

TITLE IV

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GENERAL PROVISIONS

50.005. Short Title. This chapter shall be known and may be cited as the Property Maintenance Code. (Ord No. 8-2000)

50.010. Purpose. The council finds and declares that conditions tending to reduce the value of private property, that promote blight and deterioration, that are attractive nuisances creating a hazard to the health and safety of minors, that create a harborage for pests, may be injurious to the health, safety and general welfare of the public. (Ord No. 8-2000)

50.015. Scope. This chapter is to protect the public health, safety and general welfare by regulating existing structures, residential and nonresidential, and existing premises by establishing minimum requirements and standards for structures and premises for the protection from the elements, life safety, other hazards, and for safe and sanitary maintenance; fixing the responsibility of owners and occupants; and for administration, enforcement and penalties. (Ord No. 8-2000)

50.020. Intent. This chapter shall be construed to secure and ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health, safety and maintenance as required herein. (Ord No. 8-2000)

50.025. Definitions; Rules of Construction.

(a) Unless otherwise expressly provided in this Chapter, and except as the context specifically requires, the following terms shall mean:

- (1) **Abandoned Structure:** A vacant structure that is an attractive nuisance.
- (2) **Ashes:** The residue of the combustion of solid fuels.
- (3) **Attractive Nuisance:** Buildings, structures, or premises that are in an unsecured, derelict or dangerous condition so as potentially to constitute an attraction to minors, vagrants, criminals or other unauthorized persons, or so as to enable persons to resort thereto for the purpose of committing an unlawful act.
- (4) **Basement:** That portion of a building or structure which is partly or completely below grade.
- (5) **Boarded:** The securing of an unoccupied building or structure against entry by the placement of material such as plywood, boards, or other similar material over openings that are designed or intended for windows or doors, where the materials are visible off the premises and where the materials are not lawfully or customarily installed on a building or structure that would be occupied.
- (6) **Building:** Any structure designed for habitation, shelter, storage, trade, manufacture, business, education, or other similar purposes.
- (7) **Building Code:** The specialty codes applicable in the City of Salem, as provided in SRC Chapter 56.
- (8) **Building Official:** The administrator of the Building and Safety Division of the City of Salem Department of Community Development, or the administrator's designee.

(9) **Bulk Solid Waste:** Discarded bedding, mattresses and furniture, junk, leaves, yard trimmings, uprooted tree stumps, building wastes, or other nonputrefactive and nonhazardous materials not placed in a container, or too large to be placed into a container.

(10) **Container:** Any vessel approved by the Director and used for the storage of solid waste.

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

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

(A) Is unoccupied and unsecured;

(B) Is partially constructed;

(C) Is an abandoned structure or attractive nuisance;

(D) Is in condition of deterioration; or

(E) Has an infestation of pests.

(13) **Director:** The Director of the Department of Community Development of the City of Salem or the Director's designee.

(14) **Dwelling Unit:** A single unit within a building providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. As used in this Chapter, dwelling unit includes, as the context requires, single family dwellings, duplexes, multi-family dwellings, and single units therein.

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

(16) **Franchisee:** A person approved by the City of Salem to provide solid waste disposal service.

(17) **Garbage:** All classes of putrefactive and easily decomposable animal and vegetable matter, including, without limitation, wastes produced from the handling and preparation of food, and containers originally used for foodstuffs.

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

(19) **Hazardous Thicket:** Blackberry vines or other thickets that conceal trash, debris, or junk; or create a harborage for people involved in criminal activity or for products used for unlawful activity; or that encroach upon the public right of way, or private property of another in a manner that may be hazardous.

(20) **Health Officer:** The Director of the Department of Community Development, or the Director's designee.

(21) **Hearings Officer:** The person designated by the City Council to serve as the hearings officer pursuant to SRC 2.315-2.318.

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

(23) Incipient Hazard: Any condition that can become an imminent hazard if further deterioration is allowed to occur.

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

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

(26) Infestation: The presence of pests in large numbers that are harmful or bothersome within or adjacent to a building or structure or upon a premises.

(27) Junk: Articles of personal property that have outlived their usefulness in their original form, or articles of personal property that have been discarded and are no longer used for their manufactured purpose, regardless of value. As used in this Chapter the term “junk” includes, but is not limited to: (a) any derelict motor vehicle, i.e., any used motor vehicle without a vehicle license or with an expired license; (b) neglected motor vehicle, i.e., a motor vehicle that is missing critical parts required for the normal and legal operation of the vehicle, but has all of its body parts intact, including fenders, hood, trunk, glass, and tires; or (c) wrecked motor vehicle, or part thereof, i.e., a motor vehicle that is dismantled or partially dismantled, or having a broken or missing window or windshield, or lacking a wheel or tire; (d) machinery or parts thereof that are inoperative, worn out, or in a state of disrepair; (e) any appliances or parts thereof that are inoperative, worn out, or in a state of disrepair; (f) any worn out or dilapidated indoor fixtures or furnishings, or parts thereof; (g) any debris; and (h) non-solid waste items that are of a type or quantity inconsistent with normal and usual use such as bulk, wood, metal, scrap and other similar items.

(28) Legally occupied: The use of a premises for a purpose authorized by law. A premises shall be considered legally occupied for the purposes of this Chapter if the premises are maintained in good order, are temporarily vacant, and the owner is seeking, in good faith, to let the premises.

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

(30) Noxious Vegetation: Weeds more than ten inches in height; grass more than ten inches in height; dying, rank or dead vegetation; poison oak, poison hemlock, poison ivy; hazardous thickets; or other rank, noxious, and dangerous vegetation that is a health hazard; a fire hazard; or a traffic hazard because it impairs the view of a public right of way or otherwise makes use of the public right of way hazardous. This definition shall not include agriculture crops, endangered riparian grasses that have not come to seed, and wet land grasses that are neither a fire nor a traffic hazard.

(31) Occupancy: The purpose for which a building, structure or premises is used or intended to be used.

(32) **Occupant:** Any person living or sleeping in a building or structure, or having possession of a space within a building or structure or possession of a premises.

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

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

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

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

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

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

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

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

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

(42) **Skilled Manner:** Executed in a proper manner, consistent with generally accepted standards of construction and maintenance, e.g., generally plumb, level, square, in line, undamaged, without marring adjacent work.

(43) **Solid Waste:** All waste, in solid or liquid form, including but not limited to garbage, rubbish, ashes, street refuse, waste paper, corrugated material and cardboard; commercial, industrial, demolition and construction wastes; vegetable or animal solid and semisolid wastes, small dead animals, infectious waste as defined in ORS 459.386(2) and other wastes. As used in this Chapter, waste does not include sewage, sewage sludge, or sewage hauled as an incidental part of a septic tank or cesspool cleaning service; or materials that are used for fertilizer or for other productive purposes, or which are salvageable, as such materials are used on land in agricultural operations and the growing or harvesting of crops, and the raising of fowl or animals.

(44) **Structure:** That which is built or constructed; an edifice or building of any kind, and including mobile or manufactured homes, and mobile outbuildings; any work that is built up as an addition to or fixture on a premises

(45) **Unfit for Human Habitation:** A building or structure is unfit for human habitation if the Health Officer finds that the building or structure is in disrepair or suffers from lack of maintenance, is unsanitary, is pest infested, contains filth and contamination, or lacks

ventilation, illumination, sanitary or heating facilities, such that habitation would be injurious to the health, safety, or welfare of the occupants.

(46) Unoccupied: Not legally occupied.

(47) Unsecured: Unlocked or otherwise open to entry.

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

(49) Waste Tire: means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.

(b) Words stated in the present tense in this Chapter include the future; the singular number includes the plural and the plural the singular. Where terms are not defined in this Chapter and are defined in the state building, plumbing or mechanical codes, such terms shall have the meanings ascribed to them as in those codes. Terms not otherwise defined in this Chapter or in the state building, plumbing or mechanical codes shall have ordinarily accepted meanings. Whenever the words "dwelling unit," "dwelling," "premises," "structure," or "building" are used in this Chapter, they shall be construed as though they were followed by the words "or any part thereof." (Ord No. 8-2000; Ord No. 33-05; Ord No. 31-06; Ord No. 72-07)

50.030. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this chapter shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this chapter which shall continue in full force and effect, and to this end the provisions of this chapter are hereby declared to be severable. (Ord No. 8-2000)

50.035. Application of Other Codes. Nothing in this chapter shall be construed to relieve a person from complying with any federal, state or local law, including any other provisions of the Salem Revised Code, or the requirement to obtain all necessary permits and approvals. (Ord No. 8-2000)

50.040. Saving Clause. This chapter shall not affect violations of any other ordinance, code or regulation existing prior to the effective date hereof, and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes or regulations in effect at the time the violation was committed. (Ord No. 8-2000)

50.045. Coordination of Enforcement. Whenever inspections are necessary by the health officer and any other department, the health officer shall make reasonable effort to arrange for the coordination of such inspections so as to minimize the number of visits by inspectors, and to confer with the other departments for the purpose of eliminating conflicting orders before any are issued. (Ord No. 8-2000)

50.050. Responsibility.

(a) Unless otherwise provided for, the health officer shall be responsible for the enforcement all of the provisions of this chapter. The health officer may appoint such number of officers, technical assistants, inspectors and other employees as shall be necessary for the administration of this chapter. The health officer is authorized to designate an employee as

deputy who shall exercise all the powers of the health officer during the temporary absence or disability of the health officer.

(b) Where conditions or prohibitions under this chapter are regulated by the Building Code, the Building Official shall be responsible for making such determination and taking appropriate action as provided therein. (Ord No. 8-2000)

50.055. Modifications. Where there are extreme hardships involved in carrying out provisions of this chapter, the health officer shall have the right to vary or modify such provisions upon application of an owner or occupant, provided that the spirit and intent of the law is observed and that the public health, safety and welfare is assured. (Ord No. 8-2000)

50.060. Failure to Obey Order of Health Officer.

(a) It shall be unlawful for any person acting intentionally to refuse to obey an order by the Health Officer acting in the discharge or apparent discharge of official duty.

(b) It is no defense to a prosecution for a violation of this section that the Health Officer lacked legal authority to issue the order, provided the Health Officer was acting under color of official authority. (Ord No. 8-2000; Ord No. 33-05)

MAINTENANCE AND REPAIRS

50.100. Required Maintenance. All systems, devices and safeguards required by this Chapter or by a previous statute or code applicable to the building, structure or premises at the time the building, structure or premises were erected or altered shall be maintained in good working order, thus insuring the health and safety of all inhabitants. (Ord No. 8-2000; Ord No. 33-05)

50.105. Skilled Work Required. All repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this chapter shall be executed and installed in a skilled manner. (Ord No. 8-2000)

50.200. [Renumbered 47.145 by Ord No. 126-07]

50.205. [Renumbered 47.155 by Ord No. 126-07]

50.210. [Renumbered 47.165 by Ord No. 126-07]

50.215. [Renumbered 47.175 by Ord No. 126-07]

50.220. [Renumbered 47.185 by Ord No. 126-07]

50.225. [Renumbered 47.195 by Ord No. 126-07]

50.230. [Renumbered 47.200 by Ord No. 126-07]

50.235. [Renumbered 47.205 by Ord No. 126-07]

50.240. [Renumbered 47.220 by Ord No. 126-07]

50.245. [Renumbered 47.210 by Ord No. 126-07]

JUNK

50.255. Outside Storage Prohibited.

(a) Unless otherwise specifically allowed by law, it shall be unlawful to store items of personal property out-of-doors, or outside a building or structure that is not wholly enclosed.

(b) Notwithstanding subsection (a) of this section, the following items of personal property may be stored outside of a building or structure:

(1) Firewood that is stacked and useable. "Useable" firewood has more wood than rot and is cut to lengths that will fit a lawful fireplace or wood stove on the premises;

(2) Construction material, if the construction material is stored in a manner to protect its utility and to prevent its deterioration and the construction material is reasonably expected to be used for construction on the premises;

(3) Open storage of materials directly associated with the primary activity of a business, provided the business is a permitted, special, or conditional use within any CR, CG, or Industrial zone, and the materials are enclosed by a sight obscuring fence erected in conformance with SRC 131.130, are safely stacked, bundled, or otherwise source-separated, and will remain in the stream of commerce with an articulable future use; and

(4) All other items of personal property which are of a type, condition or quantity consistent with normal and intended use. By way of illustration, but not limitation, as used in this section, items of personal property include barbeque grills, lawn furniture, and solid waste disposal containers. (Ord No. 8-2000; Ord No. 33-05)

50.260. Keeping Junk Prohibited.

(a) No person shall deposit or keep junk within a public right of way, or out-of-doors on any premises within the city, or in a building or structure that is not wholly enclosed.

(b) Notwithstanding subsection (a) of this section, the following junk may be deposited or kept out-of-doors on premises within the city:

(1) Any wrecked, neglected or derelict motor vehicle, or parts thereof, kept in a motor vehicle wrecking business licensed by the city.

(2) Any derelict or neglected motor vehicle displayed by a business offering new and used motor vehicles for sale.

(3) Any wrecked motor vehicle stored outside an approved enclosure at a business offering motor vehicle repair as defined in the Standard Industrial Classification Manual as Industry Group No. 753, provided that no more than eight vehicles in an industrial zone or four vehicles in a commercial zone shall be kept outside of an approved enclosure at any one time. The enclosure shall conform with the sight obscuring requirements of SRC 131.130

(4) Any neglected or derelict vehicle stored at a business offering motor vehicle repair as defined in the Standard Industrial Classification Manual as Industry Group No. 753.

(5) Recyclable solid waste that has been source separated and collected in conformance with this chapter.

(6) Recyclable materials or source separated solid waste kept at a scrap and waste material establishment, as defined by the Standard Industrial Classification Manual as Industrial Group No. 5093, operating in compliance with all applicable laws and where the materials or solid waste are enclosed by a sight obscuring fence in conformance with SRC 131.130 or in a container.

(7) Any waste tire kept for storage, collection, transportation, or disposal by a person licensed for that purpose by the State of Oregon. (Ord No. 8-2000; Ord No. 33-05)

50.265. Abatement of Junk Motor Vehicles. The abatement of junk motor vehicles from private or public property is subject to the provisions of SRC 2.533 to 2.546. (Ord No. 8-2000)

GENERAL EXTERIOR BUILDING AND STRUCTURE MAINTENANCE

50.500. General. The exterior of a building or structure shall be maintained in good repair, so as not to be in a state of deterioration, and in a sanitary condition so as not to pose a threat to the public health, safety or welfare. (Ord No. 8-2000; Ord No. 33-05)

50.505. Exterior Surfaces. All wood and metal surfaces, including, but not limited to, window frames, doors, door frames, cornices, porches, siding and trim on buildings and structures shall be maintained in good condition, so as not to be in a state of deterioration. (Ord No. 8-2000; Ord No. 33-05)

50.510. Street Numbers. Each building or structure to which a street number has been assigned shall have such number displayed in a position adjacent to or directly above any door entrance on the side of the building or structure closest to and easily observed and readable from the public right-of-way of the street which is the building or structure's address of record. All numbers shall be in arabic numerals at least three inches high and one-half inch stroke. (Ord No. 8-2000; Ord No. 33-05)

50.515. Foundation Walls. All foundation walls shall be maintained free from large open cracks and breaks and shall be kept in such condition so as to prevent the entry of pests. (Ord No. 8-2000)

50.520. Exterior Walls.

(a) All exterior walls of buildings or structures shall be free from holes, breaks, loose or rotting materials and shall be maintained in good condition so as not to be in a state of deterioration.

(b) The use of tarps or similar material for emergency repair, or in place of a customary building component such as siding or a door shall not exceed three months in any two year period. (Ord No. 8-2000; Ord No. 33-05)

50.525. Roofs and Drainage. The roof and flashing shall be sound, tight and not have defects that admit rain into the building or structure. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the building or structure.

Roof drains, gutters and down spouts shall be free from obstructions and maintained in good repair, so as not to be in a state of deterioration. Any non-residential building or structure having originally been designed for and fitted with gutters and downspouts, shall continuously be maintained with such devices, in proper working condition and maintained so as not to be in a state of deterioration. The use of tarps or similar material for emergency repair shall not exceed three months in any two year period. (Ord No. 8-2000; Ord No. 33-05)

50.530. Decorative Features. All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features on a building or structure shall be maintained in good repair with proper anchorage and in a safe condition, so as not to be in a state of deterioration. When any non-residential building or structure is found to be missing a decorative feature, the Health Officer may require the missing decorative feature to be replaced with a similar material of similar size, shape, color and texture. (Ord No. 8-2000; Ord No. 33-05)

50.540. Windows and Doors. Every window, door and frame shall be kept in sound condition, good repair and weather tight. Where windows and doors have been sealed by plastic or other materials for weather proofing, said materials shall be maintained in a skilled manner. Window and door screens, while not required by this chapter, shall be maintained in a skilled manner. (Ord No. 8-2000)

50.545. Glazing.

(a) All glazing materials shall be maintained free from cracks and holes. Glazing with holes, cracks, or that is partially or wholly missing shall be replaced within fifteen days from the date the Health Officer issues a written notice, in compliance with the Building Code.

(b) Notwithstanding subsection (a) of this section, glazing in buildings and structures other than one and two family dwellings need not be replaced within the fifteen-day period, if the opening has been boarded, an application for a building permit is made within the fifteen day period, a permit is subsequently issued, and replacement occurs prior to the expiration of the permit. (Ord No. 8-2000; Ord No 33-05)

50.550. Accessory Structures. All accessory sheds, fences, walls and other similar structures shall be erected in a skilled manner and maintained in a structurally sound condition and in good repair, so as not to be in a state of deterioration. Accessory structures covered by the Building Code shall fall under the jurisdiction of the Building Official. (Ord No. 8-2000; Ord No. 33-05)

DERELICT STRUCTURES

50.600. Derelict Structures Prohibited. Derelict structures on any premises are hereby declared to be a public nuisance. (Ord No. 8-2000; Ord No. 33-05)

50.605. Order to Vacate Buildings or Structures.

(a) If the health officer finds a building or structure in violation of SRC 50.600, the health officer may order that a placard be posted on the building or structure, ordering the building or structure vacated, and to order the owner to register the building or structure as

provided in SRC 50.625 - 50.634. A person may appeal such orders of the Health Officer as provided in SRC 50.860 to 50.875.

(b) The placard shall contain the information required in SRC 50.815. (Ord No. 8-2000; Ord No. 33-05)

50.610. Prohibited Habitation. No person shall inhabit a derelict structure, and no owner shall allow any person to inhabit a derelict structure, or a building or structure ordered vacated by the Health Officer. (Ord No. 8-2000; Ord No. 33-05)

50.615. Removal of Placard Prohibited.

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

(b) No person shall deface or remove a placard without the approval of the Health Officer. (Ord No. 8-2000; Ord No. 33-05)

50.620. Temporary Safeguards. Notwithstanding any other provisions of this Chapter, whenever, as determined by the Health Officer, a building or structure poses an imminent hazard or incipient hazard, the Health Officer may order necessary work to be performed, including the boarding of openings, to render such building or structure temporarily safe and secure, whether or not proceedings to abate the hazard have been instituted; and shall cause such other action to be taken that the Health Officer deems necessary to meet such condition. (Ord No. 8-2000; Ord No. 33-05)

50.625. Derelict Structure Registration. If the Health Officer determines that a building or structure is a derelict structure, the owner shall be required to register the building or structure within ten days of the Health Officer's issuance of an order to register. Registration shall be made on forms provided by the Health Officer, and shall include information relating to the location and ownership of the building or structure, the expected period of its vacancy, a plan for regular maintenance during the period of vacancy, and a plan for its re-occupancy and use, or its remediation or demolition. Any change in the information required to be provided pursuant to this section shall be given to the Health Officer not more than thirty days of the date of such change. When all conditions making the building or structure a derelict structure have been corrected, the owner shall contact the Health Officer and request an inspection to determine compliance. (Ord No. 8-2000; Ord No. 33-05)

50.630. Derelict Structure Fees.

(a) Every owner who, after receipt of notice under SRC 50.625, fails to register the building or structure within the required time set forth in the notice, or registers the building or structure but allows the building or structure to remain in a derelict condition, shall pay a monthly derelict structure fee. Payment of the fee is due on the fifteenth day of each month. Any payment of the fee that is more than thirty days past due may be considered delinquent and subject to a penalty of \$100 for every delinquent monthly payment.

(b) In the event that the fees due under this section are delinquent for more than ninety days, or in the event the owner fails to register the building or structure as required by SRC 60.625, the City Attorney, on request of the Health Officer, may file an action in the circuit

court of the appropriate county for the recovery of any and all delinquent fees and penalties due under this section, which shall be the total yearly fees plus all delinquent penalties.

(c) All fees imposed under this section are to be paid prior to the issuance of any permit required for the demolition, alteration or repair of the derelict building or structure.

(d) The City Council shall annually adopt a resolution establishing the amount of derelict structure fee. (Ord No. 8-2000; Ord No. 33-05)

50.635. Refund of Derelict Structure Fees.

(a) The Health Officer shall refund the derelict structure fees imposed under SRC 50.630(a), if the following conditions are met:

(1) A timetable for the remediation of the conditions or demolition of the building or structure has been submitted by the owner and approved by the Health Officer;

(2) All required permits have been obtained for the repair or demolition of the building or structure;

(3) The remediation of the conditions or demolition of the building or structure is completed in the time set forth in the permits, or any approved extension thereof; and

(4) The owner has provided written authorization for the city to enforce all applicable trespass and illegal camping ordinances and laws.

(b) The refund made pursuant to subsection (a) of this section shall be the derelict structure fees imposed during the previous twelve-month period.

(c) Notwithstanding SRC 50.630(c), the Health Officer may, upon a showing by the owner of undue economic hardship, defer payment of the fees imposed by SRC 50.630 on an owner-occupied residential building or structure deemed derelict under this Chapter, and issue a permit for the demolition, alteration or repair of the building or structure. If the owner complies with subsection (a) of this section, the fees imposed by SRC 50.630 shall be abated. (Ord No. 8-2000; Ord No. 33-05)

50.640. Abatement of Derelict Structure by Remediation.

(a) In addition to, and not in lieu of, the abatement remedies provided for in SRC 50.800-50.880 and receivership authority in SRC 50.910, the Health Officer may file a notice with the City Recorder to set a public hearing before the Hearings Officer to seek an order for remediation of the conditions creating a derelict structure.

(b) Upon receipt of such notice, the City Recorder shall set the matter for prompt public hearing before the Hearings Officer and shall, not less than fifteen days prior to the hearing, cause notice thereof to be served via certified mail to the owner at the owner's address as reflected on the most recent tax rolls of the county assessor, and on the occupant. Notice shall also be posted on or near the derelict structure and copies delivered to the affected neighborhood association. Failure of the owner or occupant to receive such notice shall not render the notice void, and an unsuccessful attempt to deliver the notice shall be deemed sufficient service.

(c) At the hearing, the Health Officer shall present whatever information, evidence or testimony the Hearings Officer may deem relevant in support of the Health Officer's determination, and the owner and occupants shall be afforded a like opportunity to rebut the determination. Any information, opinion, testimony, or evidence may be received which the Hearings Officer deems material, relevant, and probative of the matters in issue. The owner and

occupants may represent themselves or be represented by counsel provided that such counsel is admitted to the practice of law in the State of Oregon.

(d) The Hearings Officer shall order the conditions creating the derelict structure be remediated if the Health Officer demonstrates, by a preponderance of the evidence, that the building structure is a derelict structure.

(e) In determining whether the conditions are such that remediation is required, the Hearings Officer shall determine whether the building is in a condition unfit for human habitation, or in a condition that is an incipient hazard, based on the number and extent of the following factors:

- (1) Dilapidation;
- (2) Disrepair;
- (3) Structural defects noted by the Building Official;
- (4) Defects increasing the hazards of fire, accident or other calamity, such as parts standing or attached in such manner as to be likely to fall and cause damage or injury;
- (5) Uncleanliness or infestations of pests;
- (6) Condition of sanitary facilities;
- (7) The presence of a public nuisance; and
- (8) The history of unlawful activity in or around the building or structure. (Ord No. 8-2000; Ord No. 33-05)

50.645. Failure to Follow Order for Remediation of Derelict Structure.

(a) If remediation is not commenced within thirty days after an order for remediation is entered, the Health Officer may file a notice with the City Recorder to set a public hearing before the Hearings Officer to authorize the Health Officer to have the remediation performed and the cost thereof assessed as a lien against the property upon which the derelict structure is located.

(b) Upon filing of such a request, the City Recorder shall set the request for prompt public hearing before the Hearings Officer, and shall, not less than fifteen business days prior to the date of the hearing, cause notice thereof to be served via certified mail to the owner at the owner's address as reflected on the most recent tax rolls of the county assessor, and on the occupants. Failure of the owner or occupants to receive such notice shall not render the notice void, and an unsuccessful attempt to deliver the notice shall be deemed sufficient service.

(c) At the hearing, the owner and occupants shall be accorded an opportunity to show cause why the remediation should not be performed and the cost thereof assessed as a lien against the property. No issue heard and decided pursuant to SRC 50.640 shall be reintroduced or considered at the hearing provided in this section unless the Hearings Officer, for good cause shown, determines that the interest of justice and fundamental fairness would best be served thereby.

(d) The cost of remediation and twenty percent charge for administrative overhead will be assessed in the manner provided in SRC 50.845. (Ord No. 8-2000; Ord No. 33-05)

MISCELLANEOUS VIOLATIONS

50.700. Pest Infestation Prohibited.

(a) All premises shall be kept free from pest infestation.

(b) Pest infestations shall be promptly exterminated in a manner that will not be injurious to human health.

(c) After extermination, proper precautions shall be taken to prevent re-infestation. (Ord No. 8-2000)

50.705. Noxious Vegetation Prohibited.

(a) No owner shall cause or permit noxious or rank vegetation upon premises or in the right-of-way of a street abutting any premises.

(b) In addition to, or in lieu of, any other enforcement action authorized by law, the Health Officer may cause a violation of this section to be corrected in the same manner as a public nuisance pursuant to SRC 50.810 to 50.880. (Ord No. 8-2000; Ord No. 39-2000; Ord No. 33-05)

PUBLIC NUISANCES

50.800. Public Nuisance Prohibited.

(a) A public nuisance is any thing, condition, or act which is or may become a detriment or menace to the public health, welfare and safety.

(b) No person shall cause, permit, or maintain a public nuisance on public or private property. (Ord No. 8-2000; Ord No. 33-05)

50.805. Specific Public Nuisances. The following are specifically declared to be public nuisances, but this list shall not be deemed to be exclusive:

(a) The accumulation, exposure, or deposit of any garbage, rubbish, bulk solid waste or solid waste on any public way or any private street, alley, or lot, or into a stream, well, spring, brook, ditch, pond, river, or other inland waters within the city, or the placing of such substances in such position that high water or natural seepage will carry the same into such waters.

(b) Any physical condition of a premises considered an attractive nuisance, including, but not limited to abandoned wells, shafts, basements, unguarded machinery;

(c) An abandoned, unattended, or discarded icebox, refrigerator, or other container accessible to children which has an airtight door, or lock which may not be released for opening from the inside;

(d) Dangerous pilings and unprotected excavations;

(e) Any premises that has unsanitary plumbing fixtures, or plumbing fixtures that permit the spillage of effluent outside of an approved sanitary sewer system, or the escape of sewer odors and gases;

(f) The maintenance of premises which are in such a state or condition as to cause an offensive odor;

(g) The accumulation of feces or manure in piles or heaps, unless enclosed in containers capable of excluding flies and maintained in such a manner or condition that offensive odor is not emitted therefrom;

(h) The burning of any rubbish, garbage, rubber, cloth, or any other thing, the burning of which, or the smoke emitted from such burning, creates an offensive odor;

(i) The accumulation of stagnant water in which mosquitoes may breed;

(j) Violation of SRC 50.260 by keeping more than five cubic yards of junk on any residentially zoned property or by keeping four or more neglected or wrecked motor vehicles on any residentially zoned property;

(k) Violation of SRC 50.600, "Derelict Structures";

(l) Violation of SRC 50.700, "Pest Infestation";

(m) Any building or structure that is in a condition that poses an imminent hazard to public health, safety or welfare. (Ord No. 8-2000; Ord No. 39-2000; Ord No. 33-05)

50.810. Notice to Person Responsible. Whenever the health officer has reasonable grounds to believe that a violation of 50.800 has occurred, a notice and order shall be served to the owner(s) and occupant(s). (Ord No. 8-2000)

50.815. Form of Notice. Such notice prescribed in 50.810 shall:

(a) Be in writing;

(b) Include a description of the premises sufficient for identification;

(c) Include a statement of the reason or reasons why the notice is being issued;

(d) Include a correction order allowing a reasonable time for the repairs and improvements required to bring the premises into compliance with the provisions of this chapter.

(e) Include a notice that the city may abate the nuisance pursuant to this chapter and that the person responsible shall be responsible for the costs of such abatement.

(f) Include instructions for an appeal. (Ord No. 8-2000)

50.820. Effective Date of Notice. All notices served pursuant to this section shall be considered served on the date of personal service or as of the date of mailing if not personally served. (Ord No. 8-2000)

50.825. Method of Service.

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

(1) Personally delivered to the owner(s) and occupant(s); or

(2) Sent by first class mail to the owner(s) and occupant(s) at their last known address; or

(3) Posted at the premises and also sent first class mail to the owner(s) and occupant(s) at their last known address if they cannot be located.

(b) Failure of the owner(s) or occupant(s) to receive such notice or an error in the name or address of a owner(s) or occupant(s) shall not render the notice void and in such case the notice shall be sufficient. (Ord No. 8-2000)

50.830. Recording a Violation. The city may record a notice of violation with the County Clerk. Failure to record a notice of violation shall not affect the validity of the notice as to persons who receive the notice. When the property is brought into compliance, a satisfaction of notice of violation shall be recorded. (Ord No. 8-2000)

50.835. Abatement Procedures - Joint Responsibility. If more than one person is responsible for a public nuisance, they shall be jointly and severally liable for correcting the violation and for any costs incurred by the city in abating the nuisance. (Ord No. 8-2000)

50.840. Abatement Procedures - by the City.

(a) If within time allowed, the violation has not been corrected, the health officer may cause the violation to be corrected.

(b) The health officer shall keep an accurate record of the expense incurred while physically correcting the violation and shall include therein a 20 percent charge for administrative overhead.

(c) The health officer or a person authorized by the health officer may enter upon the property to abate the nuisance only upon obtaining consent of the owner and occupant or obtaining an abatement warrant which may be issued using the same procedure as for an inspection warrant pursuant to SRC 2.822 through 2.828. (Ord No. 8-2000)

50.845. Abatement Procedures - Assessment of Costs.

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

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

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

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

(c) Upon filing of such statement of costs and overhead, the City Recorder shall set the matter for prompt public hearing before the Hearings Officer, and cause notice thereof to be served via certified mail to the owner(s) and occupant(s).

(d) After the hearing, the Hearings Officer shall declare the correctness of such statement and declare the same to be a lien upon the property.

(e) An error in the contents or service of any notice 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 the property (Ord No. 8-2000; Ord No. 33-05)

50.850. Abatement Procedures - Summary Abatement. The abatement procedure provided by this chapter is not exclusive but is in addition to procedures provided by other laws. (Ord No. 8-2000)

50.860. Appeals Generally. A person may appeal a notice or order of the health officer, other than an order pursuant to SRC 50.640, issued pursuant to this chapter only as provided in SRC 50.865 to 50.875. (Ord No. 8-2000)

50.865. Reconsideration by Health Officer. Any person affected by a notice or order of the health officer under this chapter shall have the right to request that the health officer reconsider such notice or order provided the request:

- (a) Is in writing,
- (b) Includes a copy of the notice or order and a statement that the person wishes the health officer to reconsider the notice or order,
- (c) Contains the person's full name and mailing address, legibly printed or typed, and any notice or communication thereafter sent to him at such address shall be conclusively presumed to have been received unless the person has given the health officer written notice of any change; and
- (d) Is received by the health officer within 10 days of the effective date of the notice or order. (Ord No. 8-2000)

50.870. Appeal to Director.

- (a) Any person affected by a notice or order of the health officer shall have the right to appeal to the director subject to the provisions of this subsection.
- (b) A person must first request that the health officer reconsider the notice or order as provided in SRC 50.865.
- (c) A notice of appeal must be filed with the director within 10 days of the health officer's response to the request for reconsideration.
- (d) The notice of appeal must:
 - (1) Be in writing,
 - (2) Include a copy of the notice and order and a statement that the person wishes to appeal,
 - (3) Contain the person's full name and mailing address, legibly printed or typed, and any notice or communication thereafter sent to him at such address shall be conclusively presumed to have been received unless the person has given the director written notice of any change, and
 - (4) A copy of the notice of appeal must also be filed with the health officer.
 - (e) The director shall hold a hearing.
 - (1) The scope of the hearing shall be limited to any or all of the following as may be stated by the person requesting review in the notice of appeal:
 - (A) There has been a failure of the city to follow the procedures prescribed in this chapter, and that the failure has prejudiced the person in respect of some substantial right;
 - (B) No violation exists on the premises subject of the notice or order;
 - (C) The time for or method of compliance required in the notice is impossible to comply with or, because of circumstances peculiar to the person or property, would work an unreasonable hardship.
 - (2) The person requesting the appeal shall be accorded the opportunity to provide evidence or a statement in opposition to the notice or order; and the person requesting review shall be accorded the opportunity to cross-examine any witness presenting testimony.
 - (3) The health officer shall be accorded the opportunity to present any evidence, argument or statement in support of the notice or order; and the city shall be accorded the opportunity to cross-examine any witness presenting such testimony.

(f) The director shall adopt findings and conclusions supporting a decision which either:

(1) Affirms the notice or order as given;

(2) Modifies the notice or order; or

(3) Rescinds the notice or order.

(g) The filing of a notice of appeal shall stay all proceedings for abatement until the final disposition of the appeal.

(h) Upon a final disposition ordering abatement of a nuisance, and unless another period for compliance is provided in the decision, the person responsible for abatement shall have a period equal to that specified in the original notice, commencing from the date of the final disposition, in which to abate the nuisance prior to action by the city.

(i) The director shall provide a written determination within 20 days of receipt of the appeal. (Ord No. 8-2000)

50.875. Appeal of Director's Determination. The determination of the director may be appealed by writ of review as authorized by ORS 34.010 - 34.100. (Ord No. 8-2000)

50.880. Collections. Collection of abatement costs, fees and penalties may be, in addition to any other remedy provided for by law, pursued through a contract collection agency or small claims court. (Ord No. 8-2000)

PENALTIES

50.900. Violations.

(a) Violations of SRC 50.060, SRC 50.240, SRC 50.610, and SRC 50.800 are misdemeanors.

(b) Violation of any other section of this Chapter is an infraction and is punishable by a fine of not less than \$100 and not more than \$250. The second and subsequent violation of the same provision of this Chapter in any one year period is punishable by a fine of not less than \$250.

(c) Notwithstanding subsections (a) and (b) of this section, violation of SRC 50.260 by keeping more than five cubic yards of junk on any residentially zoned property or by keeping four or more neglected or wrecked motor vehicles on any residentially zoned property is a misdemeanor.

(d) In addition to any other penalty provided by law, a person adjudged responsible for violation of any of the provisions of this Chapter may be ordered by the Hearings Officer or court to correct the violation. (Ord No. 8-2000; Ord No. 33-05)

50.905. Enforcement Fees.

(a) In addition, and not in lieu of, any cost, fee, fine or penalty provided for in this Chapter, the Health Officer may order a penalty in the form of a monthly enforcement fee for each property found in violation of this Chapter that meets the following criteria:

(1) The property has been the subject of a notice and order; a response period of thirty days has passed since the effective date of the notice and order; and the property remains out of compliance with the notice and order or any subsequent notices; or

(2) The property has not been brought into compliance with this Chapter within thirty days after being notified by the Health Officer, of a violation of this Chapter.

(b) The City Council shall annually adopt a resolution establishing the amount of monthly enforcement fee.

(c) A person may appeal the Health Officer's order to impose a monthly enforcement fee in the manner provided for in SRC 50.860 to 50.880. (Ord No. 8-2000; Ord No. 33-05)

50.910. Receivership Authority. In addition to, and not in lieu of any other provision in this chapter, when the health officer finds residential property in violation of this chapter, and believes that the violation is a threat to the public's health, welfare and safety, and the owner has not acted in a timely manner to correct the violations, the health officer may apply to a court of competent jurisdiction for the appointment of a receiver to perform an abatement pursuant to the Oregon Housing Receivership Act (ORS 105.420 to 105.455). (Ord No. 8-2000)