Kelso City Council Agenda

Regular Meeting, 6:00 pm
August 18, 2015
City Hall, Council Chambers
203 South Pacific
Kelso, WA 98626

Special accommodations for the handicapped and hearing impaired are available by special arrangement through the City Clerk's Office at 360-423-0900

Invocation:

Pastor Vonda McFadden, Kelso First United Methodist Church

Roll Call to Council Members:

1. Approve Minutes:

1.1. August 4, 2015 – Regular Meeting

2. Presentation:

2.1. Cowlitz-Wahkiakum Council of Governments
2.2. Governing Structure – Three Rivers Regional Wastewater Authority

3. Consent Items:

3.1. Auditing of Accounts

4. Citizen Business:

5. Council Business:

6. Action/Motion Items:

6.1. Ordinance, 1st Reading
  6.1.1. Nuisance Abatement Code amending Chapter 8.24 and adding new Chapter 15.04 Property Maintenance
6.2. Ordinance, 1st Reading
  6.2.1. Nuisance Abatement Code Adopting new Chapter 1.50 Code Enforcement

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6.3. Resolution
6.3.1. Cancellation of Unclaimed Warrants

Other Items:

- City Manager Report
- Staff/Dept Head Reports
- Council Reports
- Other Business
- Executive Session

KELSO CITY COUNCIL **August 4, 2015**
6:00 P.M. **REGULAR MEETING**

Mayor David Futcher led the flag salute. The Regular Meeting of the Kelso City Council was called to order by Mayor Futcher. Councilmembers in attendance were Jared Franklin, Gary Archer, Dan Myers, David Futcher, Todd McDaniel, Gary Schimmel, and Rick Roberson

Minutes: Upon motion by Councilmember Myers, seconded by Councilmember Roberson, 'Approve the Minutes of the 7/21/15 Regular Meeting,' motion carried, all voting yes.

PROCLAMATION:

Mayor Futcher read a proclamation declaring August 4, 2015, as **"National Night Out"** in the City of Kelso. Kelso Police Chief Andrew Hamilton accepted the proclamation.

CONSENT AGENDA: None

CITIZEN BUSINESS: None

COUNCIL BUSINESS: None

MOTION ITEMS: None

MANAGER'S REPORT: None

COUNCIL REPORTS: None

There being no further business, Mayor Futcher adjourned the meeting at 6:03 p.m.

_____
MAYOR

_____
DEPUTY CLERK

AGENDA SUMMARY SHEET

Business of the City Council
City of Kelso, Washington

SUBJECT TITLE: Three Rivers Regional Wastewater Authority presentation

Agenda Item:

Dept. of Origin: Community Development

For Agenda of: August 18, 2015

PRESENTED BY:

Originator: Steve Taylor

City Attorney: Janean Parker

City Manager: Steve Taylor

Agenda Item Attachments:

Formation Memoranda
Proposed Interlocal Formation Agreement

SUMMARY STATEMENT:

The City of Kelso belongs to the Three Rivers Regional Wastewater Authority (TRRWA), the entity that receives and treats wastewater from Kelso, Longview, Cowlitz County and Beacon Hill Water & Sewer District. Board members are appointed from each of the member entities to provide governance and oversight of TRRWA's operations. City Engineer Mike Kardas is Kelso's representative on the Board.

Board Chair Jeff Cameron (Longview) and TRRWA Superintendent Duane Leaf will present information to Council regarding a proposed change in governance from the current multi-agency partnership to a Joint Municipal Utility Authority. The proposed agreement and a memo from consulting attorney Hugh Spitzer of Foster Pepper, LLC explaining the reasoning for and details of the governance change are attached. The TRRWA Board is looking for comments and revisions from its member entities to ensure the efficacy of the new governing arrangement before they approve the final agreement. The Board's recommended agreement will require adoption by all members of the Authority.

RECOMMENDED ACTION:

FOSTER PEPPER PLLC

Memorandum

To:	Governing Board Three Rivers Regional Wastewater Authority
From:	Hugh Spitzer Lee Marchisio
Date:	August 6, 2015
Subject:	Joint Municipal Utility Services Utility Formation Considerations

This memorandum summarizes some key considerations for the TRRWA Governing Board as it works on developing the interlocal formation agreement that would reorganize TRRWA into a "joint municipal utility services authority" under Chapter 39.106 RCW. A draft Interlocal Formation Agreement is provided with this memo. After Governing Board approval, the final Interlocal Formation Agreement must be approved by the governing authorities of each member entity.

In general, we have attempted to track the existing 2005 Interlocal Agreement. However, the provisions of Chapter 39.106 require that the formation agreement include certain elements that are not in the current agreement. The most important differences are described below, along with other adjustments that the Governing Board might want to make.

Notable differences in the draft Interlocal Formation Agreement from the 2005 Interlocal Agreement:

- Under the statute, the Board of Directors of the joint utility authority must be elected officials (§5.1). The Governing Board may wish to establish a Board of Directors composed of elected officials that would meet less frequently and control basic policy and financial matters. An operating board comprised to lead staff (or staff plus elected officials) could manage day-to-day matters and develop the policy and financial proposals for Governing Board approval. If the Governing Board provides us with direction on that, we can revise the draft accordingly.
- The draft formation agreement contains less detail on effluent quality—that is reserved for TRRWA regulation through Board resolution.
- The draft formation agreement contains less detail on effluent volume— that is reserved for TRRWA regulation through Board resolution.

- The attached formation agreement explicitly provides for the addition of new members and customers (§5.7).
- The draft provides for super majority voting of two kinds for significant decisions (§5.6). This is based on the approach used by the Cascade Water Alliance and the Discovery Clean Water Alliance. Obviously, if the Governing Board desires to continue with one-member one-vote on all decisions, we can adjust the draft accordingly.
- This draft has beefed up withdrawal provisions that will help with financings (§5.8).
- The draft also updates bond covenants a bit (§9.7).

Further revisions to consider in the draft Interlocal Formation Agreement:

- Consider describing the assets by listing them specifically, or as broader categories, rather than referencing the 1997 Sewerage General Plan (§3.21).
- Consider more permanent allocations of capacity (e.g., owned capacity instead of "first come, first serve" basis). Certain allocations of cost could then be apportioned based on owned capacity instead of used capacity. This would be an important policy change. If TRRWA opts for owned capacity, more details would have to be worked out, for example, whether members that contribute assets would receive credit for that.
- Consider updating the insurance provisions, and also consider leaving the details of insurance requirements to the Board (§10).
- Updating the dispute resolution provision—is binding arbitration in the Members' best interests? (§ 11)

Immediate post-formation actions required by statute:

- File Interlocal Formation Agreement with the Washington Secretary of State.
- Obtain Certificate of Filing from the Secretary of State.
- Appoint agent to receive claims.
- Appoint the TRRWA Treasurer.

Other post-formation items to consider--to the extent TRRWA has already adopted resolutions covering these topics, they can be revised and readopted:

- Create a website.
- Adopt Board bylaws.
- Adopt regular meeting schedule of the Board of Directors (required by the Open Public Meetings Act).
- Adopt a public records policy (to comply with the Public Records Act).
- Adopt SEPA procedures.
- Adopt a wastewater quality resolution (regulating dischargers into TRRWA facilities).
- Adopt a wastewater quantity/volume resolution (regulating dischargers into TRRWA facilities).

- Perform an asset inventory and clarify which Regional Assets are owned or should be owned by TRRWA. (Follow up with asset transfer documents as necessary.)
- Indemnification procedures resolution.
- Resolution forming committees to manage TRRWA.
- Procurement: develop public works, contracting, purchasing, surplus property policies, etc.
- Personnel: employment agreements, handbook, HR policies, retirement systems, recognition/incentive program, travel and expenses reporting, etc.
- Financial policies.
- Budget planning process.
- Rates setting process.
- Capital asset management and planning process.

Provisions saved from the 2005 Interlocal Agreement for possible later incorporation into TRRWA resolutions/rules.

The items in the "supplement" on the following pages represents provisions that were in the 2005 Interlocal Agreement but not included in the formation agreement draft. These could be readopted by resolution of the new Board of Directors (or operating board), or incorporated in rules. There is also one section, on indemnification, that *might* be appropriate for deletion. This should be discussed in more detail.

Please let us know what questions and comments your have, and what adjustments you would like to see in a revised draft. We would be pleased to visit with the Governing Board to discuss this and future drafts.

cc: Dave Spencer
Doug Jensen

Supplement

Sections from the 2005 Interlocal Agreement not included in the draft. These could be adopted by TRRWA resolutions or rules.

SECTION 5. SEWAGE TREATMENT.

Treatment of Domestic Sewage Only. Members may not discharge into the Regional Assets any Wastewater other than Domestic Sewage. TRRWA is obligated to treat only Domestic Sewage and may reject all other forms of Wastewater. TRRWA may refuse to transport and treat Domestic Sewage from those portions of a Member's Internal System that do not conform to Ecology and/or EPA standards.

Treatment of "High Strength Waste" – Surcharge. In the event TRRWA accepts from a Member "high strength waste" for treatment by the Regional Assets, TRRWA may impose, and the Member must pay, a surcharge in addition to any other charges for sewage treatment, as provided by TRRWA resolution.

Sewage Quality. The Members will cooperate to develop, as needed, rules, ordinances and programs to mitigate mass BOD and TSS or other pollutant levels which are higher than acceptable norms, as determined by either regulatory requirements or by generally accepted environmental practices. The direct costs of such compliance programs, if and when undertaken, may be recovered from the Member responsible for the discharge of nonconforming Wastewater and, unlike general maintenance, replacement and operation costs, will not be based on overall sewage flow levels.

Pre-Treatment Ordinances. Each Member must adopt a pre-treatment ordinance or resolution meeting all federal and/or state requirements. TRRWA will administer and operate a pre-treatment program. Administration and operation must include, but not be limited to, developing procedures, forms, and instructions; categorizing dischargers; record keeping; compliance tracking; establishment of annual limits; sampling, testing, and monitoring; preparation of control documents; collection of fees and preparation of permits. The Members must identify to TRRWA those dischargers within their service areas required to provide pre-treatment and authorize TRRWA to enforce the requirements contained in the Member's pre-treatment ordinance or resolution.

Governing Rules and Regulations. Each Member's sewerage ordinances, resolutions or other regulations must be at least as effective as TRRWA rules and regulations. TRRWA will receive, transport, treat and dispose by means of the Regional Assets the Domestic Sewage discharged by each Member up to the limits permitted by EPA and Ecology.

SECTION 6. OPERATION, TREATMENT, AND QUALITY OF THE FACILITIES AND THE PARTIES' INTERNAL SYSTEMS.

Metering. The quantity of Domestic Sewage discharged by each Member into the Regional Assets will be metered as determined by TRRWA. The meter that measures each Member's discharge of Domestic Sewage into the Regional Assets must be calibrated by TRRWA at least once each calendar year and may be inspected by any Member at the expense of that Party at any time upon reasonable notice to the other. The TRRWA may continue to monitor other relevant variables such as water consumption by each Party, rainfall, and other suitable variables, which will be used to provide redundancy for failed meters and an alternative method to check the validity and accuracy of the meter readings.

Reporting Requirements. Each Party will provide TRRWA monthly reports of the number of new sewer connections adding flow to the TRRWA Regional Assets. The TRRWA shall on a monthly basis, record and report the amount of measured Domestic Sewage, measured in MGD, discharged into the Regional Assets, accounted for by each Party.

The TRRWA shall periodically inspect its Regional Assets and each of the Parties shall periodically inspect its Internal System to ensure adherence to applicable standards and to reduce infiltration, exfiltration, and deposits of rock or other debris.

The Parties' Internal Systems. Each Party shall operate and maintain its Internal System at its sole expense, including all of its internal facilities as required to maintain the volume and quality of Domestic Sewage within the limits set forth in this Agreement. Each Party shall observe the highest practicable standards and practices in the construction, operation, and maintenance of its Internal System with particular attention to the following: (a) reducing entry into the sewerage system of groundwater and/or surface water (I/I - infiltration and inflow); (b) maintaining a favorable character and quality of Domestic Sewage in accordance with the standards set forth in this Agreement eliminating septicity, entry of petroleum wastes or other chemicals and/or wastes detrimental to sewer lines, pumping stations, the Regional Assets, and the waters of the Cowlitz River Basin; and (c) maintaining an efficient and economical utility operation, while achieving optimum pollution and environmental control. Each Party shall adopt ordinances, policies, and procedures prohibiting the connection of any storm or drainage facilities to its Internal System.

The TRRWA shall give written notice to a Party of any condition within the Party's Internal System that violates this Agreement or applicable laws, regulations, or permits. If the Party does not correct such condition within a reasonable time after the TRRWA gives written notice thereof, the Party shall pay to the TRRWA any reasonable and necessary costs and expenses incurred by the TRRWA in connection with such condition.

If the Party discharges into the Regional Assets any solids, liquids, gases, toxic substances, or other substances which the TRRWA reasonably believes is causing or will cause damage to the Regional Assets, or is creating a public nuisance or a hazard to life or property, the Party shall either discontinue the discharge of such substances, or pay for the costs of modifying the Regional Assets so that they are capable of satisfactorily handling such substances. Because substandard conditions of Domestic Sewage may cause serious damage to the Regional Assets, the Parties shall comply with any TRRWA order regarding the composition of Domestic Sewage, and after compliance, may thereafter submit the reasonableness of such order to arbitration as provided in Section 9.

The Parties shall cooperate with each other to determine the source of possible violations of applicable law, regulations and permits (including applicable NPDES Permits). In the event the TRRWA is fined or otherwise penalized by local, state, or federal agencies for failure to operate or maintain the Regional Assets in accordance with the requirements of such agencies, and it is demonstrated to the satisfaction of the majority of the Board that such failure is due, in whole or in part, to a Party or Parties' discharge of Domestic Sewage in violation of this Agreement, then the offending Party or Parties shall pay their allocable share (as determined by the TRRWA or by an arbitrator in accordance with Section 9) of the costs of such fines or penalties, including its share of the associated administrative, legal, and engineering costs incurred by the TRRWA in connection with the fines or penalties.

Provision from 2005 Interlocal Agreement *possibly* no longer needed:

SECTION 6. OPERATION, TREATMENT, AND QUALITY OF THE FACILITIES AND THE PARTIES' INTERNAL SYSTEMS.

Operation and Maintenance of the Facilities. [INDEMNIFICATION] Recognizing the duty of each of the member entities to finance the operation and maintenance of the Regional Assets, the TRRWA shall defend, indemnify and hold harmless all of the parties hereto from and against all claims, whether sounding in contract or in tort, arising out of or in any way related to the project, PROVIDED that such indemnification shall not extend to cover any obligation of the member entity arising out its proportionate share of flow to the Regional Assets as established in Section 4.A or otherwise provided under this Agreement. The previous sentence shall survive the completion, expiration, and/or termination of this Agreement.

THREE RIVERS REGIONAL WASTEWATER AUTHORITY
INTERLOCAL FORMATION AGREEMENT

SECTION 1. PARTIES AND AGREEMENT.

The Parties to this "Agreement" are the City of Kelso, the City of Longview, Cowlitz County, and the Beacon Hill Water and Sewer District. The Parties are the Original Members of the Three Rivers Regional Wastewater Authority. The Parties agree as follows.

SECTION 2. RECITALS.

2.1 The public health, safety, and welfare of the residents of Kelso, Longview, Cowlitz County, and the Beacon Hill Water and Sewer District require the continued improvement of systems to provide sewerage collection, treatment, and disposal, the mitigation of water pollution, and the preservation of the area's water resources.

2.2 Population growth, unique physical and topographic conditions, and the regional commitment to preserve water resources require a central sewage treatment plant, together with interceptors, pumping stations and other assets and properties (the "Regional Assets"). Under the terms of a previous agreement, the Parties acquired the ownership of the land upon which the Regional Assets are situated, together with the ownership of related easements for sewer transmission lines. The continued improvement and operation of the Regional Assets require the Parties within the specified Longview-Kelso Urban Area to dispose of their sewage in general accordance with the Updated Sewerage General Plan dated February 1997, as may be amended.

2.3 In 2005, the Parties organized the THREE RIVERS REGIONAL WASTEWATER AUTHORITY (the "TRRWA"), as a successor to the Cowlitz Sewer Operating Board, a "joint board" under Chapter 39.34 RCW through the "2005 Revised And Restated Interlocal Agreement Among City of Kelso, City of Longview, Beacon Hill Water And Sewer District, And Cowlitz County For Wastewater Treatment & Disposal" (the "2005 Agreement"). TRRWA ensures continued operation and improvement of the Regional Assets in order to maintain compliance with applicable federal, state, and local laws and regulations. The Parties jointly govern TRRWA by each appointing a representative to serve on TRRWA's four-member Board. The Board exercises necessary powers and responsibilities to operate and maintain the Regional Assets, while ensuring representation in regional authority governance by each Party.

2.4 Prior to the 2005 Agreement, the Parties cooperated with respect to the Regional Assets pursuant to the "Interlocal Agreement Among City of Kelso, City of Longview, Beacon Hill Sewer District and Cowlitz County for Wastewater Treatment and Disposal" executed between May and July, 1996, as amended by the agreement denominated "First Amendment to Interlocal Agreement among City of Kelso, City of Longview, Beacon Hill Sewer District, and Cowlitz County for Wastewater Treatment and Disposal" effective June 1, 1998, as amended by the agreement entitled "Revised and Restated Interlocal Agreement Among City of Kelso, City of Longview, Beacon Hill Sewer District, and Cowlitz County for Wastewater Treatment and Disposal" effective on or about the 1st day of September, 2002, as supplemented by two separate agreements each denominated "Interlocal Agreement for Financing of Wastewater Treatment Plant Expansion" and dated July 26, 1999 (one with respect to $40 million of general obligation

bonds issued by the County, and the other with respect to a $7 million Public Works Trust Fund loan), and as further supplemented by the "Interlocal Agreement for Supplemental Financing of Wastewater Treatment Plan Expansion" executed in April and May 2001, with respect to a $3 million Public Works Trust Fund loan.

2.5 The Parties continue to be served by the Regional Assets, and each equitably shares in the Regional Assets' operating costs and improvement financing. TRRWA currently plans and provides for the long-term capital and operational needs of the Regional Assets, which may include mandated technological and regulatory changes and increased capacity and space demands.

2.6 Under the Joint Municipal Utility Services Act (Chapter 39.106 RCW), certain local governments and federally-recognized Indian tribes may enter into joint municipal utility services agreements to form independent municipal corporations to perform any or all of the utility services that their participating members may perform.

2.7 The Parties find that organizing TRRWA as an authority under the Act will enable TRRWA to more effectively and efficiently operate, maintain, and improve the Regional Assets. This Agreement therefore organizes TRRWA as a joint municipal utility authority and independent municipal corporation under the Act and replaces and supersedes the 2005 Agreement.

SECTION 3. DEFINITIONS,

3.1 "Act" means the Joint Municipal Utility Services Act, Chapter 39.106 RCW.

3.2 "Additional Member" means any governmental participant, other than an Original Member, that provides wastewater services and joins TRRWA as a Member after execution of this agreement in accordance with Subsection 5.7.

3.3 "Annual Average Daily Flow" or "AADF" means the total Flow of domestic sewage in millions of gallons during a full calendar year, divided by the number of days in such year, expressed in millions of gallons per day.

3.4 "Beacon Hill Water and Sewer District" (formerly the "Beacon Hill Sewer District") means the Beacon Hill Water and Sewer District, a Washington municipal corporation and water-sewer district organized under Title 57 RCW.

3.5 "Biochemical Oxygen Demand" or "BOD" means a standardized laboratory procedure which measures the amount of oxygen consumed in a wastewater sample during a specified incubation period. This test is described in the most current version of the book entitled "Standard Methods for the Examination of Water and Wastewater."

3.6 "Board" means the TRRWA Board of Directors, as set forth in SECTION 4.

3.7 "Bonds" means bonds, notes or other evidences of indebtedness issued by TRRWA or by another entity (*e.g.,* by a Member) on behalf of TRRWA.

3.8 "Capital Component" means the portion of TRRWA rates that relates to costs of financing the Regional Assets, as described in Subsection 9.1.

3.9 "Collection Facility" or "Collection Facilities" means sewers, transmission lines, force mains, interceptors, pump stations and other sewer facilities required to collect and deliver wastewater from customers to Transmission Facilities or Treatment Facilities.

3.10 "Contracting Municipal Wastewater Utility" means a county, city, town, water-sewer district, public utility district, other special purpose district, municipal corporation, or other unit of local government of this or another state and any federally-recognized Indian tribe authorized by law to provide a system of sewers for the collection, transmission, or treatment of Wastewater that has entered into an agreement with TRRWA that provides for TRRWA acceptance of some or all of that entity's Wastewater.

3.11 "County" means Cowlitz County, Washington, a political subdivision of the State of Washington.

3.12 "Customer" means a Single Family Residence or an equivalent residential unit.

3.13 "Depreciation Component" means the portion of TRRWA rates, charges, fees, or other payments that relate to depreciation of the Regional Assets, as described in Subsection 9.1.

3.14 "Domestic Sewage" means sanitary wastes normally collected from residential establishments, commercial and industrial wastes of similar strength or quality, and other commercial and industrial wastes that are pre-treated in accordance with Ecology and EPA guidelines.

3.15 "Ecology" means the Washington State Department of Ecology, or its successor.

3.16 "Environmental Protection Agency" or "EPA" means the United States Environmental Protection Agency, or its successor.

3.17 "Equivalent Residential Unit" or "ERU" is a measure applied to a user of a sewage system other than a Single Family Residence. The number of ERUs assigned to any user (for example, an apartment house, motel, school, hospital, nursing home, or any other public or commercial establishment) is the numerical ratio of the monthly volume of Wastewater contributed by the user to the monthly volume of Wastewater contributed by a Single Family Residence. This ratio serves as a practical basis for computing the number of ERUs contributing Wastewater into the Regional Assets when and if the computation is necessary or desirable to either supplement or replace a direct Flow measurement.

3.18 "Flow" means a volume of Wastewater per unit of time.

3.19 "Formation Date" means the date this Agreement is filed with the Washington Secretary of State and TRRWA is formed as a joint municipal utility services authority in accordance with RCW 39.106.030(1).

3.20 "Former TRRWA" means the intergovernmental entity and joint operating board authorized and created by the Pre-Formation Agreements under Chapter 39.34 RCW.

3.21 "Improvements" means those improvements to the Regional Assets described in the Updated Sewerage General Plan dated February 1997, as it is amended from time to time.

3.22 "Influent Point" means the point at which a Member's Internal System connects to the Regional Assets.

3.23 "Internal System" means all Collection Facilities, Transmission Facilities, and Treatment Facilities owned and operated by a Member upstream from its respective Influent Point(s).

3.24 "Kelso" means the City of Kelso, Washington, a Washington municipal corporation and code city organized under Title 35A RCW.

3.25 "Longview" means the City of Longview, Washington, a Washington municipal corporation and code city organized under Title 35A RCW.

3.26 "Member" (collectively, the "Members") means one or more governmental participants of TRRWA, including the Original Members and Additional Members.

3.27 "Million Gallons Per Day" or "MGD" refers to a rate of Wastewater Flow.

3.28 "Maintenance and Operation Component" or "M&O Component" means the portion of TRRWA rates, charges, fees, or other payments that relate to Maintenance and Operation Costs, as described in Subsection 9.1.

3.29 "Maintenance and Operation Costs" or "M&O Costs" means all direct costs and expenses incurred by TRRWA in (i) transporting, treating, and disposing of Domestic Sewage through the Regional Assets, (ii) maintaining, repairing, and replacing the Regional Assets, and (iii) administering a joint Industrial Pre-Treatment program.

3.30 "Member's Jurisdiction" means the service area within which a Member is responsible for providing wastewater collection services as shown in the Updated Sewerage General Plan dated February 1997, as may be amended.

3.31 "Original Member" or "Party" (collectively, the "Original Members" or the "Parties") means the governmental entities initially executing this Agreement and described in SECTION 1, including Kelso, Longview, the Beacon Hill Water and Sewer District, and the County.

3.32 "Pre-Formation Agreements" means, collectively: (i) the "2005 Revised And Restated Interlocal Agreement Among City of Kelso, City of Longview, Beacon Hill Water And Sewer District, And Cowlitz County For Wastewater Treatment & Disposal" last dated December 13, 2005 and (ii) the "Interlocal Agreement For Financing Of Biosolids Processing Improvements" last dated May 11, 2006.

3.33 "Regional Assets" means TRRWA's Treatment Facilities, Transmission Facilities, and other assets together with applicable lands, easements, conveyances, and river crossings operated, maintained, or owned by TRRWA, as depicted on Exhibit A and as may be amended.

3.34 "Single Family Residence" means one structure, all connected and under the same roof, located on a lot or tract of real property having a separate and individual property description, with no other structure used for human occupancy located on that tract or lot, and which structure is used as a single family dwelling.

3.35 "System Development Charge" or "SDC" means the charge for each new sewer system connection made following execution of this Agreement, as measured in ERUs, for purposes of reimbursing TRRWA for costs incurred to provide existing capacity or paying for the new connection's use of planned future capacity.

3.36 "Three Rivers Regional Wastewater Authority" or "TRRWA" means the Washington municipal corporation and Washington joint municipal utility services authority organized under Chapter 39.106 RCW and formed by this Agreement.

3.37 "Total Suspended Solids" or "TSS" means that portion of a filtered sample which is retained on a filter pad that is dried at a specified temperature. This test is described in the most current version of a book entitled "Standard Methods for the Examination of Water and Wastewater."

3.38 "Transmission Facility" or "Transmission Facilities" means transmission lines, force mains, interceptors, pump stations and other facilities required to transfer wastewater from Collection Systems to Treatment Facilities.

3.39 "Treatment Facility" or "Treatment Facilities" means treatment plants, outfalls and other facilities required to treat Wastewater.

3.40 "Wastewater" means Domestic Sewage and all other water Flows in a Collection Facility, Transmission Facility or Treatment Facility, including without limitation industrial, commercial, agricultural, infiltration or inflow, and storm or surface waters or liquids.

SECTION 4. FORMATION.

4.1 Formation and Name. On the Formation Date, the "Three Rivers Regional Wastewater Authority" is formed as a joint municipal utility services authority under the Act.

4.2 Purpose and Powers. TRRWA's purpose is to jointly provide regional Wastewater transmission and treatment for TRRWA Members and other Contracting Municipal Wastewater Utilities. TRRWA may exercise all powers authorized by Chapter 39.106 RCW, subject to the terms of this Agreement. TRRWA will provide all necessary wastewater Treatment Facilities and services for its Members, together with all necessary Transmission Facilities and services for its Members who opt for those services. TRRWA may provide additional utility services as determined by the Board.

4.3 Membership. TRRWA's membership consists of the Original Members, together with any Additional Members that may later join TRRWA in accordance with Subsection 5.7.

4.4 Termination of Existing Agreements.

4.4.1 Pre-Formation Agreements. As of the Formation Date, the Pre-Formation Agreements terminate.

4.4.2 Historic Agreements. For the avoidance of doubt, the following historic agreements remain superseded: (a) the "Interlocal Agreement Among City Of Kelso, City Of Longview, Beacon Hill Water And Sewer District And Cowlitz County For Wastewater Treatment And Disposal" executed between May and July, 1996; (b) the "First Amendment To Interlocal Agreement Among City Of Kelso, City Of Longview, Beacon Hill Sewer District, And Cowlitz County For Wastewater Treatment And Disposal" effective June 1, 1998; and, (c) the "Revised And Restated Interlocal Agreement Among City Of Kelso, City Of Longview, Beacon Hill Sewer District, And Cowlitz County For Wastewater Treatment And Disposal" which was effective on or about the 1st day of September, 2002.

4.4.3 Ratification of Prior Acts. All actions of the Former TRRWA taken prior to the Formation Date under the Pre-Formation Agreements and not inconsistent with this Agreement are ratified, approved and confirmed in all respects.

4.4.4 Existing Rights and Obligations Confirmed. As of the Formation Date, existing rights and obligations of the Original Members and the Former TRRWA continue as follows:

(a) All existing capacity rights and financial obligations of the Original Members under the terms of the Pre-Formation Agreements are transferred to each of the Original Members under this Agreement, subject to later adjustments under the terms of this Agreement.

(b) All rights and obligations of the Former TRRWA are the rights and obligations of TRRWA. The termination of the Pre-Formation Agreements does not impair any obligations entered into pursuant to or in reliance on the Pre-Formation Agreements or the Former TRRWA's bylaws, rules of procedure, resolutions, minutes, contracts, agreements, proceedings and other matters that remain in force and effect on the Formation Date under Subsection 4.4.3 ("Ratification of Prior Acts"), subject to subsequent Board amendment, modification, or action.

(c) Existing obligations of the Original Members and the Former TRRWA to irrevocably pledge revenues from the collection of any TRRWA rates established under the Pre-Formation Agreements for the payment of any Public Works Trust Fund loan agreements remain obligations of the Original Members and are obligations of TRRWA. For as long as those obligations are outstanding, each Original Member irrevocably pledges to establish sewer rates and charges,

and include amounts in its sewer enterprise fund annual budget, sufficient to provide for payment of TRRWA rates.

SECTION 5. BOARD ORGANIZATION AND POWERS.

5.1 Board Composition. TRRWA's Board of Directors consists of one Director and any alternate Directors appointed by each member. Directors and alternates must be elected officials of the appointing Member. More than one alternate may be appointed to serve on the Board when a Member's designated Director is unable to participate in a meeting, but only one Director from each Member may actively participate in a Board meeting at any time. The Members may appoint and remove their appointee Directors in such manner as they individually determine.

5.2 Board Powers. The Board exercises all policy, oversight and governance powers of TRRWA, and carries out the responsibilities specified in this Agreement. The Board may adopt appropriate rules, including Board rules and operating procedures.

5.3 Board Officers and Legal Counsel. Board officers consist of a Chair, Vice Chair and Secretary, and such other officers as the Board desires. Legal counsel to TRRWA, if any, will report directly to the Board.

5.4 Board Committees and Advisory Boards. The Board may create committees and advisory boards, including committees to consider finance issues, maintenance and operations matters, and capital planning and infrastructure. Committees and advisory boards may include either Directors or non-Directors, or both.

5.5 Board Meetings. Notice of Board meetings must conform to the requirements of the Open Public Meetings Act (Chapter 42.30 RCW). Additional requirements regarding notice, preparation and distribution of agendas, minutes and conduct of meetings may be established by resolution or in rules adopted by the Board.

5.6 Board Voting. Each Director will have 1 vote on issues that come before the Board.

5.6.1 The following Board actions require both (i) a 60% majority vote of the Board and (ii) approval by Directors representing Members paying more than 60% of the M&O Component:

(a) Amendments to this Agreement.

(b) Adoption of the budgets required under Subsections 8.1 through 8.3.

(c) Establishment of rates, charges, fees or other required payments under SECTION 9.

(d) Admission of new Members to TRRWA.

(e) Termination of this Agreement.

(f) Determination of the Regional Assets' purchase price upon TRRWA's dissolution.

5.6.2 The following Board actions require both (i) a majority vote of the Board and (ii) approval by Directors representing Members paying more than 50% of the M&O Component:

(a) Appointment of a plant superintendent or other general manager (if any) of TRRWA's administrative affairs.

(b) Authorization to borrow money or issue Bonds by TRRWA or by another entity on behalf of TRRWA.

(c) Disposition of material Regional Assets (i.e., the sale, lease, mortgage or other encumbrance, transfer, or disposal of any part of the Regional Assets that are used, useful or material in the operation of those Regional Assets and the provision of services, but excluding Regional Assets or portions thereof that have become unserviceable, inadequate, obsolete or unfit to be used in the operation of the Regional Assets, or are no longer necessary, material to or useful to the operation of the Regional Assets).

(d) The exercise of eminent domain by TRRWA.

(e) Approval of employee collective bargaining agreements.

(f) Adoption and amendment of TRRWA rules or regulations.

5.6.3 Board actions not expressly listed in Subsections 5.6.1 and 5.6.2 are made by majority vote of the Directors present and voting.

5.6.4 A Member may not exercise its voting rights if it is in default under Subsections 9.4, 9.5, or 9.7.

5.7 Additional Members. The inclusion of each Additional Member requires Board approval under Subsection 5.6.1. Each Additional Member will be expected to "buy in" to TRRWA by paying for its allocable share of Regional Assets and/or by contributing Regional Assets, in such amounts as will be determined by the Board.

5.8 Withdrawal of a Member. In order to prevent remaining Members from carrying "stranded costs," any withdrawing Member is responsible for the full cost of its withdrawal to TRRWA, including without limitation the payment or provision for payment of its allocable share of the Capital Component of rates established under Subsection 9.1. The Board, acting in its reasonable judgment, has the sole power to determine the appropriate payment obligations of a withdrawing Member. The Director representing a Member proposing to leave TRRWA may not vote on the determination of that leaving Member's payment obligations to TRRWA.

SECTION 6. SEWAGE TREATMENT.

6.1 Member Capacity. TRRWA will treat by means of the Regional Assets the Domestic Sewage discharged by the Members up to the Regional Assets' capacity as long as the Members require it, barring events and circumstances which are beyond TRRWA's control. Capacity will be available on a "first come, first served" basis.

6.2 Rules Governing Flows into the Regional Assets. TRRWA may establish by resolution rules governing acceptance of Wastewater into the Regional Assets, including without limitation, rules governing Wastewater quality, Wastewater quantity, metering Influent Points, and Member pre-treatment ordinances or resolutions.

SECTION 7. OPERATION, TREATMENT, AND QUALITY OF THE FACILITIES AND THE MEMBERS' INTERNAL SYSTEMS.

7.1 Operation and Maintenance of the Regional Assets. TRRWA is responsible for the operation, maintenance, and administration of the Regional Assets, subject to the terms of this Agreement. TRRWA must operate and maintain the Regional Assets in accordance with generally accepted engineering standards, and the standards established by EPA, Ecology, the Washington State Department of Social and Health Services, and other federal, state, and local agencies.

7.2 Rules Governing Internal Systems. Each Member must manage its Internal System at its sole expense, including all of its internal facilities as required to maintain the volume and quality of Domestic Sewage within the limits set forth in this Agreement. Each Member must ensure the highest practicable standards and practices in the construction, operation, and maintenance of its Internal System. TRRWA may establish by resolution rules governing Member Internal Systems.

7.3 Treasurer. TRRWA must appoint a treasurer from time to time by resolution of the Board, consistent with the provisions of RCW 39.106.050(13).

7.4 Applicable Lien Laws. If TRRWA provides direct retail services (i.e., not through or on behalf of a Member), TRRWA will apply and exercise the powers of a water sewer district under RCW 57.08.081 or other applicable water-sewer district law.

7.5 Applicable Personnel Laws. With respect to its own employees, TRRWA will apply the personnel laws pertaining to code cities under Chapter 35A.41 RCW, and so long as any Member is a code city with a population of more than 20,000, then the provisions of RCW 35A.41.010 will apply.

7.6 Public Works and Procurement Laws. TRRWA will apply the public works and procurement laws applicable to code cities under RCW 35A.40.210 and RCW 35.23.352. Consistent with RCW 35A.40.210, for purchases RCW 35.22.620 will apply so long as any Member has a population of 20,000 or more, and otherwise the provisions of RCW 35.23.352 will apply.

7.7 Eminent Domain Laws. TRRWA will apply and exercise the powers of eminent domain under the laws applicable to code cities pursuant to Chapter 8.12 RCW.

7.8 Surplus Property. TRRWA will apply and exercise the powers respecting surplus property under the laws applicable to code cities pursuant to RCW 35A.11.010.

7.9 Member Governing Laws. If a Member acts for or on behalf of TRRWA with respect to a Regional Asset or proposed Regional Asset, that Member will apply the appropriate laws applicable to that Member's form of government.

7.10 Indemnification. TRRWA will indemnify the Members, their officers and employees for damages caused by the willful misconduct or negligence of TRRWA, its officers, employees and agents.

7.11 Ethics. TRRWA, its officers and employees (if any) are subject to the provisions of Chapter 42.23 RCW.

7.12 Public Records. TRRWA will comply with the requirements of Washington public records laws, including Chapter 42.56 RCW.

7.13 Rule Making. Consistent with Subsection 5.6, the Board will adopt and amend TRRWA rules and regulations by resolution adopted by majority vote.

7.14 TRRWA Bonds. When Bonds are issued by a Member on behalf of TRRWA, those Bonds will be issued in accordance with the bond statute or statutes applicable to that Member. When Bonds are issued by TRRWA, those Bonds will be issued in accordance with the bond statute or statutes applicable to one of the Member's form of government, as further specified by resolution of the Board.

SECTION 8. FINANCES/ENTITY CONTRIBUTIONS.

8.1 Budget Formulation. TRRWA must formulate an annual maintenance and operating budget by the last working day of September each year and in a manner consistent with the relevant budget processes employed by each Member. TRRWA must submit each Member's proportionate share of TRRWA's budget to that Member's legislative authority for incorporation into the Member's sewer enterprise fund budget.

8.2 Capital Budget. TRRWA must annually adopt a separate, cumulative capital budget. The capital budget must include, without limitation, following two sections:

8.2.1 Capital Improvements To Maintain And Use Overall Capacity. This portion of the capital budget must include: (a) the necessary reconstruction or replacement of all existing TRRWA facilities shown on Exhibit A; (b) capacity improvements to TRRWA sewer lines, pumping stations, and other facilities, as shown on Exhibit A, necessary to use the primary and secondary treatment capacity of the plant; and (c) upgrades for regulatory compliance within the capacity of TRRWA's Treatment Facilities.

8.2.2 Capital Improvements To Increase Overall Capacity. This portion of the capital budget must include any construction that increases the primary and secondary treatment capacity of the plant or additions to TRRWA facilities not included on Exhibit A (for example, accepting subsequent ownership of a Member's facility or new facility construction to serve new areas).

8.3 Required Appropriations. Each Member must fund in applicable TRRWA budgets its portion of the following:

8.3.1 TRRWA's M&O Costs in proportion to that Member's respective Flow to the Regional Assets, as reasonably determined by TRRWA.

8.3.2 TRRWA's repair and replacement costs to existing Regional Assets in proportion to that Member's respective Flow to the Regional Assets.

8.3.3 TRRWA's costs related to upgrades to existing Regional Assets for purposes of capacity expansion or regulatory compliance with new standards by payment from: (a) the SDCs imposed by TRRWA in that Member's sewage utility accounts or (b) other funds equal to that Member's share of the costs proportional to its respective Flow to the Regional Assets, as determined by TRRWA.

8.4 Future Obligations. In the event that capital improvements are funded through Bonds, the governing bodies of each Member will be obligated to execute appropriate legal documents committing the Member to its share of debt service until the Bonds are satisfied.

8.5 System Development Charges. TRRWA may establish SDCs for new connections to Internal Systems that contribute Flow to the Regional Assets. The amount of these charges may be calculated as a function of ERU's to recover the cost of new developments' use of the Regional Assets' capacity. System development charges must be uniform across customer classes (as determined by TRRWA) throughout TRRWA's service area.

8.5.1 Each Member must either (a) collect and remit to TRRWA applicable SDCs or (b) remit to TRRWA an amount equal to that which the Member would have collected by imposing TRRWA's SDCs and to the extent that Member chooses to not apply the SDCs to new connections.

8.5.2 Members must remit to TRRWA on a monthly basis the SDCs adopted under this Subsection 8.5 ("System Development Charges"). SDCs for new connections established in stages or phases may be paid as each stage or phase is developed. TRRWA must place these SDC remittances into the Separate Accumulative Fund established in Subsection 9.6 ("Reserve Fund").

8.5.3 If TRRWA is further required by applicable laws or regulations to upgrade the Regional Assets to provide a higher level of wastewater treatment or to modify the methods and/or locations of wastewater discharge, each Member must, if it desires to continue discharging Domestic Sewage into the Regional Assets, pay its proportionate share as established in Subsections 8.1 and 8.3.

8.5.4 TRRWA will seek opportunities to reduce or avoid the cost of additional improvements through all mutually agreeable modifications in the quantity and quality of Domestic Sewage discharged by the Members.

8.6 Discontinue Discharge. Any Member desiring to discontinue discharging Domestic Sewage into the Regional Assets must give notice of its intent to discontinue not less than three years prior to the date of discontinuance. Unless another Member or other entity assumes the discontinuing Member's Capital Component obligation under Subsection 9.1, the discontinuing Member will remain obligated to pay the Capital Component of TRRWA rates until all Bonds payable from those rates as of the date of discontinuance (and any subsequent refunding Bonds) are redeemed or defeased.

SECTION 9. PAYMENT FOR MAINTENANCE, OPERATION, AND CAPITAL IMPROVEMENT COSTS FOR THE REGIONAL ASSETS.

9.1 TRRWA Rates. TRRWA will establish rates, charges, fees, or other payments charged to the Members for treatment of sewage and septage, external sewage sources and provision of treatment services to the Members in amounts at least sufficient for TRRWA to: (a) maintain and operate Regional Assets (the "M&O Component"); (b) pay the principal of, interest on, and coverage covenants with respect to any and all revenue Bonds that constitute a charge upon Regional Asset revenues (the "Capital Component"); and (c) to the extent not otherwise provided by payments to provide for debt service coverage, depreciation costs for Regional Assets and equipment necessary to provide Wastewater treatment services to the Members (the "Depreciation Component").

9.2 Contract Rates and Spot Rates. Rates paid by Contracting Municipal Wastewater Utilities under contract with TRRWA will be determined in accordance with the relevant contract. Rates paid by Contracting Municipal Wastewater Utilities without a contract will be determined by the Board.

9.3 Revenue Obligations. TRRWA may pledge revenue from any rates, charges, fees or other payments established under this Agreement to the repayment of revenue Bonds. Members must timely pay TRRWA those rates, charges, fees or other payments secured by, or relied upon by any financing party entitled to, the Members' payments to TRRWA and TRRWA's payments to the financing party. TRRWA must impose, and each Member must pay, the Capital Component of the payments required under this SECTION 9 whether or not the Regional Assets are operating and notwithstanding the suspension, interruption, interference, reduction or curtailment in the operation of the Regional Assets for any reason whatsoever, in whole or in part. Payments by any Member to TRRWA, and payments by TRRWA to any entity financing an indebtedness, may not be subject to any reduction, whether by offset or otherwise, and may not be conditioned upon the performance or nonperformance of any Member, except as otherwise approved by all Members or by separate agreement.

9.4 Monthly Payments. Each Member must make monthly payments to TRRWA for the rates, charges, fees or other payments established by TRRWA under Section 9.1 above. The M&O Component of monthly payments must include one twelfth of the Member's proportionate share of the M&O Costs adopted in TRRWA's annual budget for the Regional Assets. Each

Member's share of the total annual M&O Costs, and its share of the repair and replacement and other facilities costs comprising the Capital Component and the Depreciation Component, will be determined as set forth in Sections 8.2 and 8.5. Each Member must provide or allow in its bond authorizing documents that payments to TRRWA will be treated as operation and maintenance costs of its own system or as contract resource obligations, and must constitute a payment obligation prior and superior to the Member's bonds, existing on the date of this agreement.

9.5 Remitting Payments. Each Member's monthly payments are due at the earliest date, depending on the Member's accounts payable cycle. In the event that the Member's payment is received more than 45 days after receipt of a TRRWA bill, TRRWA may impose a late payment surcharge equal to the interest which the payment would have earned for the period in excess of 45 days, based on an interest rate used by the Cowlitz County Assessor for delinquent taxes. Yearend adjustments to the amounts paid by each of the Members for their flow-related costs will be based on actual Flows. The adjustments for the prior year will be reflected in following year's monthly payments to TRRWA in the form of debits or credits, as appropriate or more specifically provided by Board rule.

9.6 Reserve Fund. TRRWA must maintain a "Separate Accumulative Fund" dedicated to funding capital improvements, upgrades and major replacements. This fund is distinct from other TRRWA maintenance and operations funds. SDCs for the Regional Assets must be remitted to TRRWA, which will deposit these moneys into the Separate Accumulative Fund. TRRWA may in its discretion deposit into the Separate Accumulative Fund amounts from the Depreciation Component and from the coverage portion of the Capital Component.

9.6.1 TRRWA may use this reserve fund for needed expenditures on an emergency basis and under the terms of this Agreement when the public health, safety, and welfare, legal and regulatory requirements, or unforeseen circumstances require expeditious action.

9.6.2 Money in this Fund may only be used for system capital improvements, upgrades and replacements to the Regional Assets, or for emergencies. The fund may also be used for acquisition of land and existing Treatment Facilities.

9.7 Member's Rates and Sources of Payment. Members must pay the charges described in Subsections 9.1 through 9.6 out of revenues derived through each Member's Internal System. As described in Subsection 9.4, each Member's remittances to TRRWA, except those revenues derived through SDCs, must be treated as operation and maintenance expenditures or as contract resource obligations. Each Member must establish rates and collect fees and charges for sewer service in amounts at least sufficient to pay for (a) the maintenance and operation of the Member's Internal System, including the Member's payments to TRRWA, and (b) the principal and interest on any and all revenue obligations that constitute a charge on the revenue of the Member's Internal System, together with any coverage covenants in the Member's bond authorizing documents. Each Member must promptly pay all rates, charges, fees, and other payments charged by TRRWA. In the event that a Member contests the amount of any TRRWA rate, charge, fee, or other required payment, that Member will nevertheless promptly pay the amount required by TRRWA and submit the dispute to resolution under

SECTION 11. If the dispute resolution process results in a determination that the Member has overpaid the disputed rate, charge, fee, or other payment, TRRWA will reimburse that Member for the overpayment in the manner, at the times, and with the interest determined in the dispute resolution process.

9.8 Books and Accounts. TRRWA will keep full and complete books of accounts showing the costs incurred in connection with the Regional Assets, and the portions applicable to each of the Members. Any of the Members, through an interagency service contract with TRRWA, or outside third parties, may provide administrative support personnel to TRRWA. The costs of these support services and keeping the financial records and accounts of TRRWA will be considered to be a Maintenance and Operation Cost of TRRWA. Audits of the books will be performed as determined by TRRWA or the state, and audit costs will be considered a direct cost of TRRWA. More frequent audits, if requested by any Member, will be charged to the Member or Members making the request.

9.9 Future Financing. If TRRWA determines there is a need to finance all or a portion of the costs of additional improvements to or extensions of the Regional Assets and it is not practicable for TRRWA to issue Bonds, a Member or a Contracting Municipal Wastewater Utility may, to the extent of their reasonable ability considering their other obligations and consistent with applicable bond covenants, issue additional revenue or general obligation Bonds to finance those improvements or extensions. Consistent with Subsection 8.4, the Members will enter into agreements as may be necessary to enable the successful issuance of those Bonds. If, after reasonable efforts to structure and/or issue Bonds, the Members are unable to do so, all Members collectively, to the extent of their reasonable ability considering other obligations of the Members and their respective borrowing abilities, must issue their own general obligation or revenue Bonds, and advance the proceeds as needed to TRRWA. TRRWA and all of the Members must indemnify and hold the borrowing party free and harmless of and from any indebtedness to the extent of their respective proportionate shares of payment, as such proportionate shares may be determined by reference to Subsections 8.1 through 8.2.

SECTION 10. REPLACEMENT STANDARDS; INSURANCE.

10.1 Replacement and Rehabilitation Standards. TRRWA will implement replacement, reconstruction, rehabilitation, expansion, or upgrading of the Regional Assets in accordance with applicable federal, state, and local laws and regulations. TRRWA will install and construct additions, betterments and improvements to the Regional Assets in accordance with generally recognized engineering standards at least equal to TRRWA standards and in accordance with all applicable federal, state, and local laws and regulations.

10.2 Insurance. TRRWA must purchase and maintain, through its insurance companies or insurance pools, property, boiler and machinery, and liability insurance sufficient to pay for comprehensive loss or damage to the Regional Assets, resulting from their operation in a normal and prudent manner, including loss or damage caused by the operation of sewerage facilities which are not a direct part of the Treatment Plant. Members must purchase and maintain, through their own insurance companies or insurance pools, property, boiler and machinery, and liability insurance sufficient to pay for comprehensive loss or damage to the Regional Assets caused by the operation of their Internal Systems. In the alternative, TRRWA

or a Member, may set aside cash in a reserve fund in an amount sufficient to pay for such loss or damage, subject to review and recommendation by the Board.

SECTION 11. DISPUTE RESOLUTION; ARBITRATION.

In the event of a dispute among TRRWA and a Member or Members concerning any matters arising under this Agreement, unless specifically excluded from arbitration, the dispute will first be considered by an independent review committee. This committee will be composed of a representative from each Member appointed by its legislative authority. A fifth at large member will be appointed by TRRWA. The committee will function as fact finder and attempt to negotiate a voluntary settlement of the dispute. Failing this voluntary resolution, the matter will be submitted to binding arbitration under the rules of the Superior Court (MAR) in accordance with Chapter 7.06 RCW. The arbitrator's decision will be final and binding. The arbitrator's fees and costs will be shared equally among the disputing entities.

SECTION 12. TERM; TERMINATION; DISPOSITION OF ASSETS ON TERMINATION.

12.1 Term. This Agreement is perpetual.

12.2 Termination. This Agreement may not be terminated so long as there remain outstanding any Bonds payable from TRRWA rates. Thereafter this Agreement may be terminated only in accordance with Subsection 5.6.1.

12.3 Disposition of Assets on Termination. The Members must develop a plan of dissolution to wind up TRRWA's affairs under the following requirements:

12.3.1 The Member with the greatest number of retail Customers will have the exclusive option to purchase the Regional Assets, including all land, improvements, and rights in property. The purchase price will be the sum as the Directors agree upon in accordance with Subsection 5.6.1, and must be paid by the purchasing Member to the other Members as provided in this Section. The purchasing Member must assume any indemnity agreement or guarantee by TRRWA or any Member with respect to any Bonds issued for the benefit of TRRWA.

12.3.2 If the Members cannot agree on a purchase price, the purchase price will be established as provided in SECTION 11 ("Arbitration") and will include a sum equal to the then (on the date of purchase contract execution) fair market value of all of the Regional Assets, including all personal property, cash in banks and on deposit, and all accounts receivable, less all indebtedness. Bonds assumed by the purchasing Member will be taken into consideration as a reduction in the value of the Regional Assets. Each Member's interest will be equal to its proportionate share of payment over the then previous 12 calendar months under the provisions of Subsections 8.1, 8.3, and 9.1 of this Agreement. The purchasing member need not pay itself for its interest in the Regional Assets. Payment to other Members must be made within twelve months following the effective date of termination of this Agreement, or such other time as the Members may agree upon. If a Member provided funds to TRRWA through the issuance of Bonds, the

purchasing Member must indemnify and hold that Member free and harmless from the Bonds.

12.3.3 If the purchasing Member declines to exercise its option to purchase, the other Members may purchase the Regional Assets on the same terms as set forth above and in priority order of greatest number of retail Customers. If none of the Members elect to purchase the Regional Assets, then TRRWA must sell the Regional Assets as soon as reasonably possible following the effective date of termination. Any remaining indebtedness of TRRWA must be paid from the proceeds of the sale, and the remaining proceeds will be divided in the proportions as determined by reference to Subsections 8.1, 8.3, and 9.1 of this Agreement. The TRRWA Board must supervise the termination and sale of the Regional Assets and the distribution of proceeds.

SECTION 13. GENERAL PROVISIONS.

13.1 Entire Agreement; Amendment; Modification. This Agreement constitutes the entire and exclusive agreement between the Parties relating to the specific matters covered in this Agreement. All prior or contemporaneous verbal or written agreements, understandings, representations or practices relative to the foregoing are superseded, revoked and rendered ineffective for any purpose. This Agreement may be altered, amended or revoked only in writing and only in accordance with to Subsection 5.6. No verbal agreement or implied covenant may be held to vary the terms of this Agreement, any statute, law or custom to the contrary notwithstanding.

13.2 Governing Laws. This Agreement is governed and construed in accordance with the laws of the State of Washington. Venue in connection with any legal proceeding seeking enforcement of the provisions hereof through injunctive relief or arbitration award pursuant to SECTION 11 of this Agreement is proper only in the Superior Court of the State of Washington for Cowlitz County.

13.3 No Third Party Beneficiaries. There are no third party beneficiaries to this Agreement except for the rights of owners of Bonds as provided in this Agreement. Only Members and TRRWA have any rights hereunder or any authority to enforce this Agreement's provisions.

13.4 Severability. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion thereof, will not affect the validity of the remaining provisions of this Agreement.

13.5 Execution and Filing. The Parties may execute this Agreement in one or more counterparts. Within five days of the execution date, TRRWA must file this Agreement with the Cowlitz County Auditor (RCW 39.34.040) and with the Washington State Secretary of State (RCW 39.106.030(1) and pay all related fees. The Members agree to execute or releases any other appropriate instruments necessary to satisfy the terms of this Agreement.

Dated _____, 2015. City of Longview

Approved as to Form

City Attorney

David Campbell, City Manager

Dated _____, 2015. City of Kelso

Approved as to Form

City Attorney	Steve Taylor, City Manager

Dated _____, 2015. Beacon Hill Water and Sewer District

Approved as to Form

District Counsel	Monte J. Roden, Commission President

Dated _____, 2015.

Board of County Commissioners of
Cowlitz County, Washington

Approved as to Form

Deputy Prosecuting Attorney

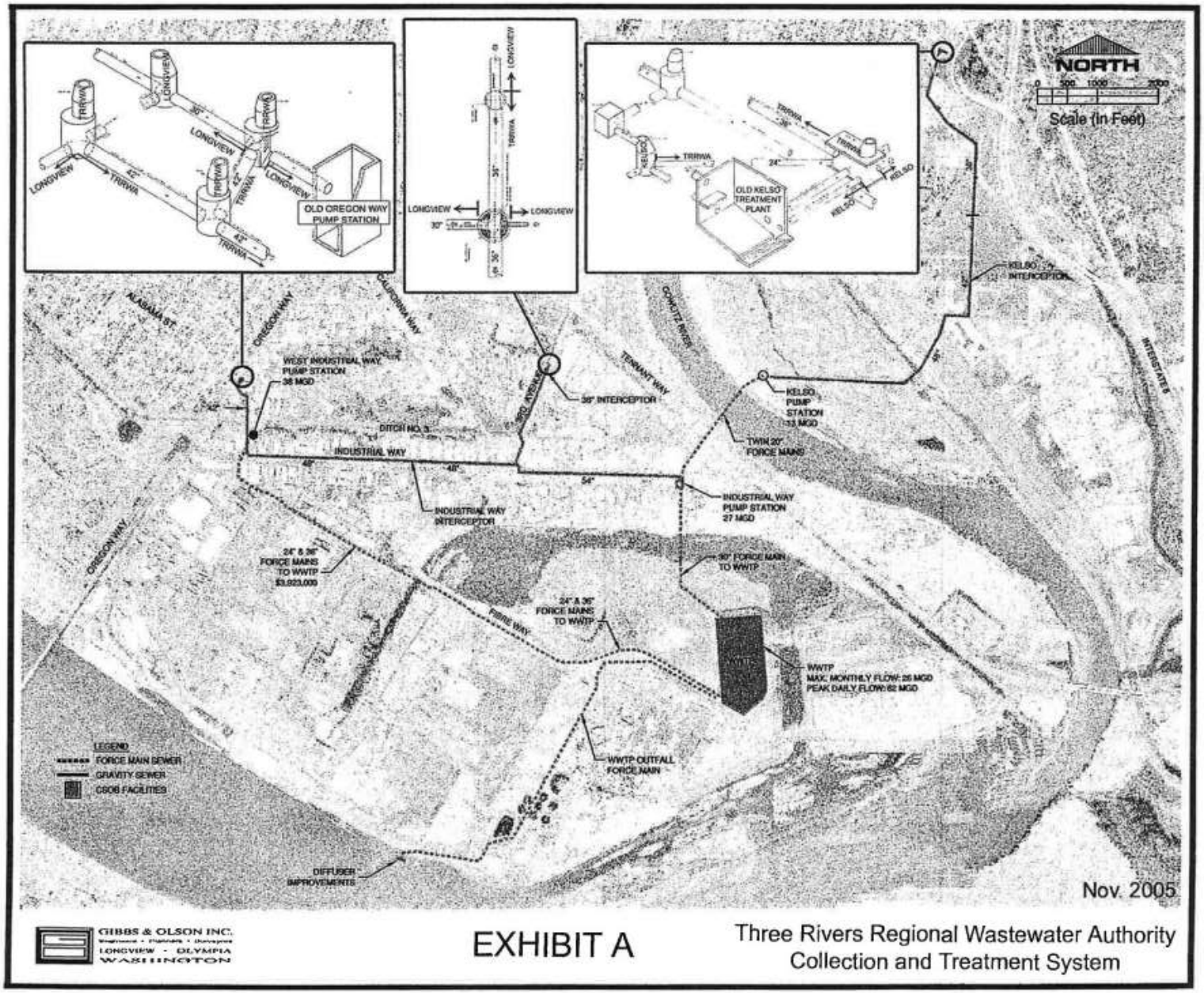
Michael Karnofski, Commissioner

Dennis Weber, Commissioner

ATTEST:

Clerk of the Board

Joe Gardner, Commissioner


NORTH
0 500 1000 2000
Scale (in Feet)
OLD OREGON WAY PUMP STATION
OLD KELSO TREATMENT PLANT
KELSO INTERCEPTOR
WEST INDUSTRIAL WAY PUMP STATION 38 MGD
36" INTERCEPTOR
KELSO PUMP STATION 33 MGD
TWIN 20" FORCE MAINS
DITCH NO. 3
INDUSTRIAL WAY
INDUSTRIAL WAY INTERCEPTOR
INDUSTRIAL WAY PUMP STATION 27 MGD
24" & 36" FORCE MAINS TO WWTP $3,923,000
30" FORCE MAIN TO WWTP
24" & 36" FORCE MAINS TO WWTP
WWTP MAX. MONTHLY FLOW: 26 MGD PEAK DAILY FLOW: 62 MGD
WWTP OUTFALL FORCE MAIN
DIFFUSER IMPROVEMENTS
LEGEND
FORCE MAIN SEWER
GRAVITY SEWER
CSOB FACILITIES
Nov. 2005
GIBBS & OLSON INC.
LONGVIEW - OLYMPIA
WASHINGTON
EXHIBIT A
Three Rivers Regional Wastewater Authority
Collection and Treatment System

AGENDA SUMMARY SHEET

Business of the City Council
City of Kelso, Washington

SUBJECT TITLE: AN ORDINANCE OF THE CITY OF KELSO RELATING TO THE CITY'S PROCEDURES FOR ABATEMENT OF PUBLIC NUISANCES BY ADOPTING A REVISED CHAPTER 8.24 OF THE MUNICIPAL CODE FOR THE ABATEMENT OF PUBLIC NUISANCES, AND ADDING A NEW CHAPTER 15.04 PROPERTY MAINTENANCE TO THE MUNICIPAL CODE AND REPEALING 15.03.140.

Agenda Item:

Dept. of Origin: Community Development

For Agenda of: August 18, 2015

Originator: Steve Taylor

City Attorney: Janean Parker

City Manager: Steve Taylor

PRESENTED BY:
Steve Taylor

Agenda Item Attachments:

Proposed Ordinance
Exhibit A - Proposed amended KMC Chapter 8.24
Exhibit B - Proposed new KMC Chapter 15.04
Existing KMC Section 15.03.140

SUMMARY STATEMENT:

On July 21 Staff gave a presentation regarding the proposed changes to the City's nuisance abatement program. As part of those changes the portions of Chapter 8.24 Nuisance Abatement addressing enforcement and processing violations were incorporated into a new KMC Chapter 1.50 Code Enforcement. The remaining portions of 8.24 were revised to ensure compliance with state law and incorporation of necessary language specific to nuisance related issues.

The specific standards and definitions of nuisances as they relate to the maintenance of real property were incorporated into a new KMC Chapter 15.04 Property Maintenance. This chapter adopts the 2012 version of the International Property Maintenance Code (IPMC) which has been previously adopted by Council and is contained within the current KMC Chapter 15.03. The new chapter will contain more extensive amendments that fit the IMPC standards to the needs of Kelso while also providing code enforcement staff with objective industry standards and removing vague language.

City staff as well as the City Attorney have review and approved the proposed changes.

RECOMMENDED ACTION:

Move to approve on first reading an ordinance amending Chapter 8.24, repealing Section 15.03.140 of the Kelso Municipal Code and adding Chapter 15.04 Property Maintenance.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KELSO RELATING TO THE CITY'S PROCEDURES FOR ABATEMENT OF PUBLIC NUISANCES BY ADOPTING A REVISED CHAPTER 8.24 OF THE MUNICIPAL CODE FOR THE ABATEMENT OF PUBLIC NUISANCES, AND ADDING A NEW CHAPTER 15.04 PROPERTY MAINTENANCE TO THE MUNICIPAL CODE AND REPEALING 15.03.140.

WHEREAS, Kelso Municipal Code Chapter 8.24 Abatement of Public Nuisances was adopted in 2003 and contains several outdated enforcement provisions; and

WHEREAS, the International Property Maintenance Code was most recently adopted in 2012 and contains a comprehensive and uniform set of standards for evaluating the condition of property; and

WHEREAS, the City wishes to update its public nuisance enforcement by updating and removing to a separate chapter—Chapter 1.50 Code Enforcement—those provisions related to the administrative process for enforcement of code violations to provide a uniform abatement process throughout the whole of the Kelso Municipal Code; and

WHEREAS, the City wishes to further update its public nuisance code by revising the International Property Maintenance Code and adopting this Code as a separate chapter of the Kelso Municipal Code as the standard for certain public nuisances related to the condition of real property and incorporating this Chapter by reference into Chapter 8.24;

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF KELSO DO ORDAIN AS FOLLOWS:

SECTION 1. CHAPTER 8.24 AMENDED. That Kelso Municipal Code Chapter 8.24 is hereby amended by adopting a revised Chapter 8.24 as set forth in Exhibit "A" attached hereto and incorporated fully by this reference.

SECTION 2. CHAPTER 15.04 ADDED. That a new Kelso Municipal Code Chapter 15.04 is hereby adopted as set forth in Exhibit "B" attached hereto and incorporated fully by this reference.

SECTION 3. SECTION 15.03.140 REPEALED. That a section 15.03.140 of the Kelso Municipal Code Chapter 15.03 is hereby repealed.

SECTION 4. SEVERABILITY. The provisions of this Ordinance are declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

SECTION 5. EFFECTIVE DATE. This Ordinance shall be in full force and effect on December 1, 2015 upon its passage and publication of summary as required by law.

ADOPTED by the City Council and **SIGNED** by the Mayor this ____ day of _____ _____, 2015.

_____

ATTEST/AUTHENTICATION: MAYOR

_____

CITY CLERK

APPROVED AS TO FORM:

_____

CITY ATTORNEY

PUBLISHED:_____

Chapter 8.24
ABATEMENT OF PUBLIC NUISANCES*

Sections:

*Prior legislation: Ordinances 3106 and 3039.

8.24.010 Purpose and scope.

The purpose of this chapter is to provide for the protection of the health, safety, and welfare of the citizens of the city by protecting the neighborhoods within the city from urban blight and by providing standards for the appearance and condition of properties; to protect the expectations of the citizens of the city to enjoy their dwellings and property without being subjected to unpleasant conditions; and to protect property values and the livability of neighborhoods by providing an abatement process for nuisances as defined within this chapter; and to hold those persons who have, at any time, control over a nuisance, responsible for the abatement thereof. (Ord. 3526 § 2, 2003)

The nuisance code is supplemental to all other laws that have been adopted by the city, and shall be used to help enforce elements within other laws; provided, if specific terms of enforcement and penalties are set forth in the other laws, such provisions shall take precedence over the provisions in the nuisance code. The nuisance code also applies to situations and conditions which are not addressed by other laws of the city. (Ord. 3526 § 2, 2003)

8.24.020 Definitions.

Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this section. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

(1) “Abate” means to repair, replace, remove, destroy or otherwise remedy the condition in question by such means and in such a manner and to such an extent as the authorized representative of the city determines is necessary in the interest of the general health, safety and welfare of the community. It shall include to stop, discontinue, or do away with a condition on any premises, which is in violation of this chapter or any part of the Kelso Municipal Code, which defines a public nuisance.

(2) “Director” means the director of the department or any designated alternate empowered by ordinance or by the city manager to enforce the applicable city ordinance or regulation.

(3) “Authorized representative or agent” means any person having authority to act on behalf of the city of Kelso within the terms of this chapter, including, but not limited to, the city manager, city attorney, applicable Director

(or his/her designee), code enforcement officers and any other person granted the authority to act on behalf of the city pursuant to this chapter.

(4) “City” or “the city” means the city of Kelso, Washington, acting by and through the authorized representatives or agents.

(5) “Code” means the Kelso Municipal Code.

(6) “Omission” means a failure to act.

(7) “Person” means any individual, association, partnership, corporation or legal entity, public or private, and the agents, heirs, executors, administrators, contractors, and assigns of such individual, association, partnership, corporation or legal entity.

(8) “Person responsible for a nuisance violation” or “responsible person” means any person, as above defined, who is required by the applicable regulation to comply therewith, or who commits any act or omission which is constitutes a public nuisance or causes or permits a violation public nuisance to occur or remain upon property in the city, and includes but is not limited to owner(s), lessor(s), tenant(s) or other person(s) entitled to control, use and/or occupy property where a public nuisance occurs.

(9) “Property” means any building, lot, parcel, real estate, land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

(10) “Public Nuisance” means the unreasonable or unlawful use by a person of real or personal property or the unreasonable, indecent, or unlawful personal conduct which materially interferes with or jeopardizes the health, safety, prosperity, quiet enjoyment of property or welfare of others, offends common decency or public morality, or obstructs or interferes with the free use of public ways, places, or bodies of water.

8.24.030 Duty to Maintain Real Property.

Any person owning, leasing, renting, occupying, or in charge of any real property in the City, including vacant lots, has a duty to maintain the property free from junk, trash, yard waste, and any other public nuisance as defined in this Chapter, in order that such property shall not endanger the safety, health, or welfare of the general public.

8.24.040 Nuisances Prohibited.

It is a violation of this Chapter for any person to cause, permit, create, maintain, or allow upon any property any public nuisance within the City, including any public rights of way abutting a person’s property. Each of the following conditions, unless otherwise permitted by law, is hereby determined to be detrimental to the general public health, safety, and welfare and is declared to constitute a public nuisance:

(1) Any violation of the International Property Maintenance Code as adopted by reference and as amended by Chapter 15.04.

(2) Any violation of any Kelso Municipal Code provision declared therein to be a public nuisance,

(3) Any junk vehicles or automobile hulks, or parts thereof in violation of KMC 10.06.

(4) Any items which remain on the public right-of-way for a period of forty-eight hours shall be deemed abandoned and constitute a public nuisance subject to removal by the city with or without notice. The costs of abatement may be assessed against the abutting real estate from which the nuisance was abated.

8.24.050 Abatement of public nuisance.

The person responsible for the public nuisance, as defined herein shall abate such public nuisance by removal, trimming, demolition, rehabilitation or repair of the condition causing the public nuisance and for bringing the property into a safe and reasonable condition.

8.24.060 Penalty; Enforcement.

(1) Any person who willfully or knowingly causes, aids or abets a public nuisance by any act of commission or omission is guilty of a misdemeanor. Upon conviction, the person shall be punished by a fine not to exceed the amount set forth in KMC 1.40. Each day such violation continues shall be considered a separate misdemeanor offense. Misdemeanor prosecution is an alternative, or in addition to any other judicial or administrative remedy provided in this chapter or by law or other code section or regulation. The authorized representative of the city may recommend that the office of the city attorney file a misdemeanor complaint against the person responsible for a code violation when the city has documentation or other evidence that the violation was willful and knowing.

(2) In addition to the criminal remedies set forth herein, in order to discourage public nuisances and/or otherwise promote compliance with this Chapter, the city may, in response to field observations, investigations or reliable complaints, determine that violations of this Chapter have occurred or are occurring, and may utilize any of the civil or administrative compliance and enforcement provisions contained in Chapter 1.50 as adopted or hereafter amended to obtain compliance with the applicable code provisions.

Chapter 15.04
PROPERTY MAINTENANCE CODE

Sections:

15.04.010 International Property Maintenance Code adopted – Purpose.

That a certain document, one copy of which is on file in the office of the city clerk of the city of Kelso, being marked and designated as the International Property Maintenance Code, 2012 Edition, as published by the International Code Council, be and is hereby adopted as the property maintenance code of the city of Kelso, in the state of Washington, for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said property maintenance code on file in the office of the city of Kelso are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, prescribed in KMC 15.04.020.

15.04.020 Amendments to International Property Maintenance Code.

The following sections of the International Property Maintenance Code, 2012 Edition, as adopted in KMC 15.04.010 are hereby amended as follows:

Section 101.1, Title, is amended to read as follows:

> **101.1 Title.** These regulations shall be known as the Property Maintenance Code of the City of Kelso, hereinafter referred to as "this code."

Section 101.3, Intent, is amended to read as follows:

> **101.3 Intent.** This code shall be construed to secure its expressed intent, which is to 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 declared a public nuisance and shall be abated by repair, rehabilitation, vacation, demolition or

removal as to provide a minimum level of health, welfare and safety as required herein. This code is an exercise of the City's police power, and it shall be liberally construed to effect this purpose.

102.1, General, is amended to read as follows:

102.1 General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern. When conflicts occur between this code and the Kelso Municipal Code, the Kelso Municipal Code requirements shall govern.

Section 102.3, Application of other codes, is amended to read as follows:

102.3 Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the International Building Code, International Fuel Gas Code, International Mechanical Code, International Residential Code, the National Electrical Code and other applicable codes as adopted by this jurisdiction. Nothing in this code shall be construed to cancel, modify or set aside any provision of KMC Title 17, Planning and Zoning.

Section 103.1, General, is amended to read as follows:

103.1 General. This code shall be administered by the Community Development Department and the executive official in charge thereof shall be known as the code official.

Sections 103.2, Appointment; 103.3, Deputies; and, 103.4, Liability, are deleted.

Section 103.5, Fees, is amended to read as follows:

103.5 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as set by resolution of the City Council.

Section 107.2, Form, is amended to read as follows:

107.2 Form. Such notice prescribed in Section 107.1 shall be in accordance with Chapter 8.24 KMC and 1.50.

Section 107.3, Method of service, is amended to read as follows:

107.3 Method of service. Notice and orders shall be served in accordance with Chapter 8.24 KMC and 1.50.

Section 107.5, Penalties, is amended to read as follows:

107.5 Penalties. Penalties for noncompliance with orders and notices shall be as set forth in KMC 8.24, KMC 15.03 and KMC 1.50.

Section 109.6, Hearing, is amended to read as follows:

109.6 Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the hearings examiner, be afforded a hearing as described in this code.

Section 111.1, Application for appeal, is amended to read as follows:

111.1 Application for appeal. Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal in accordance with Chapter 8.24 KMC.

Sections 111.2, Membership of board; 111.3, Notice of meeting; 111.4, Open hearing; 111.5, Postponed hearing; 111.6, Board decision; 111.7, Court review; and 111.8, Stays of enforcement, are deleted.

Section 201.3, Terms defined in other codes, is amended to read as follows:

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the International Building Code, International Fire Code, KMC Title 17 – Planning and Zoning, International Plumbing Code, International Mechanical Code, International Residential Code, the National Electrical Code or other applicable codes as adopted by this jurisdiction, such terms shall have the meanings ascribed to them as stated in those codes.

Section 201.5, Parts, is amended to read as follows:

201.5 Parts. Whenever the words “dwelling unit,” “dwelling,” “premises,” “building,” “rooming house,” “rooming unit,” “housekeeping unit,” “story,” “structure” or “vehicle” are stated in this code, they shall be construed as though they were followed by the words “or any part thereof.”

Section 202, the following definitions are hereby added or amended to read as follows:

ATTRACTIVE NUISANCE. All premises within the city which cause the circumstance and/or condition that would reasonably attract any person and such circumstance and/or condition which may constitute a danger to the person(s). Attractive nuisances include, but are not limited to, unused or abandoned refrigerators, freezers or other such large appliances or equipment or any parts thereof; any structurally unsound or unsafe fence or building edifice; any unsecured or abandoned excavation pit, well, cistern, storage tank or shaft; any collection of scrap lumber, trash, vegetation or other similar items; or

unattended machinery or equipment, unsecured, abandoned or vacant buildings, open and unattended vehicles or vehicle trunks, or other similar unguarded conditions or situations that would injure or cause injury to any person(s).

CAR COVER. A cover that is specifically manufactured and commercially retailed for the purpose of covering a vehicle. This cover can be a cover designed for the specific vehicle or type of vehicle or may be designed for a generic vehicle. The cover must be completely opaque, conceal the vehicle entirely and be securely fastened at all times. Generic tarps are not a permitted car cover.

DIRT AND FILTH. Dirt and filth means and includes, but is not limited to, floor, sidewalk, street and other surface sweepings; discards from vacuum cleaners; soot; ashes; matter removed from gutters and downspouts; accumulations of dust, residue from fire other than soot and ashes; hair from humans and animals; and all other discarded, unused and seemingly worthless goods and commodities not otherwise described in this chapter.

DRIVEWAY. The driveway is the permitted surfaced roadway leading from the public right-of-way to a legal parking space.

GARBAGE. Waste and residue from the preparation, cooking and dispensing of food, and from the handling, storage and sale of food and food products including, but not limited to, discarded food wrappings and containers, paper, plastic and metal products used or intended for use in connection with the storage, sale, preparation or “clean-up” relating to food items; egg shells; used coffee grounds; used tea bags; meat trimmings; entrails of animals, poultry or fish; offal; medical wastes including bandages, syringes, medicines, plaster or other casts; and decomposed putrid material; whether such items are alone or in combination with other materials.

GRAFFITI. The writing, painting, or drawing of any inscription, figure, or mark of any type on any public or private building or other structure or any real or personal property owned by any other person unless that person has given permission to the perpetrator for such conduct.

ILLICIT DISCHARGE. Any direct or indirect discharge to the stormwater drainage system that is not composed entirely of stormwater.

INOPERABLE VEHICLE. A vehicle which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

JUNK. Scrapped, broken, or neglected items and materials. Junk includes items such as plastic, cloth, glass, rags, paper or metals that can be converted into usable articles or stock, or articles that have outlived their usefulness in their original form. Examples of “junk” include, but are not limited to, empty bottles and jars; empty metal, plastic or paper products; discarded engine or motor parts; automobile and truck parts of all descriptions; used tires, wheels and inner tubes; discarded batteries; cardboard; discarded and/or pre-used building materials; discarded and/or pre-used electrical and plumbing

materials; broken pieces of concrete; discarded, broken, or neglected electrical, gas or hand-operated appliances; previously used packing materials; discarded, broken, or neglected household goods and furnishing; or any household item located outdoors that is designed for indoor use; as well as parts and pieces of any of the foregoing.

JUNK VEHICLES. Any vehicle meeting at least three (3) of the following requirements: (a) Is three years old or older; (b) Is extensively damaged, such damage including but not limited to any of the following: a broken window or windshield, or missing wheels, tires, motor, or transmission; (c) Is apparently inoperable; or (d) Has an approximate fair market value equal only to the approximate value of the scrap in it.

LANDOWNER. A legal owner of private property, a person with possession or control of private property, or a public official having jurisdiction over public property.

LITTER. Tangible personal property which has been unlawfully scattered and/or abandoned in a public place, typically outdoors, as a form of solid waste – material which, if thrown or deposited, creates a danger to public health, safety and welfare. Litter is further defined as either hazardous, reusable-recyclable, non-hazardous, or non-usable material. Litter includes, but is not limited to, polystyrene foam, plastics, cigarette butts, candy and gum wrappers, paper towels, food wastes, chip bags, aluminum and steel beer/soda cans, leather, rubber, clothing, textiles, wood, glass, metal, abandoned tires, vehicle parts, or other such debris that has fallen onto a public right-of-way as a result of negligent litter; litter from trash-hauling vehicles, unsecured loads, or construction sites.

PLANTING, PARKING STRIP. The area of the right-of-way between the constructed curb or edge of the roadway and the adjoining property line, exclusive of any improved sidewalk or any established pedestrian path.

PUBLICLY VISIBLE OR PUBLIC VIEW. Anything that can be seen by a person with normal vision from any sidewalk, street, alley or other public place, or from any building situated on an adjoining property.

PUBLIC NUISANCE. A nuisance consists of doing an unlawful act, or omitting to perform a duty, or permitting an action or condition to occur or exist which intrudes, annoys, injures or endangers the comfort, repose, health or safety of others, is unreasonably offensive to the senses, or which interferes with or disrupts a neighbor's or citizen's ability to freely use or enjoy their properties or public property adjacent to where the nuisance occurs. Such nuisances include, but are not limited to, the following:

A. Unsecured attractive nuisances;

B. Conditions or acts which annoy, injure, or endanger the comfort, repose, health, or safety of others;

C. Conditions or acts which are offensive to the senses;

D. Conditions or acts which interfere with, obstruct, or tend to obstruct or render dangerous for passage any stream, public park, parkway, square, sidewalk, street, or highway and other rights-of-way in the city;

E. Illicit discharges into the municipal storm drainage system;

F. Unauthorized interference with, damage to, or polluting of designated habitat areas, publicly owned restoration sites, streams, creeks, lakes, wetlands, or tributaries and similar areas thereto;

G. Conditions or acts which obstruct the free use of property so as to essentially interfere with the comfortable enjoyment of life and property;

H. Conditions or acts which lead to blight and contribute to the deterioration of the neighborhood or adjoining property;

I. The improper parking or storage of vehicles on any residential lots which impedes the use of yard areas for light, air circulation, recreation, and landscaping;

J. Those acts or omissions defined in RCW 7.48.140 and 9.66.010.

PREMISES. Any building, lot, parcel, alley, real estate or land or portion of land whether improved or unimproved, including adjacent sidewalks, parking strips and street.

PUBLIC RIGHT-OF-WAY OR RIGHT-OF-WAY. “Right-of-way” means all real property owned or held by the city in fee, or by way of easement, or dedicated to the public and located within the city, and used or intended for use as a street, alley, sidewalk, public way or easement for public or private utilities, whether developed or undeveloped.

SPECIAL INTEREST VEHICLE and/or HISTORIC AUTOMOBILE. Any vehicle as defined above, at least 30 years old on the date of any attempt by Code Official, or a motor vehicle which meets any of the following definitions: (a) A make of motor vehicle which is no longer manufactured; or, (b) A make or model of motor vehicle produced in limited or token quantities; or, (c) A make or model of motor vehicle in the special interest market which has appreciated in value during the past year.

TRASH AND WASTE. Trash and waste means, but is not limited to ashes; leaves; branches and trimmings from trees, shrubs and hedges; discarded Christmas trees; excrement and undigested residue of food eliminated by humans, animals, fish and birds; lawn, yard, garden, shrub and tree trimmings; garbage, junk and filth; discarded clothing of all descriptions; decayed or decaying materials of all kinds and descriptions; and insect-infested materials of all kinds and descriptions; whether such items are alone or in combination with other materials.

VEHICLE. A vehicle includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, including but not limited to, automobiles, motorcycles, trucks, buses, motorized recreational vehicles,

campers, travel trailers, boat trailers, utility trailers, or other similar devices capable of moving or being moved on public right-of-way, and shall also include parts of vehicles.

WATERCRAFT. A watercraft means any boat, vessel, or other craft used for navigation on or through water. (Does not include kayaks or canoes).

WEEDS. Weeds shall be defined as those plants designated as Class A, B, and C Noxious weeds by the state noxious weed control board, including but not limited to all grasses, dandelions, morning glory, uncontrolled berry bushes, and other weeds, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

YARD. Any open space on a lot or lots.

Section 302.1, Sanitation, is amended to read as follows:

302.1 Sanitation. All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition free of junk, garbage, trash, rubbish, filth and waste.

Section 302.3, Sidewalks and driveways, is amended to read as follows:

302.3 Sidewalks and driveways. All sidewalks, walkways, stairs, driveways, parking and/or planting strips, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from encumbrances and hazardous conditions as specified, but not limited to those in Chapter 12.12 KMC.

Section 302.4, Weeds, is amended to read as follows:

302.4 Weeds, grass or vegetation. All premises and exterior property including any unimproved portion of any street or alley to the center thereof, and the portion of any improved street within the area known as the parking strip, bordering on any such lot or lots, land or lands, shall be maintained free from weeds or plant growth in excess of 12 inches or in a state of having gone to seed. All noxious weeds shall be prohibited. All grasses in excess of 12 inches in height shall also be prohibited subject to applicable zoning requirements. Weeds shall be defined as those plants designated as Class A, B, and C Noxious weeds by the state noxious weed control board, including but not limited to all grasses, dandelions, morning glory, uncontrolled berry bushes, and other weeds, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens not in violation of KMC 17.40.

Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to

enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.

Section 302.8, Motor Vehicles, is amended to read as follows:

302.8 Motor vehicles/vehicles/watercraft. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle, vehicle, watercraft or parts thereof shall be parked, kept or stored on any premises, and no vehicle or watercraft shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth. Such vehicles shall be declared to be public nuisances which shall be abated and removed as specified in this code; provided that this section shall not apply to the following:

1. A vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed auto wrecker or licensed vehicle dealer and is fenced according to the provisions of RCW 46.80.130;

2. Any historic automobile, special interest vehicle or inoperable vehicle that is in the process of being restored; provided that all such vehicles and parts thereof which are not licensed or not operable shall be stored or parked within a building in a lawful manner where they are not publicly visible; or parked in a parking area and screened in accordance with KMC Chapter 17.40; or

3. A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes or is “screened” where it is not publicly visible in accordance with KMC Chapter 17.40. This work shall be performed in compliance with Section 302.12 and in accordance with applicable zoning regulations.

Section 302.10, Vehicles and/or machinery parts, is added to read as follows:

302.10 Vehicles and/or machinery parts. Except where permitted and licensed as a wrecking yard, all premises within the city shall be maintained free of the existence and maintenance of a storage area, junkyard or dumping ground for the wrecking or dismantling of automobiles, trucks, trailers, house trailers, boats, tractors or other vehicles or machinery of any kind, or for the storing or leaving of worn out, wrecked, inoperative or abandoned automobiles, trucks, trailers, house trailers, boats, tractors or other vehicles or machinery of any kind or of any major parts thereof.

Section 302.11, Vehicle parking/storage, is added to read as follows:

302.11 Vehicle parking/storage. Limitations on the parking of vehicles, boats, trailers, commercial and heavy commercial equipment.

302.11.1 Vehicles. Motor vehicles, or other vehicles not covered in this section, shall be parked or stored only within parking areas as defined in Chapter 17.40 KMC and shall not be parked or stored within property setbacks.

302.11.2 Recreational vehicles, boats, trailers. Recreational vehicles, boats, and trailers shall be parked or stored on an approved parking surface, shall not be parked or stored in required property setbacks and shall be in conformance with Chapter 17.40 KMC.

302.11.3 Machinery and equipment. Machinery and equipment shall be parked, kept or stored on an approved parking surface, shall not be parked or stored in required property setbacks and shall be in conformance with Chapter 17.40 KMC.

302.11.4 Truck tractors, semi-trailers and commercial equipment. Truck tractors, as defined in RCW 46.04.655, and semi-trailers, as defined in RCW 46.04.530, or commercial equipment, shall not be parked or stored in residentially zoned areas, on residential property in other zones, or on sites that have not been permitted, improved and approved for such use. This requirement shall not apply when equipment is used in conjunction with a permitted or allowed project. These vehicles shall be parked or stored on an approved surface outside of required property setbacks.

Section 302.12, Vehicle and equipment repair on residential premises, is added to read as follows:

302.12 Vehicle and equipment repair on residential premises. Servicing, repairing, assembling, modifying, restoring, or otherwise working on any vehicle on any residential premises shall be subject to the following:

302.12.1 Work shall be limited to the repair and maintenance of vehicles, equipment, or other conveyance currently registered as specified in the Washington Vehicle Code to the occupant or a member of the occupant's family.

302.12.2 Work is limited to the approved parking surface or garage or approved accessory structure; at no time can repairs be made on the lawn, sidewalk, planting strip or the street.

302.12.3 Only minor repairs such as an oil change, tire repair, small parts change, or minor routine maintenance may be performed outside of a garage or approved accessory structure and only then on an approved parking surface. The associated vehicle(s) in which such minor repairs exceed seven (7) days shall be moved inside of a building that meets applicable code and zoning requirements or be properly "screened" from public view and parked on an approved surface outside of property setbacks.

302.12.4 Work which creates a nuisance shall not be permitted.

Section 302.13, Dangerous fences and structures, is added to read as follows:

302.13 Dangerous fences and structures. All premises within the city shall be maintained free of any fence or other structure which is in a sagging, leaning, fallen, decayed or other dilapidated or unsafe condition.

Section 302.14, Dangerous trees, is added to read as follows:

302.14 Dangerous trees. All premises within the city shall be maintained free of any dead, diseased, infested or dying tree that constitutes a danger to street trees, streets, alleys or sidewalks.

Section 302.15, Obscured public facilities, is added to read as follows:

302.15 Obscured public facilities. All premises within the city shall be maintained free of any object blocking, vine or climbing plants growing into, onto or over any street, tree growing within a public right-of-way or any public hydrant, utility meter, pole, street light, utility device, street sign or public facility or device; or the existence of any uncontrolled, uncultivated or untended shrub, vine or plant growing on, around or nearby any hydrant, standpipe, sprinkler system connection or any other appliance or facility provided for fire protection purposes in such a way as to obscure the view thereof or impair the access thereto.

302.15.1 Overhanging trees and shrubs. Every property owner having any tree or shrub overhanging any street, alley or right-of-way within the city shall prune the branches so that such branches shall not interfere with the unobstructed use of the street, alley, sidewalk or right-of-way or obstruct the view of any street intersection. Trees and shrubs overhanging the street and alley shall be pruned to allow a minimum 14-foot clearance above the entire surface of the street or alley. Trees and shrubs overhanging the sidewalk and/or right-of-way shall be pruned to allow a minimum 8-foot clearance above the entire sidewalk surface and/or right-of-way to the adjoining property line. No person shall, without a written permit of the city manager or his/her designee cut, prune, rake, climb, injure or remove any living tree in any public right-of-way, park, planting/parking strip or other public place in the city in accordance with KMC 17.40 and15.05

Section 302.16, Privies, vaults, cesspools, etc., is added to read as follows:

302.16 Privies, vaults, cesspools, etc. All premises within the city shall be maintained free of any privies, vaults, cesspools, sumps, pits, trenches or like places which create a dangerous condition or are not securely protected from flies and rats, or which are foul or malodorous.

Section 302.17, Hedges, is added to read as follows:

302.17 Hedges. The existence on any real property within the city of a hedge in violation of Chapter 17.40 KMC is a public nuisance.

Section 302.18, Fences, is added to read as follows:

302.18 Fences. The existence on any real property within the city of a fence in violation of Chapter 17.40 KMC is a public nuisance.

Section 302.19, Outdoor wood storage, is added to read as follows:

302.19 Outdoor wood storage. Outdoor wood and firewood shall be neatly stacked not to exceed six (6) feet in height, shall be adequately supported so as not to pose a hazard to person or property, and shall not be placed in any setback or other restricted area on the property in which it is being stored.

Section 302.20, Attractive nuisance, is added to read as follows:

302.20 Attractive nuisance. All premises within the city shall be maintained free of any accessible attractive nuisance.

Section 302.21, Accumulation of dangerous materials, is added to read as follows:

302.21 Accumulation of dangerous materials. All premises within the city shall be maintained free of the existence of any accumulation of materials, substances or objects in a location when the same endangers property, health, safety or constitutes a fire hazard.

Section 302.22, Open storage of materials and furnishings, is added to read as follows:

302.22 Open storage of materials and furnishings. No person shall openly store or keep any equipment, materials or furnishings; or any item that creates an unsightly condition or one that promotes urban blight or public nuisance. This may include, but is not limited to, indoor furniture, household appliances, auto parts, shopping carts or building materials.

Exception: Building materials neatly stacked and stored for no less than sixty (60) days for a construction project permitted with the city. The material must be weather protected, shall not be placed within property setbacks or placed in such a manner that would create a danger to property, health and/or safety.

Section 302.23, Nuisance premises, is added to read as follows:

302.23 Nuisance premises. All premises within the city shall be maintained free of any structure allowing or maintaining prostitution, or where there is the use, sale, manufacturing or distributing of any illegal narcotics or controlled substance, or at which there is a pattern of criminal activity.

Section 302.24, Alley/Public right-of-way maintenance, is added to read as follows:

302.24 Alley/Public right-of-way maintenance. The owner, lessee, occupant or agent thereof, or any person having the care or charge of any property that has alley access or an alley right-of-way easement, shall be responsible for maintaining that portion of the alley that fronts said property up to

and including one-half of the apparent alley centerline, and shall keep said alley or alley easement maintained in a clean, safe and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health, safety or welfare. Public right-of-way maintenance shall also include utility easements or parking and/or planting strips. Such blighting problems shall include, but are not limited to: overgrown trees, shrubs, vegetation, weeds and/or grasses; garbage; junk; rubbish; dirt and filth; litter; trash; and waste. This definition shall also include, but not be limited to, such items as couches, loveseats, chairs, mattresses, and other similar household furniture. Such items, if placed in any city alleyway or alley easement, shall be considered a public nuisance and abated within the time established by the city in accordance with Section 106.

Section 302.25, Garage sales, is added to read as follows:

302.25 Garage sales. Sales of secondhand merchandise, conducted from residences, and designated as “garage sales,” “estate sales,” “yard sales,” and/or “moving sales” are allowed without a permit provided they are conducted under the following requirements:

(a) Shall be in conformance with KMC 5.03, KMC 17.62, KMC 17.15;

(b) Garage sale displays, signs and merchandise must be removed after/between sales events.

Section 303.1, Swimming pools, is amended to read as follows:

303.1 Swimming pools, spas, and ponds. Swimming pools, spas, hot tubs and/or ponds shall be maintained in a clean and sanitary condition in good repair and shall comply with the provisions of the International Residential Code, Appendix G. Except for regulated wetlands and City-approved structures related to storm drainage systems, all premises within the city shall be maintained free of the existence of all stagnant, pooled water in which mosquitoes, flies or other insects may multiply.

Section 303.2, Enclosures, is amended to read as follows:

303.2 Enclosures. See the International Residential Code, Appendix G, Section AG105, Barrier Requirements.

Section 304.2, Protective treatment, is amended to read as follows:

304.2 Protective treatment. All exterior surfaces, including but not limited to doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. Tarp use for weather protection may not exceed 30 days. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all

surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Surfaces designed for stabilization by oxidation are exempt from this requirement.

Section 304.3, Premises identification, is amended to read as follows:

304.3 Premises identification. Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be a minimum of 3 inches high and shall not be sight obscured.

Section 304.7, Roofs and drainage, is amended to read as follows:

304.7 Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Tarp use for weather protection may not exceed 30 days. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

Section 304.14, Insect screens, is deleted.

Section 308.1, Accumulation of rubbish or garbage, is amended to read as follows:

308.1 Accumulation of rubbish or garbage. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish, junk, trash, filth, waste or garbage.

Section 308.2, Disposal of rubbish, is amended to read as follows:

308.2 Disposal of rubbish. Every occupant of a structure shall dispose of all rubbish, junk, trash, filth, waste or garbage in a clean and sanitary manner by placing such rubbish, junk, trash, filth, waste or garbage in approved containers as provided for in Chapter 8.04 KMC, or by taking it to an approved disposal facility.

308.2.1 Rubbish/garbage storage facilities. The owner of every occupied premises shall maintain approved covered containers for rubbish, junk, trash, filth, waste or garbage, and the owner of the premises shall be responsible for the removal of rubbish, junk, trash, filth, waste or garbage from the premises.

308.2.2 Dangerous and/or discarded appliances. Except when stored within a building, as defined in Section R202 of the International Residential Code, refrigerators, household appliances, and similar equipment shall not be discarded, abandoned or stored on any premises within the City.

Section 308.3, Disposal of garbage, is amended to read as follows:

308.3 Disposal of garbage. Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage container as provided for in Chapter 8.04 KMC or by taking it to an approved disposal facility.

308.3.1 Containers. The operator of every establishment producing garbage shall maintain, and at all times cause to be utilized, approved containers as set forth in Chapter 8.04 KMC.

308.3.2 Undumped garbage or rubbish containers. All premises within the city shall be maintained free of the existence of any garbage or rubbish containers or any can, bag, box or other device, which is filled to 50 percent or more of its capacity with garbage, trash, rubbish, waste, dirt or filth, and which has remained upon such premises for more than 14 successive days.

Section 308.4, Containers – within the public right-of-way, is added to read as follows:

308.4 Containers – within the public right-of-way. No residential or commercial solid waste or recycling cart shall be placed along a public street, alley or right-of-way, on a public sidewalk, or on other public property any sooner than 24 hours before the time of collection. All residential and commercial solid waste and recycling carts placed in the public right-of-way for collection shall be removed from those public areas within 24 hours of the time of collection, except when such established day for collection falls on a designated holiday in which case collection will be conducted on the next succeeding workday, and the containers shall be removed and replaced to their appropriate storage location by the morning following collection.

Section 308.5, Rubbish and garbage exceptions, is added to read as follows:

307.5 Rubbish and garbage exceptions. The following shall not be a violation of this section.

A. Compost piles less than four feet in height and six feet in diameter at ground level, and 30 feet or more from any dwelling, and four feet or more from adjoining properties.

B. Storm debris within 30 days following a storm event.

C. Construction residue and debris during and for 14 days following completion of work.

D. Fallen leaves, tree needles, tree fruit and similar vegetation, during the months of October through April, inclusive.

E. The accumulation and temporary storage, in containers designated for such purposes, of “recyclable” materials pursuant to a program of recycling adopted by the city; provided, however, that such containers must not be publicly visible or they must be made available to the city’s garbage or “recycle contractor” within 14 days after having been filled to 50 percent or more of their capacity.

F. Uncultivated, uncut or untended weeds, grass, bushes or other vegetation not constituting a health or fire hazard, existing in a natural state on undeveloped, agricultural, industrially zoned, “open space” or “green belt” areas.

Section 505.1, General, is amended to read as follows:

505.1 General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the Uniform Plumbing Code.

Section 505.4, Water heating facilities, is amended to read as follows:

505.4 Water heating facilities. Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature of not less than 110°F (43°C) nor shall the temperature be set higher than the maximum allowed by federal, state or local law. A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

Section 507.1, General, is amended to read as follows:

507.1 General. Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall not be discharged in a manner that creates a public nuisance.

A. It is a violation for any person to break, damage, destroy, uncover, deface or tamper with any structure or facility which is part of the stormwater runoff and erosion control system.

B. It is a violation for any person who is responsible to do so, to fail to maintain stormwater runoff and/or erosion control facilities and structures as required by this chapter and 13.09 KMC. Each calendar day that a violation occurs constitutes a separate offense. In addition, the City may institute injunctive, mandamus, or other appropriate action or proceedings for the enforcement of this chapter.

Section 602.2, Residential occupancies, is amended to read as follows:

602.2 Residential occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms. Cooking appliances shall not be used as a means to provide required heating.

Section 602.3, Heat supply, is amended to read as follows:

602.3 Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat to maintain a temperature of not less than 68° F (20° C) in all habitable rooms, bathrooms, and toilet rooms.

Exceptions: When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in KMC 15.03.030.

Section 602.4, Occupiable work spaces, is amended to read as follows:

602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat to maintain a temperature of not less than 65 °F (18° C) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.

2. Areas in which persons are primarily engaged in vigorous physical activities.

Section 604.2, Service, is amended to read as follows:

604.2 Service. The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the National Electrical Code. Dwelling units shall be served by a three-wire, 120/240 volt, single phase electrical service having a rating of not less than 60 amperes.

Section 606.1, General, is amended to read as follows:

606.1 General. Elevators, dumbwaiters and escalators shall be maintained in compliance with ASME A17.1 and the L&I Elevator rules. The most current certification of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter, or the certificate shall be available for public inspection in the office of the building operator. The inspection and tests shall be performed at not less than the periodical intervals listed in ASME A17.1, Appendix N, except where otherwise specified by the authority having jurisdiction.

Section 702.3, Locked doors, is amended to read as follows:

702.3 Locked doors. All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the International Building Code.

Section 704.2, Smoke alarms, is amended to read as follows:

704.2 Smoke alarms. Single- or multiple-station smoke alarms shall be installed and maintained in Group R occupancies, regardless of *occupant* load at all of the following locations:

1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of *bedrooms.*
2. In each room used for sleeping purposes.
3. In each story within a *dwelling unit,* including *basements* and cellars but not including crawl spaces and uninhabitable attics. In dwellings or *dwelling units* with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

Single- or multiple-station smoke alarms shall be installed in other groups in accordance with the *International Fire Code.*

Section 704.4, Interconnection, is amended to read as follows:

704.4 Interconnection. Where more than one smoke alarm is required to be installed within an individual dwelling unit in Group R and in dwellings not regulated as Group R occupancies, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

Exception:

1. Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or *basement* available which could provide access for interconnection without the removal of interior finishes.

Chapter 8 Referenced Standards.

References to the electric code shall mean the National Electric Code as adopted by the State of Washington.

15.04.030 Severability.

If any one or more section, subsections or sentences of this chapter are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this chapter and the same shall remain in full force and effect.

15.03.140 International Property Maintenance Code adopted.

The 2012 Edition of the International Property Maintenance Code as published by the International Code Council is adopted with the following amendments:

101.1 Title.

These regulations shall be known as the Property Maintenance Code of the City of Kelso, hereinafter referred to as “this code.”

102.1 General.

When conflicts occur between this code and the Kelso Municipal Code, the Kelso Municipal Code requirements shall govern.

103.1 General.

The code enforcement division is hereby created and the official in charge thereof shall be known as the code official.

103.5 Fees.

Is not adopted. Fees shall be as set by resolution of the City Council.

106.3 Prosecution of violation.

Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a gross misdemeanor, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

107.5 Penalties.

Penalties for noncompliance with orders and notices shall be as set forth in KMC 8.24 and KMC 15.03.

201.3 Terms defined in other codes.

Where terms are not defined in this code and are defined in the International Building Code, International Residential Code, International Mechanical Code, International Fire Code, International Plumbing Code, or the National Electrical Code, such terms shall have the meanings ascribed to them as in those codes.

304.14 Insect screens. Is not adopted.

304.18.1 Doors. Is not adopted.

505.1 General.

Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the Uniform Plumbing Code.

505.4 Water heating facilities.

Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature of not less than 110°F (43°C) nor shall the temperature be set higher than the maximum allowed by federal, state or local law. A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

602.2 Residential occupancies.

Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

602.4 Occupiable workspaces.

Indoor occupiable workspaces shall be supplied with means to provide heat to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

604 Electrical facilities.

604.2 Service.

The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the NEC (National Electric Code).

Chapter 8 Referenced Standards.

References to the electric code shall mean the National Electric Code as adopted by the State of Washington.

(Ord. 3802 § 1 (Exh. A), 2013)

AGENDA SUMMARY SHEET

Business of the City Council
City of Kelso, Washington

SUBJECT TITLE: AN ORDINANCE OF THE CITY OF KELSO RELATING TO CODE ENFORCEMENT BY ADOPTING A NEW CHAPTER 1.50 CODE ENFORCEMENT TO THE KELSO MUNICIPAL CODE

Agenda Item:

Dept. of Origin: Community Development

For Agenda of: August 18, 2015

Originator: Steve Taylor

City Attorney: Janean Parker

City Manager: Steve Taylor

PRESENTED BY:

Steve Taylor

Agenda Item Attachments:

Proposed Ordinance
Exhibit A - Proposed new KMC Chapter 1.50
Memo from City Attorney

SUMMARY STATEMENT:

On July 21 Staff gave a presentation regarding proposed changes to the City's nuisance abatement program. As part of those changes staff is proposing the adoption of a general code enforcement chapter that will outline the process for addressing violations of the nuisance abatement code as well as violations of other parts of the Kelso Municipal Code that have been identified as compatible with the outlined process. Other chapters that have been identified by staff will be brought forward at later meetings and will have the same effective date as this ordinance.

City staff and the City Attorney have reviewed and approved the proposed changes.

RECOMMENDED ACTION:

Move to approve on first reading an ordinance adding Chapter 1.50 Code Enforcement to the Kelso Municipal Code.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KELSO RELATING TO CODE ENFORCEMENT BY ADOPTING A NEW CHAPTER 1.50 CODE ENFORCEMENT TO THE KELSO MUNICIPAL CODE

WHEREAS, Kelso Municipal Code Chapter 8.24 Abatement of Public Nuisances was adopted in 2003 and contains several outdated enforcement provisions; and

WHEREAS, in conjunction with the revision of Chapter 8.24, the City wishes to consolidate the enforcement provisions of the old Chapter 8.24 with updated enforcement provisions related to the whole of the municipal code to provide a single uniform and efficient enforcement process for code violations throughout the City; and

WHEREAS, the City wishes to update this enforcement process to more clearly describe the enforcement process, include alternatives for voluntary compliance, and provide a progressive enforcement program that utilizes a civil hearing process.

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF KELSO DO ORDAIN AS FOLLOWS:

SECTION 1. CHAPTER 1.50 ADDED. That a new Kelso Municipal Code Chapter 1.50—Code Enforcement is hereby adopted as set forth in Exhibit "A" attached hereto and incorporated fully by this reference.

SECTION 2. SEVERABILITY. The provisions of this Ordinance are declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

SECTION 3. EFFECTIVE DATE. This Ordinance shall be in full force and effect on December 1, 2015 upon its passage and publication of summary as required by law.

ADOPTED by the City Council and **SIGNED** by the Mayor this ____ day of _____ _____, 2015.

_____

ATTEST/AUTHENTICATION: MAYOR

_____

CITY CLERK

APPROVED AS TO FORM:

_____

CITY ATTORNEY

PUBLISHED:_____

Chapter 1.50
Code Enforcement

Sections:

1.50.010 Purpose and scope.

The purpose of this chapter is to set forth the enforcement procedures for violations of the Kelso Municipal Code, to provide an opportunity for a prompt hearing and decision on alleged violations, and to establish monetary penalties for such violations. This Chapter shall apply to the violations of public nuisance provisions of KMC Chapter 8.24, and such other sections of the Kelso Municipal Code making reference to this Chapter.

1.50.020 Definitions.

Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this section. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the singular. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

(1) "Abate" means to repair, replace, remove, destroy or otherwise remedy the condition in question by such means and in such a manner and to such an extent as the authorized representative of the City determines is necessary in the interest of the general health, safety, welfare of the community or the environment. It shall include to stop, discontinue, or do away with a condition on any premises, which is in violation of this chapter or any part of the Kelso Municipal Code.

(2) "Director" means the director of the department or any designated alternate empowered by ordinance or by the City Manager to enforce the applicable city ordinance or regulation.

(3) "Authorized representative or agent" means any person having authority to act on behalf of the City of Kelso within the terms of this chapter, including, but not limited to, the City Manager, City Attorney, applicable Director (or his/her designee), code enforcement officers and any other person granted the authority to act on behalf of the City pursuant to this chapter.

(4) "Civil violation" means a code violation for which a monetary penalty may be imposed.

(5) "City" or "the City" means the City of Kelso, Washington, acting by and through the authorized representatives or agents.

(6) "Code" means the Kelso Municipal Code.

(7) “Code violation” or “violation” means and includes an act or omission contrary to:

(a) Any ordinance, resolution, regulation or public rule of the City.

(b) The conditions of any permit, notice and order or stop work order issued pursuant to any such ordinance, resolution, regulation or public rule.

(8) “Determination of compliance” means a written statement from the City that evidence to determine that the violation(s) has been sufficiently abated as to the violation(s) stated in the voluntary compliance agreement, warning notice or notice and order.

(9) “Development” means the activity or purpose for which land or structures or a combination of land and structures are designed, arranged, occupied or maintained together with any associated site improvements. This definition includes the construction, erection, placement, movement or demolition of any structure or site improvement and any physical alteration to land itself including any clearing, grading, leveling, paving or excavation. “Development” also means any existing or proposed configuration of land, structures and site improvements, and the use thereof.

(10) “Emergency” means a situation which in the opinion of the Director requires immediate action to prevent or eliminate an immediate threat to the health or safety of people or property.

(11) “Hearing Examiner” or “examiner” means the City of Kelso Hearing Examiner, as provided by Chapter 2.14 KMC, Hearing Examiner, as adopted or hereafter amended.

(12) “High risk case” means where there is an imminent likelihood of actual bodily harm, damage to public resources or facilities, damage to real or personal property, public health exposure or environmental damage or contamination.

(13) “Omission” means a failure to act.

(14) “Permit” means any form of certificate, approval, registration, license or any other written permission issued by the city. All conditions of approval, and all easements and use limitations shown on the face of an approved final plat map which are intended to serve or protect the general public are deemed conditions applicable to all subsequent plat property owners, owners’ tenants, and owners’ agents as permit requirements enforceable under this chapter.

(15) “Person” means any individual, association, partnership, corporation or legal entity, public or private, and the agents, heirs, executors, administrators, contractors, and assigns of such individual, association, partnership, corporation or legal entity.

(16) “Person responsible for a code violation” or “responsible person” means any person, as above defined, who is required by the applicable regulation to comply therewith, or who commits any act or omission which is a civil violation or causes or permits a civil violation to occur or remain upon property in the City, and includes but is not limited to owner(s), lessor(s), tenant(s) or other person(s) entitled to control, use and/or occupy property where a civil violation occurs.

(17) “Property” means any building, lot, parcel, real estate, land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

(18) “Public rule” means any rule, including those policies and procedures of any department of the City, properly promulgated to implement provisions of this code.

(19) “Remediate” means to restore a site to a condition that complies with sensitive area or other regulatory requirements as they existed before the violation occurred; or, for sites that have been degraded under prior ownerships, restore to a condition which does not pose a probable threat to the environment or to the general public health, safety or welfare.

(20) “Repeat violation” means a violation of the same regulation in any location by the same person for which voluntary compliance has been sought within one year or a notice and order has been issued within two years.

(21) “Resolution,” for purposes of this chapter, means any resolution adopted by the City of Kelso City Council.

(22) “Warning” is any notice given verbally or in writing advising a person responsible for a code violation of such code violation.

(23) “Subject Property” means any building, lot, parcel, real estate, land, or portion of land, whether improved or unimproved, including adjacent sidewalks and planter strips whereupon a public nuisance or code violation occurs.

1.50.030 Obligations of person responsible for code violation.

It shall be the responsibility of any person identified as responsible for a code violation to achieve full code compliance, including bringing property into a safe and reasonable condition. Payment of civil penalties, applications for permits, acknowledgement of stop work orders, and compliance with other remedies does not substitute for performing corrective work and/or performance of actions required for code compliance and/or having property brought into compliance to the extent reasonably possible under the circumstances; the department director shall have the final authority to determine what is “reasonably possible under the circumstances.”

1.50.040 Enforcement authority and administration

(1) In order to discourage public nuisances and/or otherwise promote compliance with the Kelso Municipal Code, the City may, in response to field observations, investigations or reliable complaints, determine that violations of the Kelso Municipal Code have occurred or are occurring as adopted or hereafter amended. The City may utilize any of the civil or administrative compliance and enforcement provisions contained in this Chapter.

(a) Issue warning notices, notice and orders, assess civil penalties, and/or recover costs as authorized by this chapter and/or other applicable code sections;

(b) Enter into voluntary compliance agreements with a person responsible for code violations;

(c) Require abatement by means of a judicial abatement order, and if such abatement is not timely completed by the person responsible for a code violation, undertake the abatement and charge the reasonable costs of such work as authorized by this chapter;

(d) Forward a written statement providing all relevant information relating to the violation to the office of the City Attorney with a recommendation to prosecute willful and knowing violations as misdemeanor offenses; and/or

(e) Require any other remedy available by law through the Hearing Examiner and/or court of applicable jurisdiction in Cowlitz County.

(2) The procedures set forth in this chapter are not exclusive. These procedures shall not in any manner limit or restrict the City from remedying or abating violations of the Kelso Municipal Code in any other manner authorized by law.

(3) In addition to, or as an alternative to, utilizing the procedures set forth in this chapter, the City may seek legal or equitable relief to abate and/or remedy any conditions or enjoin any acts or practices which constitute a code violation.

(4) In addition to, or as an alternative to, utilizing the procedures set forth in this chapter, the City may assess or recover civil penalties accruing under this chapter by legal action filed in the court of applicable jurisdiction in Cowlitz County by the office of the City Attorney.

(5) The provisions of this chapter shall in no way adversely affect the rights of the owner, lessee, or occupant of any property to recover all costs and expenses incurred and required by this chapter from any person causing such violation.

(6) In administering the provisions for code compliance, the City shall have the authority to waive any one or more such provisions so as to avoid substantial injustice. Any determination of substantial injustice shall be made in writing supported by appropriate facts. For purposes of this subsection, substantial injustice cannot be based exclusively on financial hardship.

(7) The City may, upon presentation of proper credentials, with the consent of the owner or occupier of a building or property, or pursuant to a lawfully issued court order, enter at reasonable times any building or property subject to the consent or court order to perform the duties imposed by the Kelso Municipal Code.

(8) The City may request that the police, appropriate fire district, Cowlitz Regional Health District, or other appropriate city department or other public agency assist in enforcement of this code.

1.50.050 Transfer of ownership.

It shall be unlawful for the owner of any dwelling unit, building, structure or property who has received a notice and order to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit, building, structure or property to another until the provisions of the notice and order have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any notice and order issued by the community development director, or his authorized agent and shall furnish to the community development director, or his authorized agent a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such notice and order and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order.

1.50.060 Procedures when probable violation is identified.

(1) The City shall determine, based upon information derived from sources including, but not limited to, field observations, the statements of witnesses, relevant documents, and data systems for tracking violations and applicable city codes, regulations and other applicable laws, whether or not a violation has occurred. When the City has reasonable cause to determine that a violation has occurred, the violation should be documented and the person responsible for the code violation notified of such violation.

(2) When the City determines a violation has occurred, the City shall issue a written warning violation to the person determined to be responsible for the violation and the owner of the property, if different. The warning shall inform the person of the code violation of the violation and allow the person an opportunity to correct it. In cases of emergency or a high risk case the City may require immediate correction.

(3) The responsible person and the City may enter into a voluntary compliance agreement. If the responsible person does not agree to a voluntary compliance agreement, the City may issue a notice and order not earlier than 10 days from the date of the first warning by the City. Nothing herein is to limit the ability of the City and the responsible person from entering into a voluntary compliance agreement at any time prior to the appeal decision.

(4) The department director shall not be required to issue a warning and may immediately require correction, issue a notice and order, criminal citation, or notice of infraction in the following circumstances:

(a) High risk cases;

(b) Cases involving the public right-of-way;

(c) Repeat violation cases;

(d) Cases that are already subject to a voluntary compliance agreement;

(e) When the Director determines, based on the circumstances, that a warning is not appropriate.

(5) The responsible party shall be responsible for advising the department director of his/her compliance with any warning or notice and order. The department director shall make any re-inspections as determined necessary by such department director.

1.50.070 Service – Warning notice and notice and order.

(1) Service of a written warning notice or notice and order shall be made on a person responsible for a code violation by one or more of the following methods:

(a) Personal service of a warning notice or notice and order may be made on the person identified by the City as being responsible for the code violation, or by leaving a copy of the notice and order at the person's house of usual abode with a person of suitable age and discretion who resides there, or if the violation involves a business, with an employee of the business of a suitable age and discretion;

(b) Service directed to the business owner, landowner and/or occupant of the property may be made by posting the notice and order in a conspicuous place on the property where the violation occurred and concurrently mailing notice as provided for below, if a mailing address is available;

(c) Service by mail may be made for a notice and order by mailing one copy, postage prepaid, by certified mail, five-day return receipt requested, to the person responsible for the code violation at his or her last known address, at the address of the violation, or at the address of the place of business of the person responsible for the code violation. The taxpayer's address as shown on the tax records of Cowlitz County shall be deemed to be the proper address for the purpose of mailing such notice to the landowner of the property where the violation occurred. Service by mail shall be presumed effective upon the third business day following the day upon which the notice and order was placed in the United States mail; or

(d) Service by mail may be made for a warning notice by mailing a copy, postage prepaid, by first class mail to the person responsible for the code violation at his or her last known address, at the address of the violation, or at the address of the place of business of the person responsible for the code violation. The taxpayer's address as shown on the tax records of Cowlitz County shall be deemed to be the proper address for the purpose of mailing such notice to the landowner of the property where the violation occurred. Service by mail shall be presumed effective upon the third business day following the day upon which the warning notice was placed in the mail.

(2) For notice and orders only, when the address of the person responsible for the code violation cannot be reasonably determined, service may be made by publication once in an appropriate regional or neighborhood newspaper or trade journal. Service by publication shall conform to the requirements of Civil Rule 4 of the Rules for the Superior Courts of the State of Washington.

(3) The failure of the City to make or attempt service on any person named in the warning notice or notice and order shall not invalidate any proceedings as to any other person duly served.

1.50.080 Determination of compliance.

After issuance of a warning notice, voluntary compliance agreement or notice and order and after the person responsible for a violation has come into compliance, the City shall issue a written determination of compliance. The City shall mail copies of the determination of compliance to each person originally named in the warning notice, voluntary compliance agreement or notice and order.

1.50.090 Warning notice – Effect.

(1) A warning notice represents a determination that a code violation has occurred and that the noticed party is a person responsible for a code violation and may be subject to penalties.

(2) Issuance of a warning notice in no way limits the City's authority to issue a notice and order to any person responsible for a code violation pursuant to this chapter and/or other applicable code section(s).

1.50.100 Written Warning notice – Contents.

The written warning notice shall contain the following information:

(a) The address, when available, or location of the code violation, when applicable;

(b) A legal description of the real property or the Cowlitz County tax parcel number where the violation occurred or is located, or a description identifying the property by commonly used locators, when applicable;

(c) A statement that the City has found the named person to have committed a code violation and a brief description of the violation(s) found;

(d) A statement of the specific ordinance, resolution, regulation, public rule, or notice and order provision that was or is being violated;

(e) A statement that the warning notice represents a determination that a code violation has occurred and that the noticed party may be subject to civil and/or criminal penalties;

(f) A statement of the amount of the civil penalty that may be assessed if the violations are not corrected as required;

(g) A statement of the corrective or abatement action required to be taken and that any required permits to perform the corrective action must be obtained from the proper issuing agency;

(h) A statement advising that, if any required action is not completed within the time specified by the warning notice, the City may proceed to seek a judicial or administrative abatement order, or may seek other applicable relief from Cowlitz County Superior Court to abate and/or remedy the violation;

(i) A statement advising the person responsible for a code violation of his/her duty to notify the City of any actions taken to achieve compliance with the warning notice;

(j) A statement advising that a failure to correct the violation(s) cited in the warning notice could lead to the denial of subsequent city permit applications on the subject property, when applicable; and

(k) A statement advising that a willful and knowing violation may be referred to the office of the City attorney for prosecution.

1.50.110 Warning notice – Modification or revocation.

(1) The City may add to, revoke in whole or in part, or otherwise modify a warning notice by issuing a written supplemental warning notice. The supplemental warning notice shall be governed by the same procedures and time limits applicable to all warning notices contained in this chapter.

(2) The City may revoke or issue a supplemental warning notice.

(3) Such revocation or modification shall identify the reasons and underlying facts for modification or revocation, and shall be served, in conformity with this chapter, on the person responsible for a violation.

1.50.120 Voluntary compliance agreement – Authority.

(1) Whenever the City determines that a code violation has occurred or is occurring, the City shall make reasonable efforts to secure voluntary compliance from the person responsible for the code violation. Upon contacting the person responsible for the code violation, the parties may enter into a voluntary compliance agreement as provided for in this chapter. The City is under no obligation to enter into a voluntary compliance agreement. It is the responsibility of the person responsible for the violation to correct the violation within the time specified in the warning notice or notice and order.

(2) A voluntary compliance agreement may be entered into at any time before an appeal is decided. If an administrative appeal has already been filed, then the voluntary compliance agreement shall require the signature of the department director for approval of the terms of the agreement.

(3) By entering into a voluntary compliance agreement, a person responsible for a code violation admits that the violations described in the voluntary compliance agreement existed and constituted a code violation, waives the right to administratively appeal, and authorizes the City to enter onto the subject property to correct the violation in the event of a default of the voluntary compliance agreement.

(4) The voluntary compliance agreement shall incorporate the shortest reasonable time period for compliance, as determined by the department director. An extension of the time limit for compliance or a modification of the required corrective action may be granted by the department director. Any such extension or modification must be in writing and signed by the department director and person who signed the original voluntary compliance agreement.

(5) The voluntary compliance agreement is not a settlement agreement.

1.50.130 Voluntary compliance agreement – Contents.

The voluntary compliance agreement is a written, signed commitment by the person responsible for a code violation in which such person agrees to abate the violation, remediate the site, mitigate the impacts of the violation and/or remedy a code violation to achieve code compliance. The voluntary compliance agreement shall include the following:

(a) The name and address of the person responsible for the code violation;

(b) The address or other identification of the location of the violation, if applicable;

(c) A description of the violation and a reference to the provision(s) of, resolution or regulation which has been violated;

(d) A description of the necessary corrective action to be taken and identification of the date or time by which compliance must be completed;

(e) The amount of the civil penalty to be paid, if any, and any civil penalty that will be imposed in the event the terms of the voluntary compliance agreement are not satisfied;

(f) An acknowledgement that if the City determines that the terms of the voluntary compliance agreement are not met, the City may, without issuing any further notice, (1) impose any remedy authorized by this chapter or other applicable code section(s), (2) enter the subject property and perform abatement of the violation by the City (when applicable), (3) assess the costs incurred by the City to pursue code compliance and/or to abate the violation, including reasonable legal fees and costs, and (4) cause the suspension, revocation or limitation of a development permit obtained or to be sought by the person responsible for the code violation;

(g) An acknowledgement that if a penalty is assessed, and if any assessed penalty, fee or cost is not paid, the City may charge the unpaid amount as a lien against the subject property where the code violation occurred, when applicable, and that the unpaid amount may be a joint and several personal obligation of all persons responsible for the violation;

(h) An acknowledgement that by entering into the voluntary compliance agreement, the person responsible for the code violation thereby admits that the conditions or factors described in the voluntary compliance agreement existed and constituted a code violation; and

(i) An acknowledgement that the person responsible for the code violation understands that he or she has the right to administratively appeal any such notice and order, and that he or she is knowingly and intelligently waiving those rights.

1.50.140 Failure to meet terms of voluntary compliance agreement.

(1) If the terms of the voluntary compliance agreement are not completely met, and an extension of time has not been granted, the authorized representatives of the City may take whatever reasonable steps are necessary to gain compliance, including but not limited to entering onto the subject property and abating the violation without seeking a judicial abatement order. The person responsible for the violation may, without being issued a notice and order, be assessed a civil penalty as set forth by this chapter, plus all costs incurred by the City to pursue code compliance, including abating the violation, and may be subject to other remedies authorized by this chapter and/or other applicable code section(s). Penalties imposed when a voluntary compliance agreement is not met accrue from the date that an appeal of any preceding notice and order was to

have been filed or from the date the voluntary compliance agreement was entered into if there was not a preceding notice and order.

(2) The City may issue a notice and order or proceed with any other legal remedy authorized by law, for failure to meet the terms of a voluntary compliance agreement.

1.50.150 Notice and order – Authority.

When the City has reason to believe that a code violation exists or has occurred, and the City is unable to secure voluntary correction, pursuant to KMC 1.50.120, or that the terms of a voluntary compliance agreement have not been met, the City is authorized to issue a notice and order to any person responsible for a code violation.

1.50.160 Notice and order – Effect.

(1) A notice and order represents a determination that a violation has occurred, that the party to whom the notice is issued is a person responsible for a code violation, and that the violations set out in the notice and order require the assessment of penalties and other remedies that may be specified in the notice and order.

(2) The City is authorized to impose civil and/or criminal penalties upon a determination by the City that a violation has occurred pursuant to a notice and order.

(3) Issuance of a notice and order in no way limits the City's authority to issue a stop work order to a person previously cited through the notice and order process pursuant to this chapter.

(4) Imposition of a civil penalty creates a joint and several personal obligation in all persons responsible for a code violation who are served with notice of the violation.

(5) Any person identified in the notice and order as responsible for a code violation may appeal the notice and order within 15 days as provided for in this chapter.

(6) Failure to appeal the notice and order within the applicable time limits shall render the notice and order a final determination of the City that the conditions or factors described in the notice and order existed and constituted a violation, and that the named party is liable as a person responsible for a code violation.

1.50.170 Notice and order – Contents.

The notice and order shall contain the following information:

(a) The address, when available, or location of the violation;

(b) A legal description of the real property or the Cowlitz County tax parcel number where the violation occurred or is located, or a description identifying the property by commonly used locators, when applicable;

(c) A statement that the City has found the named person to have committed a violation and a brief description of the violation(s) found;

(d) A statement that the notice and order represents a determination that a code violation has occurred and that the person responsible may be subject to criminal penalties;

(e) A statement of the specific provisions of the ordinance, resolution, regulation, public rule, permit condition, or notice and order provision that was or is being violated;

(f) A statement that a civil penalty is being assessed, including the dollar amount of the civil penalties per separate violation, and that any assessed penalties must be paid within 30 days of service of the notice and order;

(g) A statement advising that any costs of enforcement incurred by the City shall also be assessed against the person to whom the notice and order is directed;

(h) A statement that payment of the civil penalties assessed under this chapter does not relieve a person found to be responsible for a code violation of his or her duty to correct the violation or to pay any and all civil penalties or other cost assessments issued pursuant to this chapter;

(i) A statement of the corrective or abatement action required to be taken and that all required permits to perform corrective action must be obtained from the proper issuing agency;

(j) A statement advising that, if any required work is not commenced or completed within the time specified by the notice and order, the City may proceed to seek a judicial abatement order from Cowlitz County Superior Court to abate the violation, when applicable;

(k) A statement advising that, if any assessed penalty, fee or cost is not paid on or before the due date, the City may charge the unpaid amount as a lien against the subject property where the code violation occurred, when applicable, and as a joint and several personal obligation of all persons responsible for a code violation;

(l) A statement advising that any person named in the notice and order, or having any record or equitable title in the subject property against which the notice and order may be recorded, may appeal from the notice and order to the Hearing Examiner within 15 days of the date of service of the notice and order; except that, for violations of KMC 10.06 Junk Vehicles, there shall be a statement that the nuisance must be abated within fifteen (15) days or the City will proceed to abate and assess costs of removal against the registered vehicle owner and/or property owner and that the person may request a hearing before the City's Hearing Examiner to contest the City's notice and order.

(m) A statement advising that a failure to correct the violations cited in the notice and order could lead to the denial of subsequent Kelso permit applications on the subject property, when applicable;

(n) A statement advising that a failure to appeal the notice and order within the applicable time limits renders the notice and order a final determination that the conditions or factors described in the notice and order existed and constituted a violation, and that the named party is liable as a person responsible for a violation;

(o) A statement advising the person responsible for a code violation of his/her duty to notify the City of any actions taken to achieve compliance with the notice and order; and

(p) A statement advising that a willful and knowing violation may be referred to the office of the City attorney for prosecution.

1.50.180 Notice and order – Recording.

(1) When a notice and order is served on a person responsible for a code violation of a specific piece of real property, the City may record and/or file a copy of the same with the Cowlitz County Auditor's office.

(2) In the event notice and order is recorded as set forth in section 1 above, when all violations specified in the notice and order have been corrected or abated to the satisfaction of the City, the City shall record a certificate of compliance with the Cowlitz County Auditor's office within 15 days of receiving evidence of abatement. The certificate shall include a legal description of the property where the violation occurred and shall state whether any unpaid civil penalties for which liens have been filed are still outstanding and, if so, shall continue as liens on the property.

(3) After all liens have been satisfied, the City shall file a notice of satisfaction of lien with the Cowlitz County Auditor's office within 15 days of final payment to the City.

1.50.190 Notice and order – Supplementation, revocation, modification.

(1) The City may add to, revoke, in whole or in part, or otherwise modify a notice and order by issuing a written supplemental notice and order. The supplemental notice and order shall be governed by the same procedures and time limits applicable to all notice and orders contained in this chapter.

(2) The City may issue a supplemental notice and order, or revoke a notice and order issued under this chapter.

(3) Such revocation or modification shall identify the reasons and underlying facts for modification or revocation, and shall be served on the person responsible for a violation in conformity with this chapter.

1.50.200. Notice and order – Administrative conference.

An informal administrative conference may be conducted by the City at any time for the purpose of facilitating communication among concerned persons and providing a forum for efficient resolution of any violation. Interested parties shall not unreasonably be excluded from such conferences.

1.50.210 Notice and order – Remedies – Abatement.

In addition to, or as an alternative to, any other judicial or administrative remedy, the City may use the notice and order provisions of this chapter to order any person responsible for a code violation to abate the violation and to complete the work at such time and under such conditions as the City determines reasonable under the circumstances. If the required corrective work is not commenced or completed within the time specified, the City may seek a judicial abatement order or other legal remedy pursuant to this chapter.

1.50.220 Notice and order – Remedy – Civil penalties.

(1) In addition to any other judicial or administrative remedy, the City may assess civil penalties for the violation of any notice and order or voluntary correction agreement according to any other applicable code section(s) or the civil penalty schedule established in KMC 1.50.230.

(2) Violation of a notice and order shall be a separate violation from any other code violation.

1.50.230 Civil penalties – Assessment schedule.

(1) Civil penalties for code violations shall be imposed for remedial purposes and shall be assessed for each violation, pursuant to applicable code section(s) and/or the following schedule:

(a) The monetary penalty for each violation per day or portion thereof shall be $200.00 beginning on the date set by the Director for correction of the violation in the Notice and order or the Voluntary Correction Agreement.

(b) In determining the monetary penalty assessment, the Director or the Hearing Examiner shall consider the following factors and may decrease the assessment of penalties based on these factors:

(i) Whether the person responded to staff attempts to contact the person and cooperated with efforts to correct the violation.

(ii) Whether the person showed due diligence and/or substantial progress in correcting the violation

(iii) Whether a genuine code interpretation issue exists; and

(iv) Any other relevant factors.

(c) In determining the monetary penalty assessment, the Director or the Hearing Examiner shall consider the following factors and may increase the assessment of penalties to an amount not to exceed double the original penalty amount based on these factors:

(i) Whether the violation is a repeat violation or the person has a history of similar violations;

(ii) Whether the violation is intentional;

(iii) Whether the violation creates significant environmental or property damage;

(iv) Whether there is economic benefit to the person responsible for the violation; and

(v) Any other relevant factors.

(2) Civil penalties shall be paid within 30 days of service of the notice and order if not appealed. Payment of the civil penalties assessed under this chapter does not relieve a person found to be responsible for a code violation of his or her duty to correct the violation and/or to pay any and all civil penalties or other cost assessments issued pursuant to this chapter.

(3) Civil penalties assessed create a joint and severable personal obligation in all persons responsible for a code violation.

(4) In addition to, or in lieu of, any other state or local provision for the recovery of civil penalties, the City may file record and/or file with the Cowlitz County Auditor to claim a lien against the real property for the civil penalties assessed under this chapter if the violation was reasonably related to the real property. Any such lien can be filed under this chapter if, after the expiration of 30 days from when a person responsible for a code violation receives the notice and order (excluding any appeal), any civil penalties remain unpaid in whole or in part.

(5) The City shall state in writing the basis for a decision to waive, reduce or increase penalties, and such statement shall become part of the record.

1.50.240 Civil penalties – Duty to comply.

A person responsible for a code violation has a duty to notify the City in writing of any actions taken to achieve compliance with the warning notice or notice and order. For purposes of assessing civil penalties, a violation shall be considered ongoing until the person responsible for a code violation has come into compliance with the warning notice, notice and order, or voluntary compliance agreement, and has provided sufficient evidence, as determined by the City, of such compliance. Proof of sufficient evidence may require right of entry by the code official to verify compliance.

1.50.250 Cost recovery.

(1) In addition to the other remedies available under this chapter and those authorized by law, upon issuance of a notice and order the City shall charge the costs of pursuing code compliance and abatement incurred to correct a code violation to the person responsible for a code violation. These charges include:

(a) Reasonable Legal Fees and Costs. For purposes of this section, “reasonable legal fees and costs” shall include, but are not limited to, legal personnel costs, both direct and related, incurred to enforce the provisions of this chapter as may be allowed by law;

(b) Administrative Personnel Costs. For purposes of this section, “administrative personnel costs” shall include, but are not limited to, administrative employee costs, both direct and related, incurred to enforce the provisions of this chapter;

(c) Abatement Costs. The City shall keep an itemized account of costs incurred by the City in the abatement of a violation under this chapter. Upon completion of any abatement work, the City shall prepare a report specifying a legal description of the real property where the abatement work occurred, the work done for each property, the itemized costs of the work, and interest accrued; and

(d) Actual expenses and costs of the City in preparing notices, specifications and contracts; in accomplishing or contracting and inspecting the work; and the costs of any required printing, mailing, or court filing fees.

(2) Such costs are due and payable 30 days from mailing of the invoice unless otherwise stated in a written agreement with the City. The City reserves the right to collect interest at the statutory set rate on any outstanding balance not paid within 30 days.

(3) All costs assessed by the City in pursuing code compliance and/or abatement create a joint and several personal obligation in all persons responsible for a violation.

(4) In addition to, or in lieu of, any other state or local provision for the recovery of costs, the City may, after abating a violation pursuant to this chapter, file and/or record with the Cowlitz County Auditor to claim a lien against the real property for the assessed costs identified in this chapter if the violation was reasonably related to the real property, in accordance with any lien provisions authorized by state law.

(5) Any lien filed shall be subordinate to all previously existing special assessment liens imposed on the same property and shall be superior to all other liens, except for state and county taxes, with which it shall share priority. The City may cause a claim for lien to be filed and/or recorded within 90 days from the later of the date that the monetary penalty is due or the date the work is completed or the nuisance abated. The claim of lien shall contain sufficient information regarding the notice and order, a description of the property to be charged with the lien, the owner of record, and the total of the lien. Any such claim of lien may be amended from time to time to reflect changed conditions. Any such lien shall bind the affected property for the period as provided for by state law.

1.50.260 Collection of civil penalties, fees, and costs.

In addition to the remedies available under this chapter and those authorized by law, the City may use the services of a collection agency, or any other legal means, in order to collect any civil and/or criminal penalties, fees, costs, and/or interest owing under this chapter.

1.50.270 Abatement.

(1) Emergency Abatement. Whenever a condition constitutes an immediate threat to the public health, safety or welfare or to the environment, the City may summarily and without prior notice abate the condition. Notice of such abatement, including the reason for it, shall be given to the person responsible for the violation as soon as reasonably possible after the abatement.

(2) Upon failure to comply with a final unappealed notice and order, or final disposition of any appeal therefrom of a violation of KMC 10.06, the vehicle, automobile hulk, junk vehicle or parts thereof shall be removed at the request of the chief of police and disposed of to a registered tow truck operator, with notice to the Washington State Patrol and the Washington State Department of Motor Vehicles that such a vehicle, automobile hulk, or junk vehicle has been wrecked.

(3) Judicial Abatement. The City may seek a judicial abatement order from Cowlitz County Superior Court, to abate a condition which continues to be a violation of this code where other methods of remedial action have failed to produce compliance.

(4) The City shall seek to recover the costs of abatement as authorized by this chapter.

(5) No person shall obstruct, impede or interfere with the City or its authorized agents, or with any person who owns or holds any interest or estate in any property in performing any tasks necessary to correct the violation.

1.50.280 Administrative appeals – Standing – Filing requirements.

(1) Any person issued or named in a notice and order, and any owner of the land where the violation for which a notice and order is issued, shall have standing to appeal and may file a notice of appeal of the order.

(2) Any person filing an appeal under this chapter shall do so by obtaining the appeal form from the City and filing the completed appeal form along with the appeal fee as identified in the City's Master Fee Schedule within 15 days of service of the notice and order.

(3) Any administrative appeal considered under this chapter will be determined by the Hearing Examiner pursuant to the procedures set forth in this chapter and Chapter 2.14 KMC, unless in conflict with specific provisions of this chapter, in which case the specific provisions of this chapter shall control.

1.50.290 Administrative appeal – Notice of hearing.

Upon receipt of a notice of appeal, the City shall provide a hearing notice stating the time, location and date of the hearing on the issues identified in the appeal. Such date shall not be less than ten days nor more than sixty

days from the date of the appeal filing with the City. Written notice of the time and place of the hearing shall be given at least ten days prior to the date of the hearing to each appellant by the examiner's office either by causing a copy of such notice to be delivered to the appellants personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address showing on the appeal.

1.50.300 Administrative appeal – Procedures.

(1) The appeal hearing shall be conducted as provided for this chapter and in Chapter 2.14 KMC, as adopted or hereafter amended.

(2) Enforcement of any notice and order of the City issued pursuant to this chapter shall be stayed during the pendency of any administrative appeal except when the City determines that the violation poses a significant threat of immediate and/or irreparable harm and so states in any notice and order issued.

(3) When multiple notice and orders or stop work orders have been issued simultaneously for any set of facts constituting a violation, only one appeal of all the enforcement actions shall be allowed.

(4) Except in the case of a repeat violation or a violation which creates a situation or condition which cannot be corrected, the hearing will be canceled if the department director approves the completed required corrective action and payment of penalties, if any, at least 48 hours prior to the scheduled hearing.

1.50.310 Administrative appeal hearing – Procedure.

The Hearing Examiner shall conduct a hearing on the appeal of notice and order pursuant to the rules of procedure of the Hearing Examiner. The authorized representative of the City and the appellant may participate as parties in the hearing and each party may call witnesses. The City shall have the burden of proof to demonstrate by a preponderance of the evidence that a violation has occurred and that the required corrective action, if applicable, is reasonable. The determination of the authorized representative of the City as to the need for the required corrective action shall be accorded substantial weight by the Hearing Examiner in determining the reasonableness of the required corrective action.

1.50.320 Administrative appeal – Final order.

(1) Decision of the Hearing Examiner.

(a) The Hearing Examiner shall determine whether the City has established by a preponderance of the evidence that a violation has occurred and that the required correction is reasonable and shall affirm, vacate, or modify the City's decisions regarding the alleged violation and/or the required corrective action, with or without written conditions;

(b) The Hearing Examiner shall issue an order, within 20 days of the hearing. A copy of the decision shall be delivered to the City and to the appellant personally or sent by certified mail, postage prepaid, return receipt requested which contains the following information:

(i) The decision regarding the alleged violation including findings of fact and conclusions based thereon in support of the decision;

(ii) The required corrective action;

(iii) The date and time by which the correction must be completed;

(iv) The monetary penalties assessed based on the criteria section 1.50.230 of this chapter; and

(v) The date and time after which the City may proceed with abatement of the unlawful condition or other action if the required correction is not completed.

(c) Notice of Decision. The Hearing Examiner shall mail a copy of the decision to the appellant and to the department director within 20 working days of the hearing.

(d) Failure to Appear. If the person to whom the notice and order was issued fails to appear at the scheduled hearing, the Hearing Examiner will enter an order finding that the violation occurred and assessing the appropriate monetary penalty. The City will carry out the Hearing Examiner's order and recover all related expenses, plus the cost of the hearing and any monetary penalty from that person.

(2) The Hearing Examiner's final order shall be final and conclusive unless a request for reconsideration is made in accordance with subsection (4) of this section or proceedings for review of the decision are properly commenced in Cowlitz County Superior Court within the time period specified in subsection (5) of this section.

(3) Any aggrieved person upon good cause that the decision of the Hearing Examiner is based on erroneous procedure, error of law or fact, error in judgment, or the discovery of new evidence which could not have been reasonably available at the hearing, may make a written request for reconsideration by the Hearing Examiner within 10 days of the date the written decision of the Hearing Examiner was mailed to the person to whom the notice and order was directed. The request must set forth in writing the specific errors or new information relied upon by such person. The Hearing Examiner, within 10 days of the written request for reconsideration being filed with the City, after review of the record and materials, will issue a written decision of whether there will be any changes to the original decision. The time to file an appeal to the Cowlitz County Superior Court shall be stayed from the date the reconsideration is filed with the City to the date the decision on the reconsideration is mailed to the person requesting the reconsideration.

(4) An appeal of the decision of the Hearing Examiner must be filed with Cowlitz County Superior Court 30 calendar days from the date the Hearing Examiner's decision was mailed to the person to whom the notice and order was directed, or is thereafter barred.

(5) If, after any order of the City or Hearing Examiner made pursuant to this code has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the City may (1) cause such person to be prosecuted as provided for in this chapter, or (2) institute any appropriate action to abate such building or nuisance and assess the costs of abatement to the property owner as provided for in this chapter.

1.50.330 Judicial enforcement – Petition for enforcement.

(1) In addition to any other judicial or administrative remedy, the office of the City attorney, on behalf of the City, may seek enforcement of the City's order by filing a petition for enforcement in Cowlitz County Superior Court.

(2) The petition must name as respondent each person against whom the City seeks to obtain civil enforcement.

(3) A petition for civil enforcement may request monetary relief, declaratory relief, temporary or permanent injunctive relief, and any other civil remedy provided by law, or any combination of the foregoing.

1.50.340 Criminal Penalty.

After any notice and order, stop work order, any other compliance order of the building official or Director, or any decision of the Hearing Examiner made pursuant to this Chapter shall have become final, no person to whom any such order or decision is directed shall fail, neglect or refuse to obey any such order or decision. Any such person who fails to comply with any such order is guilty of a misdemeanor.

1.50.350 Citations – Authority.

Whenever the City has determined, based upon investigation of documents, statements of witnesses, field observations, data system(s) for tracking violations and/or physical evidence, that a code violation has occurred, the City may in lieu of the enforcement procedures of this chapter issue a citation of civil infraction to any person responsible for the violation.

1.50.360 Chapter not exclusive.

The provisions of this chapter are in addition to any other provisions of this code and may be enforced separately from such other provisions or in combination therewith.

1.50.370 Application with other codes.

To the extent other codes adopted by reference conflict with the provisions of this chapter, the latter shall control, unless otherwise determined by an administrative code interpretation.

1.50.380 General duty.

None of the provisions of this chapter are intended to create a cause of action or provide the basis for a claim against the City, its officials, or employees for the performance or failure to perform a duty or obligation running to a specific individual or specific individuals. Any duty or obligation created herein is intended to be a general duty or obligation running in favor of the general public.

MEMORANDUM
OFFICE OF THE CITY ATTORNEY

To: Members of the City Council
From: Janean Parker, City Attorney
CC: Steve Taylor, City Manager
Date: August 13, 2015
Re: Overview of Code Enforcement Changes

I. Introduction.

For your consideration on August 18 staff will present two ordinances that, collectively, make several changes to the City's code enforcement program. Staff has been working on these changes for several months and believes that the updated codes will provide a stronger, more effective, and more efficient code enforcement program to improve conditions within the City of Kelso. At your meeting on July 21, 2015, we presented a brief description of the changes and since that meeting have made further changes to attempt to address some of the comments and concerns of Council.

Below is a brief description of the key provisions of the new changes of each ordinance and an outline of the enforcement process under the new codes. These changes are generally modelled upon the language of Longview's code enforcement program for regional consistency, but with changes that reflect Kelso's concerns and processes.

In the event that Council proceeds with these changes, staff will also be bringing forward a few additional housekeeping ordinances that bring several other portions of the municipal code into conformance with these new processes. The current proposed effective date for each of the ordinances is December 1, 2015 to allow time for these other revisions and for adequate training and implementation prior to the ordinances becoming effective.

II. Nuisance Ordinance.

The first ordinance amends Title 15 and Title 8 as follows:

1. The International Property Maintenance Code (the "IPMC") is adopted by reference as one of the uniform international codes of the City into a new Chapter 15.04 of Title 15. Title 15 is where all other uniform codes are adopted by reference. This IPMC provides a comprehensive and uniform standard that is nationally recognized for the maintenance of property.

2. The IPMC is also amended to be consistent with other chapters of the municipal code and procedures of the City and also to reflect the particular definitions and code enforcement concerns of the City.
3. In particular, the list of enumerated public nuisances from the text of Chapter 8.24 is moved into the International Property Maintenance Code in order to provide for a single listing in one place of all property related nuisances.
4. Title 8.24 is amended to make the International Property Maintenance Code as adopted by the City in Title 15 as the standard for property maintenance and to define violations of the IPMC as a public nuisance.
5. The process for enforcement of nuisances have been removed from Chapter 8.24 and replaced with a reference to a new chapter to be adopted as described below. This process language is expanded and updated into this new code enforcement chapter where public nuisances as well as all other types of code violations can be enforced with one clear and uniform process.

III. Code Enforcement Ordinance.

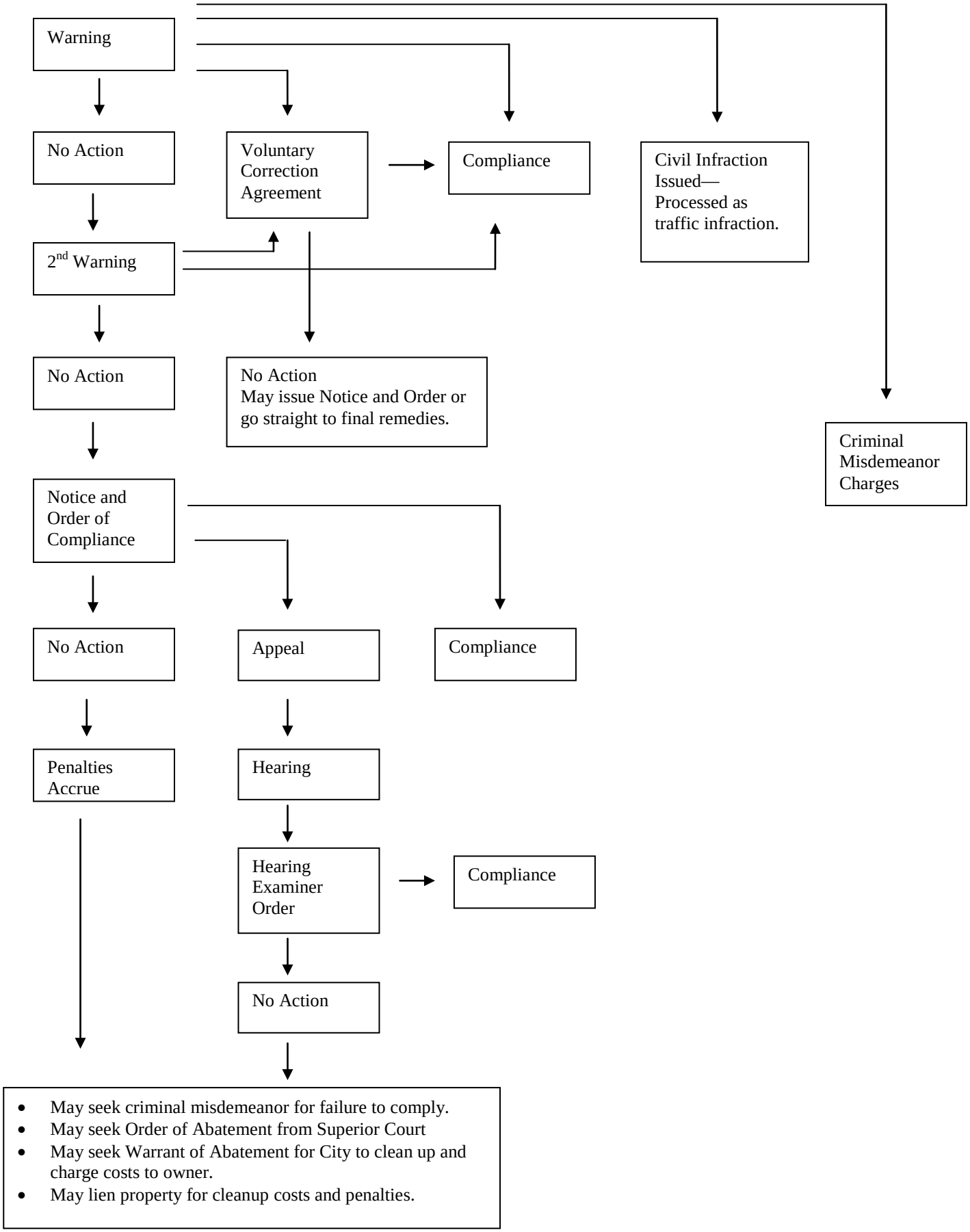
The second ordinance adopts a new Chapter 1.50 called Code Enforcement that provides a single enforcement process that can be used for nuisances and other municipal code violations. Key provisions are as follows:

1. A new formalized voluntary correction program is codified to promote compliance.
2. A revised warning and notice process is set out. These provisions were modified since the last meeting so that penalties will not accrue until after the warning process and a notice and order has been issued for noncompliance.
3. The assessment of penalties is authorized and an assessment schedule set out that allows increase, reduction or waiver of penalties based on specific factors of a case. These provisions were modified since the last meeting to make them more flexible with conditions that allow the penalties to be raised or lowered depending on the seriousness of the violation and the cooperation of the person responsible.
4. The abatement and cost recovery provisions were updated.
5. The appeal process has been updated.
6. The authority for an alternative civil infraction (ticket) process was also added to allow for enforcement of other general code violations. This enforcement mechanism would be for things that are generally not ongoing or property related, but for one time violations that cannot be corrected.
7. The authority further criminal penalties, which is in the current code, was updated and limited to willful and knowing violations.

IV. Conclusion.

Collectively, staff believes these changes will clarify the enforcement process, give additional tools and flexibility to the enforcement officer, bring more consistency to enforcement proceedings, and bring more compliance with the City's property maintenance and other codes.

Enforcement Process:



AGENDA SUMMARY SHEET

AGENDA ITEM: A resolution to cancel unclaimed warrants.

AGENDA ITEM #

FOR AGENDA OF: 8/18/2015

ORIGINATING DEPT: Finance

DATE SUBMITTED: 8/12/2015

COST OF ITEM: N/A

AMT. BUDGETED N/A

CITY ATTY. APPROVAL

SUBMITTED BY: Brian Butterfield

CITY MGR. APPROVAL

AGENDA ITEM PAPERWORK:

Resoultion

See exhibit A (list of unclaimed warrants)

SUMMARY STATEMENT/DEPT. RECOMMENDATION:
Cancel unclaimed warrants as required by RCW 39.56.040.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KELSO CANCELLING CERTAIN WARRANTS OF THE CITY PURSUANT TO RCW 39.56.040.

THE CITY COUNCIL OF THE CITY OF KELSO DO RESOLVE AS FOLLOWS:

SECTION 1. That those warrants listed on Exhibit A, attached hereto, and incorporated herein, which have not been presented for payment within one year of the date of their issue or call as the case may be, be and the same are hereby cancelled pursuant to RCW 39.56.040.

ADOPTED by the City Council and **SIGNED** by the Mayor this _____ day of _____, 2015.

_____
MAYOR

ATTEST/AUTHENTICATION:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

EXHIBIT A

Warrant #	Vendor/Payee	Date	Amount
165318	PSS, LLC	6/19/2014	$ 176.00
165469	S.S.H.G.A.	7/15/2014	220.00