.

City of Tigard Nuisance Code Enforcement -- Administrative Fee Memoranda

INSTRUCTIONS: Enter notes as to the basis for the entries on page 1.

1. EFFORT
2. PROMPTNESS OF RESPONSE
3. DEGREE OF COOPERATION
4. CAUSE OF THE VIOLATION
5. KNOWLEDGE/AWARENESS
6. SEVERITY OF THE VIOLATION
8. 30 DAY or TIMELINE COMPLIANCE
15. COMPASSIONATE ADJUSTMENT

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Chapter 7.42 CHRONIC NUISANCE PROPERTY.

Sections:

- 7.42.010 Short Title.
- 7.42.015 Incorporation Of State Statute.
- 7.42.020 Definitions.
- 7.42.030 Chronic Nuisance Property.
- 7.42.040 Prefiling Notification Procedure.
- 7.42.045 Commencement Of Actions; Summons And Complaint.
- 7.42.050 Remedies.
- 7.42.060 Defenses; Mitigation Of Civil Penalty.
- 7.42.070 Closure During Pendency Of Action; Emergency Closures.
- 7.42.080 Enforcement Of Closure Order; Costs; Civil Penalty.
- 7.42.085 Tenant Relocation Costs.
- 7.42.090 Attorney Fees.
- 7.42.100 Severability.
- 7.42.110 Nonexclusive Remedy.

(7.42.010 through 7.42.030 – no change)

7.42.040 Prefiling Notification Procedure.

(a) Except as otherwise noted herein, notwithstanding Subsection 1.16.060.B(+) of this Code, this section sets out procedures to be used in processing an infraction of this Chapter.

(b) After two occurrences of any of the acts or behaviors listed in Section 7.42.020(c) of this Code within a 60 day period, the Chief of Police shall provide notification via certified mail, stating the times and places of the alleged occurrences and the potential liability for violation of this Chapter, to all responsible parties for the property. Responsible parties for a given property shall be presumed from the following:

(1) The owner and the owner's agent, as shown on the tax rolls of Washington County;

(2) The resident of the property, as shown on the records of the Water Department.

(c) After three occurrences of any of the acts or behaviors listed in Section 7.42.020(c) of this Code within a 60 day period, notification shall be provided as described in Subsection (b) of this section. (Ord. 94-11).

7.42.045 Commencement Of Actions; Summons And Complaint.

(a) A uniform infraction summons and complaint, containing the following parts, may be served upon any responsible party for chronic nuisance property, citing that party into Municipal Court.

(1) The summons;

(2) The complaint; and

(3) A description of the alleged occurrences leading to violation of this Chapter, stating the times and places of those occurrences.

(b) The uniform infraction summons shall contain the following information:

(1) The file number;

(2) The name and address of each respondent;

(3) The infraction with which the respondent is charged;

(4) The date, time, and place at which the hearing on the infraction is to take place;

(5) An explanation of the respondent's

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obligation to appear at this hearing, and that failure to appear may result in a default judgment being taken against the respondent;

(6) An explanation of the respondent's right to a hearing, right to representation by counsel at personal expense, right to cross examine adverse witnesses, and right to compulsory process for the production of witnesses;

(7) notice that the cost of the hearing, including witness fees, may be charged to the respondent if the final order of the Court finds that the property is a chronic nuisance property.

(c) The uniform infraction complaint shall contain the following information:

(1) The date, time, and place the alleged infractions occurred;

(2) The date on which the complaint was issued;

(3) A notice to the respondent that a civil complaint has been filed with the Municipal Court.

(d) Service of the summons and complaint shall be accomplished as described in Section 1.16.230 of this Code. In addition to the affidavit described in Subsection G (e) of that section, a return receipt of certified mailing which indicates delivery of the summons and complaint to the respondent's last known address, or a certified mailing which has been returned by the Post Office "unclaimed," shall also create a rebuttable presumption that the respondent had the required notice.

(e) The hearing for determination as to whether an infraction has been committed shall take place in the manner described in Sections 1.16.250 to 1.16.300 and 1.16.320 of this Code.

(f) Subject to the limitations of Subsection

1.16.230.G(e) of this Code, a default judgment may be entered against a respondent who fails to appear at the scheduled hearing. Upon such judgment, the Court may prescribe the remedies described in this Chapter. (Ord. 94-11).

(7.42.050 through 7.42.070 - no change)

7.42.080 Enforcement Of Closure Order; Costs; Civil Penalty.

(a) The Court may authorize the City to physically secure the property against use or occupancy in the event that the owner(s) fail to do so within the time specified by the Court.

(b) The Court may assess on the property owner the following costs incurred by the City in effecting a closure of property:

(1) Costs incurred in actually physically securing the property against use;

(2) Administrative costs and attorneys fees in bringing the action for violation of this Chapter.

(c) The City Manager may, within 14 days of written decision by the Court, submit a signed and detailed statement of costs to the Court for its review. If no objection to the statement is made within the period prescribed by Oregon Rule of Civil Procedure 68, a copy of the statement, including a legal description of the property, shall be forwarded to the Office of the City Finance Director who thereafter shall enter the same in the City's lien docket in the same manner prescribed by Section ~~1.16.370~~ 1.16.710 of this Code.

(d) Persons assessed the costs of closure and/or civil penalty pursuant to this Chapter shall be jointly and severally liable for the payment thereof to the City. (Ord. 03-08, Ord. 94-11).

(7.42.085 through 7.42.110 – no change)

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Chapter 7.74 EMERGENCY OPERATIONS.

Sections:

- 7.74.000** Emergency Management Code.
- 7.74.010** Short Title.
- 7.74.020** Emergency Management Plan.
- 7.74.030** Agreements.
- 7.74.040** “Local Emergency” Defined.
- 7.74.050** Adoption of the National Incident Management System.
- 7.74.060** Executive Responsibilities and Line of Succession.
- 7.74.070** Declaration and Ratification of a Local Emergency.
- 7.74.080** Declaration of Emergency—Authorized Procedures.
- 7.74.090** Violations—Penalties.

(7.74.000 through 7.74.080 – no change)

7.74.090 Violations—Penalties.

No person shall knowingly violate any regulation promulgated pursuant to this chapter, and imposed in a state of emergency declared pursuant to this chapter; nor shall any person knowingly violate any reasonable order issued by city emergency personnel during periods of declared emergency. Violation of an emergency regulation or order is a Class 1 civil infraction and shall be prosecuted as set forth in Chapter 1.16 of the Tigard Municipal Code, except that, notwithstanding TMC Section 1.16.640.A.1 1.16.410(1), the minimum fine upon conviction shall be not less than \$250.00 and not more than \$1,000.00 per offense. Each day of violation shall be deemed a separate offense for purposes of imposition of penalty. (Ord. 10-03 § 1). ■

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**Chapter 12.02 SANITARY SEWER AND
SURFACE WATER
MANAGEMENT.**

(12.02.100 - no change)

Sections:

- 12.02.010 Title.**
- 12.02.020 Definitions.**
- 12.02.030 Purpose.**
- 12.02.040 Clean Water Services Rules
Adopted.**
- 12.02.050 Use And Operation; Charges
Imposed For Use; Appeal
Procedures And Enforcement.**
- 12.02.060 Charges, Rates And Fees;
Associated Penalties.**
- 12.02.070 Pretreatment By Industrial
Users.**
- 12.02.080 Temporary Adoption Of
Unified Sewerage Agency
Ordinances, Resolutions And
Orders.**
- 12.02.090 Immediate Remedial Action
Required.**
- 12.02.100 Penalty.**

(12.02.010 through 12.02.080 - no change)

**12.02.090 Immediate Remedial Action
Required.**

If the Code Enforcement Officer determines that there has been a violation of this chapter, or that conditions exist that are likely to result in a violation, the officer may require immediate remedial action by the responsible party. If the Code Enforcement Officer is unable to serve a notice of infraction on the responsible party or, if after such service, the responsible party refuses or is unable to remedy the infraction, the City may proceed to remedy the infraction as provided in Section ~~1.16.340~~ 1.16.150 of this code. (Ord. 94-19)

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Chapter 14.04 BUILDING CODE.

Sections:

- 14.04.010 Title.**
- 14.04.020 Definitions.**
- 14.04.030 State Codes Adopted.**
- 14.04.040 Administration.**
- 14.04.050 Repealed By Ord. 96-10.**
- 14.04.060 Repealed By Ord. 01-25.**
- 14.04.065 Electrical Program Administration.**
- 14.04.070 Occupancy Restriction Recordation.**
- 14.04.090 Violation—Penalty—Remedies.**
- 14.04.095 Building Official—Authority to Impose Administrative Civil Penalty**
- 14.04.098 Appeal Procedures.**

(14.04.010 through 14.04.090 - no change)

14.04.095 Building Official—Authority to Impose Administrative Civil Penalty.

1. In addition to, and not in lieu of, any other enforcement mechanism authorized by this code, upon a determination by the Building Official that a person has violated a provision of this Chapter or a rule adopted thereunder, the Building Official may impose upon the violator and/or any other responsible person an administrative civil penalty as provided by subsections (1) to (12) of this section. For purposes of this subsection, a responsible person includes the violator, and if the violator is not the owner of the building or property at which the violation occurs, may include the owner as well.

2. Prior to imposing an administrative civil penalty under this section, the Building Official shall pursue reasonable attempts to secure

voluntary correction, failing which the Building Official may issue a notice of civil violation to one or more of the responsible persons to correct the violation. Except where the Building Official determines that the violation poses an immediate threat to health, safety, environment, or public welfare, the time for correction shall be not less than five calendar days.

3. Following the date or time by which the correction must be completed as required by an order to correct a violation, the Building Official shall determine whether such correction has been completed. If the required correction has not been completed by the date or time specified in the order, the Building Official may issue a notice of civil violation to each person to whom an order to correct was issued.

4. Notwithstanding subsection (2) above, the Building Official may impose a civil penalty without having issued an order to correct violation or made attempts to secure voluntary correction where the Building Official determines that the violation was knowing or intentional or a repeat of a similar violation.

5. In imposing a penalty authorized by this section, the Building Official 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

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intentional act;

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

g. Any relevant rule of the Building Official.

6. The notice of civil penalty shall either be served by personal service or shall be sent by registered or certified mail and by first class mail. Any such notice served by mail shall be deemed received for purposes of any time computations hereunder three days after the date mailed if to an address within this state, and seven days after the date mailed if to an address outside this state. A notice of civil penalty shall include:

a. A description of the alleged violation, including any relevant code provision numbers, ordinance numbers or other identifying references;

b. A statement that the City intends to assess a civil penalty for the violation and states the amount of the civil penalty;

c. A statement that the party may challenge the assessment of a civil penalty; and

d. A description of the means and the deadline for informing the City that the party is challenging the assessment of the civil penalty.

7. Any person who is issued a notice of civil penalty may appeal the penalty to the City Manager or City Manager's designee. The City Manager's designee shall not be the Building Official or Building Inspector. The provisions of Section 14.04.098 of this code shall govern any requested hearing, except that the burden of proof shall be on the Building Official.

8. A civil penalty imposed hereunder shall become final upon expiration of the time for filing

an appeal, unless the responsible person appeals the penalty to the City Manager or City Manager's designee pursuant to, and within the time limits established by, Section 14.04.098. If the responsible person appeals the civil penalty to the City Manager or City Manager's designee, the penalty shall become final, if at all, upon issuance of the City Manager or City Manager's designee's decision affirming the imposition of the administrative civil penalty.

9. Each day the violator fails to remedy the code violation shall constitute a separate violation.

10. Failure to pay a penalty imposed hereunder within 10 days after the penalty becomes final as provided in subsection (8) shall constitute a violation of this code. Each day the penalty is not paid shall constitute a separate violation. The Building Official also is authorized to collect the penalty by any administrative or judicial action or proceeding authorized by subsection (11) below, other provisions of this code, or state statutes.

The civil penalty authorized by this section shall be in addition to:

a. Assessments or fees for any costs incurred by the City in remediation, cleanup, or abatement, and

b. Any other actions authorized by law.

11. If an administrative civil penalty is imposed on a responsible person because of a violation of any provision of this code resulting from prohibited use or activity on real property, and the penalty remains unpaid 30 days after such penalty become final, the Building Official shall assess the property the full amount of the unpaid fine and shall enter such an assessment as a lien in the docket of City liens. At the time such an assessment is made, the Building Official shall

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notify the responsible person that the penalty has been assessed against the real property upon which the violation occurred and has been entered in the docket of City liens. The lien shall be enforced in the same manner as liens established by judgment of a Hearings Officer pursuant to Section ~~1.16.370~~ 1.16.710 of this code, except that the Building Official shall be substituted for the Hearings Officer and a civil penalty shall be substituted for a judgment. The interest shall commence from the date of entry of the lien in the lien docket.

12. In addition to enforcement mechanisms authorized elsewhere in this code, failure to pay an administrative civil penalty imposed pursuant to subsection (1) of this section shall be grounds for withholding issuance of requested permits or licenses, issuance of a stop work order, if applicable, or revocation or suspension of any issued permits or certificates of occupancy. (Ord. 09-16 § 2)

(14.04.098 – no change)

AIS-555

Item #: 8.

Business Meeting

Date: 11/22/2011

Length (in minutes): 30 Minutes

Agenda Title: Receive and Discuss Findings from the 2011 Community Attitudes Survey

Prepared For: Kent Wyatt

Submitted By:

Kent Wyatt
City Management

Item Type: Update, Discussion, Direct Staff

Meeting Type:

Council Business
Meeting - Main

ISSUE

Council will provide feedback on results of the 2011 Community Attitudes Survey.

STAFF RECOMMENDATION / ACTION REQUEST

Discuss key findings and determine whether follow up is needed.

KEY FACTS AND INFORMATION SUMMARY

This presentation contains results of a telephone survey conducted among a representative sample of 400 residents age 18 and older in the City of Tigard. Every two years Tigard residents are surveyed to ascertain citizen attitudes regarding City services and issues for policy development, program improvement, and resource allocation. Topical questions added to this year's survey ask residents their opinion on recreation, social media, economic development, and high capacity transit.

An online version of the survey was available for the first time this year which allowed any Tigard resident the opportunity to provide input. City staff solicited community input through an extensive communications strategy. A number of community groups including the Tigard Chamber of Commerce, Tigard-Tualatin School District, and local churches have agreed to communicate the survey information to their members. A Twitter feed (@CityofTigardOR) and City of Tigard Facebook page also have been set up to assist in spreading the message.

OTHER ALTERNATIVES

N/A

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

Survey results will serve as a tool for City Council to consider when setting the 2012 Council goals.

DATES OF PREVIOUS COUNCIL CONSIDERATION

September 22, 2010 - City Council Study Session
