

**BEFORE THE CITY COUNCIL OF THE CITY OF INDEPENDENCE  
STATE OF OREGON, COUNTY OF POLK**

An Ordinance Amending Independence	]	
Municipal Code, Repealing Chapter 6 –	]	
Buildings and Construction, and Replacing	]	Council Bill #2014-09
it in its Entirety, and Stating an Effective Date	]	

**ORDINANCE NO. 1533**

**WHEREAS**, SB 915 established requirements and procedures regarding the enforcement of state building codes, **AND**

**WHEREAS**, the City of Independence has adopted both the state building codes, as well as a local property maintenance code, **AND**

**WHEREAS**, the Sidewalk Code is currently contained within both Chapter 6 of the Municipal Code and the Independence Development Code, **AND**

**WHEREAS**, the administration and enforcement of each of these codes were intermingled within various articles of Chapter 6 of the Independence Municipal Code; **AND**

**WHEREAS**, the City Council believes it is in the city's best interest to reorganize and update Chapter 6, in order to ensure proper enforcement of its provisions, **NOW THEREFORE**,

**THE CITY OF INDEPENDENCE DOES ORDAIN AS FOLLOWS:**

Section 1. Chapter 6 – Buildings and Construction, of the Independence Municipal Code is hereby repealed and replaced in its entirety, as set forth in the replacement Chapter 6, Articles I-IV, attached and incorporated herein as Exhibit A.

Section 2. This ordinance shall become effective thirty days after final passage by the City Council and its signature by the Mayor.

First Reading to the Council, this 12<sup>th</sup> day of August, 2014.

Second Reading to the Council, this 12<sup>th</sup> day of August, 2014.

Adopted, this 12<sup>th</sup> day of August, 2014.

Signed by the Mayor, this 12<sup>th</sup> day of August, 2014.

ATTEST:

/s/ John McArdle  
JOHN McARDLE, MAYOR

/s/ Karin Johnson  
Karin Johnson, MMC, City Recorder

## ARTICLE I. IN GENERAL

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Sec. 6-1. Definitions.

Sec. 6-2. Manufactured home placement permit.

Sec. 6-3. Prefabricated structures.

Sec. 6-4. Electrical inspections.

Sec. 6-5. Enforcement.

Sec. 6-6. Fees.

Sec. 6-7. Application of chapter.

Secs. 6-8—6-42. Reserved.

### **Sec. 6-1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*"Appointing authority"* means the City Council of Independence, Oregon.

*"Building Department"* means the Office of the Independence Building Official.

*"Building Official"* means the person designated by the Council as the Building Administrator.

*"Deputy Building Official"* means the person designated by the Building Official as their designee.

*"Fire Chief"* means the Chief of the Polk County Fire District No. 1.

*"Manufactured Dwelling"* means a manufactured home, mobile home or residential trailer, as defined in ORS 446.003.

*"Prefabricated structure"* means a building or subassembly that has been in whole, or substantial, part manufactured or assembled upon closed construction at an off-site location to be wholly or partially assembled on-site as defined in ORS 455.010.

*"Responsible Person"* means an agent, occupant, lessee, tenant, contract purchaser, owner, or other person having possession or control of property or the supervision of any construction project.

(See ORS 446.003(26) Definitions for ORS 446.003 to 446.200 and 446.225 to 446.285 and ORS Chapters 195,196,215, 227 and ORS 455.010.)

(Prior Code, § 80.185; Code 2006, § 15.1.1; Ord. No. 1155, 1986)

### **Sec. 6-2. Manufactured home placement permit.**

No manufactured home shall be occupied within the city without first obtaining a placement permit and satisfactory inspection of placement on the site, electrical connections and plumbing connections.

(Prior Code, § 80.160; Code 2006, § 15.1.2)

**Sec. 6-3. Prefabricated structures.**

No prefabricated structure shall be located in the city until such prefabricated structure has been certified by the state as meeting all state requirements and all applicable local requirements are met.

*(Prior Code, § 80.165; Code 2006, § 15.1.3)*

**Sec. 6-4. Electrical inspections.**

Enforcement of the electrical code and inspection of electrical conductors, equipment and wiring; installation, alteration and repair; shall be provided by the Polk County, Oregon Building Division , except that the Building Official shall enforce and administer the provisions of this chapter relating to the electrical connections of manufactured homes located in manufactured home parks within the city.

*(Prior Code, § 80.230; Code 2006, § 15.1.9)*

**Sec. 6-5. Enforcement.**

The Building Official shall administer and enforce this chapter, except that provisions of the fire code shall be administered and enforced by the Fire Chief.

*(Prior Code, § 80.210; Code 2006, § 15.1.10; Ord. No. 1155, § 2, 1986)*

**Sec. 6-6. Fees.**

The fees for permits under this chapter shall be the fees prescribed by the Department of Consumer and Business Services, State of Oregon. The city may set any permit fee by resolution at an amount lower than the fees adopted by the state or set a fee for a permit which the state has failed to set a fee.

*(Prior Code, § 80.220; Code 2006, § 15.1.12)*

**Sec. 6-7. Application of chapter.**

(a) The provisions of the codes, laws, rules and regulations adopted by this chapter apply to all buildings, structures, manufactured dwellings and prefabricated structures in the city.

(b) Violations of this article are subject to the enforcement procedures set forth in this chapter, article II, division II.

*(Prior Code, § 80.225; Code 2006, § 15.1.13)*

**Secs. 6-8—6-42. Reserved.**

## **ARTICLE II. CONSTRUCTION CODES ADOPTED; ENFORCEMENT**

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DIVISION I. STANDARDS ADOPTED

**Sec. 6-43. Residential building code adopted.**

A publication, a copy of which is on file with the Building Official, marked and entitled 2011 Oregon Residential Specialty Code is hereby adopted in its entirety for the city, for regulating and controlling residential building code standards in the city; said building code by this reference is made a part of this article as though fully set out herein.

(Prior Code, § 80.105; Code 2006, § 15.2.1; Ord. No. 1156, § 1(part), 1986; Ord. No. 1212, § 1(part), 1990; Ord. No. 1260, § 1(part), 1992; Ord. No. 1380, § 2(part), 2000)

**Sec. 6-44. Commercial Building code adopted.**

A publication, a copy of which is on file with the Building Official, marked and entitled 2010 Oregon Structural Specialty Code is hereby adopted in its entirety, as the code of the city for regulating and controlling the construction, reconstruction, remodeling, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment use, height, area of commercial buildings or structures of the city; said 2010 Oregon Structural Specialty Code by this reference is made a part of this article as though fully set out herein.

(Prior Code, § 80.110; Code 2006, § 15.2.2; Ord. No. 1156, § 1(part), 1986; Ord. No. 1212, § 1(part), 1990; Ord. No. 1260, § 1(part), 1992; Ord. No. 1380, § 2(part), 2000)

**Sec. 6-45. Plumbing code adopted.**

A publication, a copy of which is on file with the Building Official, marked and entitled 2011 Oregon Plumbing Specialty Code is hereby adopted in its entirety as the plumbing code for the city for regulating and controlling the erection, installation, alteration, addition, repair, relocation, replacement, or use of plumbing systems in the city; said plumbing code by this reference is made a part of this article as though fully set out herein.

(Prior Code, § 80.115; Code 2006, § 15.2.3; Ord. No. 1156, § 1(part), 1986; Ord. No. 1212, § 1(part), 1990; Ord. No. 1260, § 1(part), 1992; Ord. No. 1380, § 2(part), 2000)

**State law reference—** Plumbing regulations, ORS 447.010 et seq.; city regulations, ORS 447.080.

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**Sec. 6-46. Mechanical code adopted.**

A publication, a copy of which is on file with the Building Official, marked and entitled 2010 Oregon Mechanical Specialty Code, is hereby adopted in its entirety as the mechanical code for the city for regulating and controlling the design, construction, installation, quality of materials, location, and operation of heating, ventilating, cooling, refrigeration systems, incinerators and heat producing appliances in the city; said mechanical code by this reference is made a part of this article as though fully set out herein. Boilers and pressure vessels shall be regulated by the State of Oregon, Boiler and Pressure Vessel Law.

(Prior Code, § 80.120; Code 2006, § 15.2.4; Ord. No. 1156, § 1(part), 1986; Ord. No. 1212, § 1(part), 1990; Ord. No. 1260, § 1(part), 1992; Ord. No. 1380, § 2(part), 2000)

**Sec. 6-47. Electrical code adopted.**

A publication, a copy of which is on file with the Building Official, marked and entitled 2011 Oregon Electrical Specialty Code, hereinafter referred to as "electrical code" is hereby adopted in its entirety as the electrical code for the city for regulating and controlling electrical conductors, equipment and wiring; installation, alteration and repair; and manufactured home connections within or on public and private buildings or other structures and manufactured home placements in the city; said electrical code by this reference is made a part of this article as though fully set out herein.

(Prior Code, § 80.125; Code 2006, § 15.2.5; Ord. No. 1156, § 1(part), 1986; Ord. No. 1212, § 1(part), 1990; Ord. No. 1260, § 1(part), 1992)

**Sec. 6-49. Fire code adopted.**

A publication, a copy of which is on file with the city Building Official, marked and entitled 2010 Oregon Fire Code, is hereby adopted in its entirety as the fire code for the city for regulating and controlling the hazards from storage, handling and use of hazardous substances, materials and devices and conditions hazardous to life, property and the use or occupancy of buildings or premises in the city; said fire code by this reference is made a part of this article as though fully set out herein. All provisions of the fire code shall be administered and enforced by the Fire Chief.

(Prior Code, § 80.140; Code 2006, § 15.2.8; Ord. No. 1156, § 1(part), 1986; Ord. No. 1212, § 1(part), 1990; Ord. No. 1260, § 1(part), 1992; Ord. No. 1380, § 2(part), 2000; Ord. No. 1440, § 1, 2004)

(Prior Code, § 80.145; Code 2006, § 15.2.9; Ord. No. 1156, § 1(part), 1986; Ord. No. 1212, § 1(part), 1990; Ord. No. 1260, § 1(part), 1992; Ord. No. 1380, § 2(part), 2000)

**Sec. 6-51. Solar code adopted.**

A publication, a copy of which is on file with the Building Official, marked and entitled 2010 Oregon Solar Installation Specialty Code and Commentary hereinafter is adopted in its entirety as the solar code for the city for the regulation and control of the solar structures in the city; said solar code by this reference is made a part of this article as though fully set out herein.

(Prior Code, § 80.183; Code 2006, § 15.2.10)

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**Sec. 6-52. Agricultural buildings.**

Appendix C of the Oregon Structural Specialty Code accepted in Section 6-44, entitled "Agricultural Buildings," shall be in effect in the city.

(Prior Code, § 80.150; Code 2006, § 15.2.11)

**Sec. 6-53. Excavation and grading.**

Appendix J of the Oregon Structural Specialty Code accepted in Section 6-44, entitled "Grading," shall be in effect in the city.

(Prior Code, § 80.155; Code 2006, § 15.2.12)

(Prior Code, § 80.157; Code 2006, § 15.2.13)

(Code 2006, § 15.2.14; Ord. No. 1380, § 1, 2000)

**Sec. 6-54. Manufactured Home Code.**

A publication, a copy of which is on file with the Building Official, marked and entitled 2010 Oregon Manufactured Dwelling Installation Code is hereby adopted in its entirety as the code for the city for regulating and controlling the placement of manufactured homes in the city; said code by this reference is made a part of this article as though fully set out herein.

**Sec. 6-55. Energy Efficiency Code.**

A publication, a copy of which is on file with the Building Official, marked and entitled 2010 Oregon Energy Efficiency Specialty Code, is hereby adopted in its entirety as the code for the city for regulating and controlling the effective use of energy in the city; said code by this reference is made a part of this article as though fully set out herein.

**Secs. 6-56 – 6-60. Reserved**

**DIVISION II. ENFORCEMENT**

**Sec. 6-61. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section:

*"Appeals Officer"* means the City Manager or the City Manager's designee.

*"Violation"* means the failure to comply with a provision of this division or article I of this chapter.

*"Voluntary compliance agreement"* means an agreement, whether written or oral, between the Building Official and a Responsible Person which is intended to resolve a violation.

(Code 2006, § 15.03.500; Ord. No. 1469, § 1(15.03.500), 6-10-2008; Ord. No. 1500, § 1(15.03.500), 12-13-2011; Ord. No. 1520, § 1A(15.03.500), 6-11-2013)

**Sec. 6-62. Use of language.**

As used in this division, singular pronouns shall include the plural; and the term "person" shall, where appropriate, include any partnership, corporation, unincorporated association, municipality, the state, or other entity.

*(Code 2006, § 15.03.510; Ord. No. 1469, § 1(15.03.510), 6-10-2008; Ord. No. 1500, § 1(15.03.510), 12-13-2011)*

**Sec. 6-63. Reference to state law.**

Any reference to a state statute incorporates into this article by reference the statute in effect on the effective date of the ordinance from which this article is derived.

*(Code 2006, § 15.03.520; Ord. No. 1469, § 1(15.03.520), 6-10-2008; Ord. No. 1500, § 1(15.03.520), 12-13-2011)*

**Sec. 6-64. Culpability and liability.**

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

(b) Each Responsible Person shall be jointly and severally liable for any or all violations, the amount of any civil penalties issued and the cost of any abatement or enforcement actions taken by the city, as provided in this division.

*(Code 2006, § 15.03.530; Ord. No. 1469, § 1(15.03.530), 6-10-2008; Ord. No. 1500, § 1(15.03.530), 12-13-2011)*

**Sec. 6-65. Effect of these provisions.**

Nothing in this division shall be construed as a waiver of any assessment, bail, or fine ordered by the municipal court prior to January 1, 2010.

*(Code 2006, § 15.03.540; Ord. No. 1469, § 1(15.03.540), 6-10-2008; Ord. No. 1500, § 1(15.03.540), 12-13-2011)*

**Sec. 6-66. Reports of violations.**

All reports or complaints of violations covered by this division shall be made by, or referred to the Building Official.

*(Code 2006, § 15.03.560; Ord. No. 1469, § 1(15.03.560), 6-10-2008; Ord. No. 1500, § 1(15.03.560), 12-13-2011)*

**Sec. 6-67. Investigation.**

(a) *Investigation.* When an alleged violation is reported to the city, the Building Official shall review the facts and circumstances surrounding the alleged violation and if the Building Official determines a violation has occurred, the Building Official will commence enforcement proceedings as provided in this article.



(b) *Sufficiency of evidence.* The Building Official shall not proceed further with the matter if the Building Official determines that there is not sufficient evidence to support the allegation of violation, or if the Building Official determines that it is not in the best interest of the city to proceed.

(Code 2006, § 15.03.570; Ord. No. 1469, § 1(15.03.570), 6-10-2008; Ord. No. 1500, § 1(15.03.570), 12-13-2011)

**Sec. 6-68. Order to Correct.**

(a) Prior to issuing a notice of violation under §6-72 of this division and imposing an administrative civil penalty, the Building Official shall issue an order to correct the violation "OC"("Order to Correct") to one or more Responsible Persons. The Order to Correct shall allow the Responsible Person a reasonable amount of time that is not less than five calendar days, nor more than 30 calendar days to remedy the violation. Where the Responsible Person can demonstrate extreme hardship that would prevent the Responsible Person from remedying the violation within the given timeframe, the Building Official may grant the Responsible Person additional time to remedy the violation. The Order to Correct shall either be personally delivered or sent by both first class and certified mail, return receipt requested. Every Order to Correct notice shall:

(1) Describe the alleged violation, including any relevant code provision numbers, ordinance numbers or other identifying references;

(2) State the date and time by which correction is required;

(3) State that, if the correction has not been completed by the date and time specified, the Building Official may issue a Notice of Violation.

(b) Following the date and time by which the violation must be remedied as required by the Order to Correct, the Building Official shall determine whether such correction has been completed. If the required correction has not been completed by the date or time specified in the Order to Correct, the Building Official may issue a Notice of Violation and assess an administrative civil penalty to each Responsible Person to whom the Order to Correct was issued.

(Code 2006, § 15.03.610; Ord. No. 1469, § 1(15.03.610), 6-10-2008; Ord. No. 1500, § 1(15.03.610), 12-13-2011)

**Sec. 6-69. Computation of time period.**

(a) Where the Order to Correct is personally delivered, the period of time in which to remedy the violation shall begin to run immediately upon such delivery.

(b) Where the Order to Correct is mailed to the respondent, for the purposes of computing any time period prescribed by this division, the Order to Correct shall be considered complete three days after such mailing if the address to which it is mailed is within the state, and seven days after mailing if the address to which it is mailed is outside the state.

(c) In addition to, but not instead of personally delivered or mailed, an Order to Correct may also be affixed to the main entrance of the violation premises or property.

(Code 2006, § 15.03.640; Ord. No. 1469, § 1(15.03.640)—(15.03.660), 6-10-2008; Ord. No. 1500, § 1(15.03.640), 12-13-2011)

**Sec. 6-70. Voluntary compliance agreement.**

(a) *Effect of agreement.*

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(1) The Building Official may enter into a voluntary compliance agreement with the Responsible Person. The agreement shall include time limits for compliance and shall be binding on the Responsible Person.

(2) The fact that a person alleged to have committed a violation enters into a voluntary compliance agreement shall not be considered an admission of having committed the violation for any purpose.

(3) The city shall halt further processing of the violation during the time allowed in the voluntary compliance agreement for the completion of the necessary corrective action. The city shall take no further action concerning the violation, other than steps necessary to terminate the enforcement action, if all terms of the voluntary compliance agreement are satisfied.

(b) *Failure to comply with agreement.* The failure to comply with any term of the voluntary compliance agreement constitutes an additional and separate violation, and shall be handled in accordance with the procedures established by this article, except that after the voluntary compliance agreement has been executed, no Order to Correct needs to be given before a Notice of Violation is issued.

(Code 2006, § 15.03.670; Ord. No. 1469, § 1(15.03.670), 6-10-2008; Ord. No. 1500, § 1(15.03.670), 12-13-2011)

**Sec. 6-71. Notice of Violation.**

Upon a determination by the Building Official that any person has violated a provision of this article or article I of this chapter, the Building Official may issue a Notice of Violation and impose upon the violator and any other Responsible Person, an administrative civil penalty as provided by this article. This authority does not preclude the Building Official from attempting to secure voluntary compliance with the requirements of the Code.

(Code 2006, § 15.03.580; Ord. No. 1469, § 1(15.03.580), 6-10-2008; Ord. No. 1500, § 1(15.03.580), 12-13-2011)

**Sec. 6-72. Knowing, intentional or repeat violations.**

Notwithstanding Section 6-68, the Building Official may issue a Notice of Violation and assess an administrative civil penalty without having issued an Order to Correct where the Building Official determines that the violation was knowing, intentional, or a repeat of a similar violation.

(Ord. No. 1500, § 1(15.03.630), 12-13-2011)

**Sec. 6-73. Notice of Violation; service.**

Notice requirements. A Notice of Violation issued under this article shall either be personally delivered, or sent by both certified mail, with a return receipt requested and first class mail to the Responsible Person. Any such mailed Notice of Violation shall be deemed received for purposes of any time computations under this article three days after the date it is mailed if it is mailed to an address within this state, and seven days after the date it is mailed if it is mailed to an address outside this state. Every Notice of Violation shall:

(1) Describe the alleged violation, including any relevant code provision numbers, ordinance numbers, or other identifying references;

(2) State that the city intends to assess an administrative civil penalty for the violation and state the amount of the civil penalty;

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(3) State the date on which the Order to Correct was issued and the time by which correction was required, or, if the penalty is imposed pursuant to Section 6-72, state the basis for concluding that the violation was knowing, intentional, or repeated;

(4) State that the Responsible Person may challenge the assessment of the administrative civil penalty to the Appeals Officer;

(5) Describe the appeal process and the deadline for informing the city that the Responsible Person is challenging the assessment of the administrative civil penalty; and

*(Code 2006, § 15.03.630; Ord. No. 1469, § 1(15.03.630), 6-10-2008; Ord. No. 1500, § 1(15.03.640), 12-13-2011; Ord. No. 1520, § 1B, 6-11-2013)*

**Sec. 6-74. Penalty considerations.**

(a) In assessing an administrative civil penalty authorized by this section, the Building Official shall consider:

(1) The Responsible Person's cooperativeness and past history in taking steps to correct the violation;

(2) Any prior violations of this article, article I of this chapter, or other city ordinances or Code sections;

(3) The gravity and magnitude of the violation;

(4) Whether the violation was repeated or continuous; and

(5) Whether the violation was caused by an unavoidable accident, negligence, or an intentional act.

(b) In no case shall the Building Official assess an administrative penalty exceeding the maximum civil penalty authorized for an equivalent specialty code violation under ORS 455.895.

*(Ord. No. 1500, § 1(15.03.650), 12-13-2011)*

**Sec. 6-75. Appeal.**

Any Responsible Person who is issued a Notice of Violation may challenge the assessment of the administrative civil penalty to the Appeals Officer. The provisions of Section 6-78 shall govern any requested appeal. Any administrative civil penalty assessed shall become final and immediately due upon expiration of the time for filing an appeal, if no appeal is timely filed with the Appeals Officer.

*Ord. No. 1500, § 1(15.03.660), 12-13-2011; Ord. No. 1520, § 1B, 6-11-2013)*

**Sec. 6-76. Continuing violations.**

Each day the violator fails to remedy a violation shall constitute a separate violation.

*(Code 2006, § 15.03.681; Ord. No. 1469, § 1(15.03.681), 6-10-2008; Ord. No. 1500, § 1(15.03.681), 12-13-2011)*

**Sec. 6-77. Administrative civil penalty not exclusive.**

The administrative civil penalty authorized by this division may be imposed in addition to:

(1) Assessments or fees for any costs incurred by the city in remediation, cleanup, or abatement; and

(2) Any other actions authorized by law, provided that the city shall not issue a citation to Municipal Court for a violation of this article or article I-of this chapter.

(Code 2006, § 15.03.682; Ord. No. 1469, § 1(15.03.682), 6-10-2008; Ord. No. 1500, § 1(15.03.682), 12-13-2011)

**Sec. 6-78. Appeal procedures.**

(a) *Appeal contents.* Any recipient of a Notice of Violation issued pursuant to this article may, within 14 days after receipt of the Notice of Violation, appeal in writing to the Appeals Officer. The written appeal shall be accompanied by an appeal fee in an amount set by Council resolution and shall include:

- (1) The name, phone number and address of the appellant;
- (2) The nature of the matter being appealed;
- (3) The reason appellant claims the Building Official's determination is incorrect; and
- (4) Appellant's desired determination of the appeal.

(b) *Hearing date and notice.* Unless the appellant and the city agree to a longer period, an appeal shall be heard by the Appeals Officer within 30 days of the city's receipt of appellant's written notice of intent to appeal. At least ten days prior to the hearing, the city shall mail notice of the time and location of the appeal hearing, by certified mail return receipt requested, to the appellant.

(c) *Hearing procedure.* The Appeals Officer shall hear and determine the appeal on the basis of the appellant's written statement and any additional evidence the Appeals Officer deems appropriate. At the hearing, the appellant may present testimony and oral argument personally or through counsel. The burden of proof shall be on the Building Official to show a violation. The rules of evidence as used by courts of law do not apply.

(d) *Decision.* The Appeals Officer shall issue a written decision within ten days after the hearing date. The written decision of the Appeals Officer is final and any administrative civil penalty imposed shall become final upon issuance of the Appeals Officer's decision affirming the Building Official's assessment.

(e) *Fee refundability.* The appeal fee is non-refundable.

(Code 2006, § 15.03.683; Ord. No. 1469, § 1(15.03.683), 6-10-2008; Ord. No. 1500, § 1(15.03.683), 12-13-2011; Ord. No. 1520, § 1C(15.03.683.E), 6-11-2013)

**Sec. 6-79. Remedial action by city; costs.**

(a) If a violation is not remedied within the time required by the Order to Correct, the city may, after obtaining a warrant to enter the property, abate the violation and charge the costs of abatement back to any Responsible Person.

(b) If the Building Official determines that the violation presents an immediate danger to the environment or to the public health, safety or welfare, or that any continuance of the violation would allow the Responsible Person to profit from the violation and, after obtaining a warrant to enter the property, the city may abate the violation without: 1) waiting for the expiration of the time period provided in the Order to Correct; or 2) without issuing a Notice of Violation. City abatement costs may be charged to any Responsible Person. If the immediate danger constitutes an emergency threatening immediate death or physical injury to persons or the environment, the city may abate the violation without obtaining a warrant, if the delay associated with obtaining the warrant increases the risk of death or injury and may charge the remedial costs back to the Responsible Person.

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(c) The Building Official shall have the right at reasonable times to enter into or upon property in accordance with law to investigate or to remedy alleged violations. This provision does not authorize a warrantless entry when a warrant is required by state or federal law.

(d) The Finance Director shall keep an accurate record of all costs incurred by the city in abating a violation. The Finance Director shall notify the Responsible Person by certified mail, return receipt requested, of these costs, and advise the Responsible Person that the costs will be assessed to and become a lien against the Responsible Person's real property within the city if not paid within 30 days of the notice, and shall further notify the Responsible Person that the Responsible Person is entitled to a hearing to contest the amount of the costs to be assessed.

(e) The Responsible Person shall be entitled to request a hearing to consider the amount of the costs assessed to remedy the alleged violation. That hearing shall be conducted pursuant to the procedures established in Section 6-78.

(f) If the remedial costs are not paid within the time limits provided in Section 6-80, the Finance Director shall follow the procedures for lien filing and docketing as contained in Section 6-80.

*(Code 2006, § 15.03.790; Ord. No. 1469, § 1(15.03.790), 6-10-2008; Ord. No. 1500, § 1(15.03.790), 12-13-2011; Ord. No. 1520, § 2B(15.03.790.D), 6-11-2013)*

**Sec. 6-80. Unpaid penalties.**

(a) *Penalty collection.* Failure to pay an administrative civil penalty within 14 (fourteen) days after the penalty becomes final shall constitute a violation of this article. Each day the penalty is not paid shall constitute a separate violation. The City is authorized to collect the penalty by any administrative or judicial action or proceeding authorized by this article or state statute.

(b) *Assessment lien.* If an administrative civil penalty is imposed on a Responsible Person because of a violation of any provision of this article or article I of this chapter, and the penalty remains unpaid 30 days after such penalty becomes final, the Building Official may assess the full amount of the unpaid penalty, including any interest, against any real property within the city owned by the Responsible Person and shall enter the assessment as a lien in the city's lien docket. At the time the assessment is made, the City Recorder shall notify the Responsible Person by first class mail that the penalty has been assessed against real property owned by the Responsible Person and entered in the city's lien docket. The lien shall be enforced in the same manner as all city liens. Interest shall accrue on the amount of the unpaid penalty at the rate of nine percent from the date of entry of the lien in the lien docket.

(c) *Additional penalties.* In addition to enforcement mechanisms authorized elsewhere in this division, failure to pay an administrative civil penalty imposed pursuant to this article or article I of this chapter shall be grounds for withholding issuance of requested permits or licenses, issuance of a stop work order, if applicable, or revocation or suspension of any issued permits or certificates of occupancy.

*(Code 2006, § 15.03.684; Ord. No. 1469, § 1(15.03.684), 6-10-2008; Ord. No. 1500, § 1(15.03.684), 12-13-2011; Ord. No. 1520, § 2A(15.03.684.B), 6-11-2013)*

**Sec. 6-81. Enforcement; rules and regulations.**

The Building Official is authorized to promulgate any rules the Building Official considers necessary to enforce this division. To be effective, such rules must be approved by the City Council by resolution.

*(Code 2006, § 15.03.810; Ord. No. 1469, § 1(15.03.810), 6-10-2008; Ord. No. 1500, § 1(15.03.810), 12-13-2011)*

PART II - CODE OF ORDINANCES  
Chapter 6 - BUILDINGS AND CONSTRUCTION  
ARTICLE II. CONSTRUCTION CODES ADOPTED; ENFORCEMENT

ORD. #1533  
EXHIBIT A

**Sec. 6-82 Severability.**

The provisions of this article are severable. If any section, sentence, clause or phrase of this article is adjudged to be invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this article.

**Sec. 6-83 Reserved.**

## ARTICLE III. PROPERTY MAINTENANCE REGULATIONS

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## **DIVISION I. GENERALLY**

### **Sec. 6-84. Title.**

This article shall be known as the "property maintenance regulations," and is referred to herein as "this article."

*(Code 2006, § 15.03.010; Ord. No. 1469, § 1(15.03.010), 6-10-2008; Ord. No. 1500, § 1(15.03.010), 12-13-2011)*

### **Sec. 6-85. Purpose.**

The purpose of this article is to protect the public health, safety and welfare, to prevent deterioration of existing structures and to contribute to vital neighborhoods by:

- (1) Regulating and abating dangerous and derelict buildings.
- (2) Establishing and enforcing - standards for buildings and other structures regarding basic equipment, facilities, sanitation, safety, and maintenance.

*(Code 2006, § 15.03.020; Ord. No. 1469, § 1(15.03.020), 6-10-2008; Ord. No. 1500, § 1(15.03.020), 12-13-2011)*

### **Sec. 6-86. Scope; conflict with state law.**

The provisions of this article shall apply to all property in the city limits except in the event that a provision of this article, or article IV, conflicts with a requirement of the State of Oregon, Oregon Building Codes Division or the Oregon Department of Consumer and Business Services, the state requirements shall be followed.

*(Code 2006, § 15.03.030; Ord. No. 1469, § 1(15.03.030), 6-10-2008; Ord. No. 1500, § 1(15.03.030), 12-13-2011)*

### **Sec. 6-87. Use of summary headings.**

This article makes use of summary headings on articles, sections, and subsections to assist the reader in navigating the document. In the event of a conflict in meaning between the heading and the following plain text, the meaning of the plain text shall apply.

*(Code 2006, § 15.03.050; Ord. No. 1469, § 1(15.03.050), 6-10-2008; Ord. No. 1500, § 1(15.03.050), 12-13-2011)*

### **Sec. 6-88. Definitions.**

(a) For the purpose of this article:

- (1) Certain abbreviations, terms, phrases, words and their derivatives shall be construed as specified in this article.



(2) Words used in the singular include the plural and the plural the singular.

(3) Words used in the masculine gender include the feminine and the feminine the masculine.

(4) The term "and" indicates that all connected items or provisions apply.

(5) The term "or" indicates that the connected items or provisions may apply singly or in combination.

(6) Terms, words, phrases and their derivatives used, but not specifically defined, in this article either shall have the meanings defined in other chapters of this Code or, if not defined, shall have their commonly accepted meanings. If a conflict exists between a definition in other chapters and a definition in this article, the definitions in this article shall apply to actions taken pursuant to this article.

(b) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*"Abatement of a nuisance"* means the act of removing, repairing, or taking other steps as may be necessary in order to remove a nuisance.

*"Accessory structure"* means any structure not intended for human occupancy which is located on residential property. *Approved* means meets the standards set forth by applicable provisions of this article, including any applicable regulations for electric, plumbing, building, or other sets of standards included by reference in this article or Article IV.

*"Basement"* means the usable portion of a building which is below the main entrance story and is partly or completely below grade.

*"Bathroom"* means a room that allows privacy and contains a toilet, sink, bathtub or shower.

*"Boarded"* means secured against entry by apparatus which is visible off the premises or is not lawful or customary to install on occupied structures.

*"Building"* means any structure used or intended to be used for supporting or sheltering any use or occupancy.

*"Building, existing"*, means a -structure erected prior to the date of adoption of the appropriate State Building Code, or one for which a legal building permit has been issued.

*"Building Official"* means the Building Official, Code Enforcement Officer or authorized representative charged with the enforcement and administration of this article.

*"Carbon monoxide alarm"* means a devise that detects carbon monoxide and produces a distinctive audible alert when carbon monoxide is detected.

*"Carbon monoxide source"* means a heater, fireplace, furnace, appliance, or cooking source that uses coal, wood, petroleum products, or other fuels that emit carbon monoxide as a by-product of combustion.

*"Dangerous structure"* means any structure which has any of the conditions or defects described in section 6-153.

*"Derelict structure"* means any structure which has any of the conditions or defects described in section 6-154.

*"Dwelling"* means any structure providing living facilities, designed for occupancy and including provisions for living, sleeping, eating, cooking and sanitation."

*Dwelling classifications.* Types of dwellings covered by this article include:

*"Apartment house"* means any building or portion of a building containing three or more dwelling units, which is designed, built, rented, leased, let, or hired out to be occupied for residential living purposes.

*"Hotel or Motel"* means any structure containing dwelling units that are intended, designed, or used for renting or hiring out for sleeping purposes by residents on a daily, weekly, or monthly basis, or a Recreational Vehicle Park as defined in the Independence Development Code 61.042.

*"Manufactured dwelling"* means a manufactured home, mobile home or residential trailer, as defined in ORS 446.003.

*"Single-family dwelling"* means a structure containing one dwelling unit, including adult foster care homes.

*"Single-room occupancy housing unit"* means a one-room dwelling unit that provides sleeping, cooking, and living facilities in which some or all sanitary or cooking facilities may be shared with other dwelling units.

*"Social care facilities"* means any structure or portion of a structure which is designed, built, rented, leased, let, hired out or otherwise occupied for group residential living purposes, which is not an apartment house, single-family dwelling or two-family dwelling. Such facilities include, but are not limited to, retirement facilities, assisted living facilities, residential care facilities, halfway houses, youth shelters, homeless shelters and other group living residential facilities.

*"Two-family dwelling"* means a structure containing two dwelling units, also known as a "duplex."

*"Dwelling unit"* means one or more habitable rooms that are designed or intended to be occupied by, one person, or a family or group living together as a single housekeeping unit that includes facilities for living and sleeping and, unless exempted by this chapter in sections 6-122 and 6-123, also includes facilities for cooking, eating, and sanitation.

*"Extermination"* means the elimination of insects, rodents, vermin, vector or other pests in or about the affected structure.

*"Facilities"* means the areas used as the kitchen and the bathroom.

*"Habitable room or space"* means a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.

*"Hazardous materials"* means materials defined by the current adopted fire code as hazardous.

*"Immediate danger"* means any condition posing a direct, immediate threat to human life, health, or safety.

*"Infestation"* means the presence within or upon a structure, of insects, rodents, vermin, vector or other pests to a degree that may be harmful to the structure or its occupants.

*"Inspection"* means the examination of a property for the purpose of evaluating its condition.

*"Interested party"* means any person or entity that possesses any legal or equitable interest of record in a property including, but not limited to, the holder of any lien or encumbrance of record on the property.

*"Kitchen"* means a room used or designed to be used for the preparation of food.

*"Occupancy"* means the lawful purpose for which a structure or part of a structure is used or intended to be used.

*"Occupant"* means any person using a structure, or any part of a structure, for its lawful, intended use.

*"Occupied"* means used for an occupancy. *Operator* means any person who has charge, care or control of a building or part of a building.

*"Outdoor area"* means all parts of property that are exposed to the weather including the exterior of structures built for human occupancy. The term "outdoor area" includes, but is not limited to, open and accessible porches, carports, garages, and decks; accessory structures; and any outdoor storage structure.

*"Owner"* means the person whose name and address is listed as the owner of the property by the County Tax Assessor in the county assessment and taxation records.

*"Plumbing or plumbing fixtures"* means any water, sewer, gas or vent pipes, garbage or disposal units, toilets, bidets, bathtubs, shower baths, dishwashers, clothes-washing machines or other similar equipment, catch basins, drains, vents, or other similarly supplied fixtures..

*"Property"* means real property and all improvements or structures on real property, from property line to property line.

*"Public right-of-way"* means any sidewalk, beauty strip, alley, street, or pathway, improved or unimproved, that is dedicated to public use.

*"Resident"* means any person occupying any portion of a structure for living or sleeping purposes.

*"Residential property"* means real property and all improvements or structures on real property intended to be used for residential purposes including any residential structure, dwelling, or dwelling unit as defined in this article and any mixed-use structures which have one or more

dwelling units. Hotels that are used exclusively for transient occupancy, as defined in this article, are excluded from this definition of residential property.

*"Residential structure"* means any building or other improvement or structure containing one or more dwelling units as well as any accessory structure. The term "residential structure" includes any dwelling as defined in this article.

*"Responsible person"* means an agent, occupant, lessee, tenant, contract purchaser, owner, or other person having possession or control of property or the supervision of any construction project.

*"Sink"* means a fixed basin connected to hot and cold running water and the structure's drainage system and primarily used for the preparation of food and the washing of items or personal hygiene.

*"Sleeping room"* means any room designed, built, or intended to be used as a bedroom.

*"Smoke alarm or detector"* means an approved detection device that produces a distinctive audible alert when products of combustion, other than heat, are detected.

*"Structure"* means that which is built or constructed, an edifice or building of any kind, or any piece or work artificially built up or composed of parts joined together in some definite manner, including, but not limited to buildings.

*"Supplied"* means installed, furnished or provided by the owner or operator.

*"Toilet"* means a flushable plumbing fixture connected to running water and the structure's drainage system and used for the disposal of human waste.

*"Toilet compartment"* means a room containing only a toilet or only a toilet and sink.

*"Transient occupancy"* means occupancy of a dwelling unit in a hotel or motel, excluding a recreational vehicle park, where at least any of the following conditions are met:

- (1) Occupancy is charged on a daily basis and is not collected more than six days in advance;
- (2) The lodging operator provides maid and linen service regularly as part of the charged cost of occupancy;
- (3) The period of occupancy does not exceed 30 days; and
- (4) If the occupancy exceeds five days, the resident has a business address or a residence other than at the hotel. *Unoccupied* means not used for occupancy. .

*"Unsecured"* means any structure in which doors, windows or apertures that are open, unlocked or broken, which could allow access by unauthorized persons.

*"Vacant"* means any structure that is intended for human occupation and is not being occupied or inhabited.

(Code 2006, §§ 15.03.060, 15.03.070; Ord. No. 1469, § 1(15.03.060), (15.03.070), 6-10-2008; Ord. No. 1500, § 1(15.03.060), (15.03.070), 12-13-2011)

**Secs. 6-89—6-106. Reserved.**

## **DIVISION II. STANDARDS**

### **Sec. 6-107. Maintenance.**

No Responsible Person shall maintain, or permit to be maintained, any property which does not comply with the requirements of this article or article IV.

*(Code 2006, § 15.03.080; Ord. No. 1469, § 1(15.03.080), 6-10-2008; Ord. No. 1500, § 1(15.03.080), 12-13-2011)*

### **Sec. 6-108. Display of address number.**

Address numbers posted shall be the same as the number listed on the county assessment and taxation records for the property. All address numbers shall be posted in a conspicuous place on a contrasting background so they may be read from the listed street or public way.

- (1) Residential structures shall have a minimum of three-inch-high address numbers.
- (2) Residential spaces located within a manufactured home park shall be clearly numbered or lettered on the permanent carport structure of each residential site or another permanent structure for each site, if a carport is not present. The address numbering shall have the same standards as residential structures.
- (3) Units within apartment houses shall be clearly numbered or lettered.
- (4) Commercial structures shall have a minimum of four-inch-high address numbers.

*(Code 2006, § 15.03.090; Ord. No. 1469, § 1(15.03.090), 6-10-2008; Ord. No. 1500, § 1(15.03.090), 12-13-2011)*

### **Sec. 6-109. Accessory structures.**

All accessory structures shall be maintained in good repair and free of unsafe obstructions or hazardous conditions.

*(Code 2006, § 15.03.100; Ord. No. 1469, § 1(15.03.100), 6-10-2008; Ord. No. 1500, § 1(15.03.100), 12-13-2011)*

### **Sec. 6-110. Roofs.**

The roof of any structure shall have no defects which might admit rain. Roof drainage shall be adequate to prevent rainwater from causing dampness in the walls or interior portion of the structure.

*(Code 2006, § 15.03.110; Ord. No. 1469, § 1(15.03.110), 6-10-2008; Ord. No. 1500, § 1(15.03.110), 12-13-2011)*

**Sec. 6-111. Chimneys.**

Every masonry, metal, or other chimney shall remain adequately supported and free from obstructions and shall be maintained in good condition.

*(Code 2006, § 15.03.120; Ord. No. 1469, § 1(15.03.120), 6-10-2008; Ord. No. 1500, § 1(15.03.120), 12-13-2011)*

**Sec. 6-112. Foundations and structural members.**

Foundations and supporting structural members for every structure shall be maintained structurally sound, showing no evidence of deterioration or decay which could impair their intended functions.

*(Code 2006, § 15.03.130; Ord. No. 1469, § 1(15.03.130), 6-10-2008; Ord. No. 1500, § 1(15.03.130), 12-13-2011)*

**Sec. 6-113. Exterior walls and exposed surfaces.**

(a) Every exterior wall and weather-exposed exterior surface or attachment shall be free of any conditions which might admit rain or dampness to the interior portions of the structure.

(b) All exterior surfaces shall be made substantially impervious to the adverse effects of weather.

(c) Exterior metal surfaces shall be protected from rust and corrosion.

(d) Every section of exterior brick, stone, masonry, or other veneer shall be maintained structurally sound and be adequately supported and tied back to its supporting structure.

*(Code 2006, § 15.03.140; Ord. No. 1469, § 1(15.03.140), 6-10-2008; Ord. No. 1500, § 1(15.03.140), 12-13-2011)*

**Sec. 6-114. Stairs and porches.**

Every stair, porch and attachment to stairs or porches shall be so constructed as to be safe to use and shall be kept in sound condition and good repair.

*(Code 2006, § 15.03.150; Ord. No. 1469, § 1(15.03.150), 6-10-2008; Ord. No. 1500, § 1(15.03.150), 12-13-2011)*

**Sec. 6-115. Handrails and guardrails.**

Every handrail and guardrail shall be firmly fastened, maintained in good condition and capable of supporting the loads to which it is subjected.

*(Code 2006, § 15.03.160; Ord. No. 1469, § 1(15.03.160), 6-10-2008; Ord. No. 1500, § 1(15.03.160), 12-13-2011)*

**Sec. 6-116. Windows.**

All windows shall be maintained in good condition and meet the following requirements:

(1) Every habitable room shall have at least one window facing an exterior yard or shall be provided with approved artificial light.

(2) Every bathroom and toilet compartment shall comply with the light requirements for habitable rooms as required by subsection 1 of this section, unless the bathrooms or toilet compartments are equipped with approved artificial light and an appropriate ventilation system.

(3) Every window required for ventilation or emergency escape shall be capable of being easily opened and held open by window hardware. Any installed storm windows on windows required for emergency escape shall be capable of being easily opened from the inside without the use of a key, special knowledge or effort.

(4) All windows that are designed to open and are easy to access from the outside must be able to be securely latched from the inside.

(5) Every window shall be substantially weather tight, shall be kept in sound condition and repair for its intended use, and every window sash shall be fully supplied with glass window panes without open cracks and holes.

*(Code 2006, § 15.03.170; Ord. No. 1469, § 1(15.03.170), 6-10-2008; Ord. No. 1500, § 1(15.03.170), 12-13-2011)*

**Sec. 6-117. Doors.**

(a) Every dwelling or dwelling unit shall have at least one door leading to an approved exit. All such doors shall be able to be easily opened from the inside without the use of a key or any special knowledge or effort. Any screen doors and storm doors must be able to be easily opened from the inside without the use of a key or special knowledge or effort.

(b) Every exterior door shall comply with the following:

(1) Every exterior door shall be able to be securely locked and every door hinge, door lock, and strike plate shall be maintained in good condition and be able to be easily opened from the inside without the use of a key or any special knowledge or effort.

(2) Every exterior door, when closed, shall fit reasonably well within its frame and be weather tight.

(c) Every interior door and door frame shall be maintained in a sound condition for its intended purpose.

*(Code 2006, § 15.03.180; Ord. No. 1469, § 1(15.03.180), 6-10-2008; Ord. No. 1500, § 1(15.03.180), 12-13-2011)*

**Sec. 6-118. Interior walls, floors, and ceilings.**

(a) Every interior wall, floor, ceiling, and cabinet shall be maintained in a safe and structurally sound condition, to permit the interior wall, floor, ceiling and cabinet to be kept in a clean and sanitary condition.

(b) Every toilet compartment, bathroom, kitchen and their floors and counter surfaces shall be constructed and maintained to be substantially impervious to water, to permit the surfaces to be kept in a clean and sanitary condition.

*(Code 2006, § 15.03.190; Ord. No. 1469, § 1(15.03.190), 6-10-2008; Ord. No. 1500, § 1(15.03.190), 12-13-2011)*

**Sec. 6-119. Interior dampness.**

Every structure, including basements and crawl spaces shall be maintained reasonably free from dampness to prevent conditions conducive to decay or deterioration of the structure.

*(Code 2006, § 15.03.200; Ord. No. 1469, § 1(15.03.200), 6-10-2008; Ord. No. 1500, § 1(15.03.200), 12-13-2011)*

**Sec. 6-120. Insect and rodent harborage.**

Every structure shall be kept free from insects, rodents, vermin, vector or other pests and where insects, rodents, vermin, vector or other pests are found, they shall be promptly exterminated.

*(Code 2006, § 15.03.210; Ord. No. 1469, § 1(15.03.210), 6-10-2008; Ord. No. 1500, § 1(15.03.210), 12-13-2011)*

**Sec. 6-121. Cleanliness and sanitation.**

The interior and exterior of every structure shall be constructed in a safe and structurally sound condition to permit the interior and exterior to be maintained in a clean and sanitary condition.

*(Code 2006, § 15.03.220; Ord. No. 1469, § 1(15.03.220), 6-10-2008; Ord. No. 1500, § 1(15.03.220), 12-13-2011)*

**Sec. 6-122. Bathroom facilities.**

(a) Bathroom facilities shall be maintained in a safe and sanitary working condition.

(1) Every dwelling unit shall be provided with, or access to a toilet, sink and a bathtub or shower.

(2) Every commercial building shall be provided with toilet and sink facilities. Exception: Toilet facilities may be located in an adjacent building on the same property for all commercial or industrial uses, except drinking and dining establishments.



(b) In hotels, apartment houses and social care facilities where private toilets, sinks or baths are not provided, the required toilets, bathtubs and showers shall be located in a room that allows privacy.

*(Code 2006, § 15.03.230; Ord. No. 1469, § 1(15.03.230), 6-10-2008; Ord. No. 1500, § 1(15.03.230), 12-13-2011)*

**Sec. 6-123. Kitchen facilities.**

(a) Every dwelling unit shall contain a kitchen sink apart from the bathroom sink, with the exception of single-room occupancy housing units which shall comply with section 6-133.

(b) Except as otherwise provided for in subsection (c) of this section and section 6-133, every dwelling unit shall have approved service connections for refrigeration and cooking appliances.

(c) Social care facilities may be provided with a community kitchen with facilities for cooking, refrigeration, and washing utensils.

*(Code 2006, § 15.03.240; Ord. No. 1469, § 1(15.03.240), 6-10-2008; Ord. No. 1500, § 1(15.03.240), 12-13-2011)*

**Sec. 6-124. Plumbing facilities.**

(a) Every plumbing fixture or device shall be properly connected to an approved water and sewer system.

(b) All kitchen and bathroom sinks, bathtubs and showers shall be supplied with both hot and cold running water. Every dwelling shall be supplied with water-heating facilities adequate for each dwelling unit and properly installed, and maintained. Dwelling water-heating facilities shall be capable of heating enough water to permit an adequate amount of water to be drawn at each facility.

(c) In every structure, all required plumbing or plumbing fixtures shall be:

- (1) Properly installed, connected, and maintained in good working order;
- (2) Kept free from obstructions, leaks, and defects;
- (3) Capable of performing the function for which they are designed; and
- (4) Installed and maintained so as to prevent structural deterioration or health hazards.

(d) All inhabited dwellings and dwelling units must have an active water supply or service from an approved system.

*(Code 2006, § 15.03.250; Ord. No. 1469, § 1(15.03.250), 6-10-2008; Ord. No. 1500, § 1(15.03.250), 12-13-2011)*

**Sec. 6-125. Heating equipment and facilities.**

(a) All heating equipment, including that used for cooking, water heating, heat, and clothes drying shall be: Installed, connected, and free from leaks and obstructions and capable of safely performing the function for which they are designed.

(b) Every dwelling unit shall have a heating facility capable of maintaining a room temperature at a comfortable level in all habitable spaces. Portable heating devices may not be used to meet the dwelling's heat supply requirements of this division.

*(Code 2006, § 15.03.260; Ord. No. 1469, § 1(15.03.260), 6-10-2008; Ord. No. 1500, § 1(15.03.260), 12-13-2011)*

**Sec. 6-126. Electrical system, outlets, and lighting.**

(a) Any structure using power must be connected to an approved source of electric power. Every electric outlet and fixture shall be maintained and safely connected to an approved electrical system. The electrical system shall not constitute a hazard to the occupants of the structure by reason of inadequate or inactive service, improper fusing, improper wiring or installation, deterioration or damage, or similar reasons.

(b) All inhabited dwelling units must have active electrical service from an approved electrical source.

(c) In addition to other electrical system components that may be used to meet cooking, refrigeration and heating requirements listed elsewhere in this section, the following outlets and lighting fixtures are required:

(1) Every habitable room shall contain at least one operable electric outlet and one operable electric light fixture, otherwise two operable outlets are required if electric fixture lighting is not present.

(2) Every toilet compartment or bathroom shall contain at least one operable electric light fixture and one outlet. Every laundry, furnace room, and all similar non-habitable spaces shall have one operable electric light fixture.

(3) Every public hallway, corridor and stairway in apartment houses, hotels and social care facilities shall be adequately lighted at all times.

*(Code 2006, § 15.03.270; Ord. No. 1469, § 1(15.03.270), 6-10-2008; Ord. No. 1500, § 1(15.03.270), 12-13-2011)*

**Sec. 6-127. Sleeping room requirements.**

Every room used for sleeping purposes:

(1) Shall be a habitable room as defined in this division; and

(2) Shall have natural or approved artificial light, ventilation, window(s) or other means for escape purposes as required by section 6-129.

*(Code 2006, § 15.03.280; Ord. No. 1469, § 1(15.03.280), 6-10-2008; Ord. No. 1500, § 1(15.03.280), 12-13-2011)*

**Sec. 6-128. Overcrowding.**

No dwelling unit shall be permitted to be overcrowded. A dwelling unit shall be considered overcrowded if there are more than two residents per habitable room in the dwelling unit. (Example: a two-bedroom unit with a living room could have no more than six residents.) Family residents are exempt from this section. See, ORS 479.168 for definition of the term "family."

*(Code 2006, § 15.03.290; Ord. No. 1469, § 1(15.03.290), 6-10-2008; Ord. No. 1500, § 1(15.03.290), 12-13-2011)*

**Sec. 6-129. Emergency exits.**

(a) Every sleeping room shall have at least one operable window or door for emergency escape that is able to be easily opened from the inside to a clear opening without the use of special knowledge, effort, or separate tools. (b) Exit doors and other exits shall be free of obstructions that block access to the exit.

(c) All doors, windows and any devices used in connection with the means of escape shall be maintained in good working order and repair.

(d) In addition to any other exit requirement in hotels and apartment houses:

(1) All fire escapes shall be kept in good order and repair.

(2) Every fire escape or stairway, stair platform, corridor or passageway which may be one of the regular means of emergency exit from the building shall be kept free of obstructions of any kind.

(3) Windows leading to fire escapes shall be secured against unwanted entry with approved devices which permit opening from the inside without the use of a key or any special knowledge, effort or tool.

*(Code 2006, § 15.03.300; Ord. No. 1469, § 1(15.03.300), 6-10-2008; Ord. No. 1500, § 1(15.03.300), 12-13-2011)*

**Sec. 6-130. Smoke alarms and carbon monoxide alarms.**

(a) Properly functioning smoke alarms or detectors shall be located in all buildings where a room or area therein is designated for sleeping purposes, either as a primary use or use on a casual basis. All alarms and detectors shall be installed in accordance with the manufacturer's instructions and shall be operable.

(b) A properly functioning carbon monoxide alarm shall be installed for all dwelling units for lease or rent. A carbon monoxide alarm shall be installed in accordance with the manufacturer's instructions and shall be operable.

*(Code 2006, § 15.03.310; Ord. No. 1469, § 1(15.03.310), 6-10-2008; Ord. No. 1500, § 1(15.03.310), 12-13-2011)*

**Sec. 6-131. Hazardous materials.**

(a) Property shall be free of dangerous levels of hazardous materials, contamination by toxic chemicals, or other circumstances that would render the property unsafe.

(b) No residential property shall be used as a place for the storage and handling of highly combustible or explosive materials or any articles which may be dangerous or detrimental to life or health. No residential property shall be used for the storage or sale of paints, varnishes or oils used in the making of paints and varnishes, except as needed to maintain the dwelling.

*(Code 2006, § 15.03.320; Ord. No. 1469, § 1(15.03.320), 6-10-2008; Ord. No. 1500, § 1(15.03.320), 12-13-2011)*

**Sec. 6-132. Maintenance of facilities and equipment.**

In addition to other requirements for the maintenance of facilities, such as bathrooms, kitchens, etc., and equipment:

(1) All facilities in structures shall be constructed and maintained to properly and safely perform their intended function.

(2) All facilities or equipment present in a structure shall be maintained to prevent structural damage to the building or hazards of health, sanitation, or fire.

*(Code 2006, § 15.03.330; Ord. No. 1469, § 1(15.03.330), 6-10-2008; Ord. No. 1500, § 1(15.03.330), 12-13-2011)*

**Sec. 6-133. Special standards for single-room occupancy housing units.**

In addition to meeting requirements for residential structures as defined in this article, structures containing single-room occupancy housing units shall comply with the following:

(1) Either a community kitchen with facilities for cooking, refrigeration, and washing utensils shall be provided on each floor, or in each individual single-room unit.

(2) Where cooking units are provided in individual single-room units, they shall be installed so as to provide a minimum clear work space in front and above of the cooking appliance, to reduce and prevent hazards of health, sanitation or fire.

*(Code 2006, § 15.03.350; Ord. No. 1469, § 1(15.03.350), 6-10-2008; Ord. No. 1500, § 1(15.03.350), 12-13-2011)*

PART II - CODE OF ORDINANCES  
Chapter 6 - BUILDINGS AND CONSTRUCTION  
ARTICLE III. PROPERTY MAINTENANCE REGULATIONS

ORD. #1533  
EXHIBIT A

**Sec. 6-134. Penalty.**

The offenses described in these sections are an Independence Municipal Code Class A violation, per section 1-22.

**Secs. 6-135—6-151. Reserved.**

## **ARTICLE IV. - DANGEROUS AND DERELICT STRUCTURES**

### **DIVISION I. GENERALLY**

[Sec. 6-152. Prohibited.](#)

[Sec. 6-153. Dangerous structures.](#)

[Sec. 6-154. Derelict structures.](#)

[Sec. 6-155. Penalty.](#)

[Secs. 6-156—6-189. Reserved.](#)

### **DIVISION II. ABATEMENT OF DANGEROUS OR DERELICT STRUCTURES**

[Sec. 6-190. Notice of status as dangerous or derelict structure.](#)

[Sec. 6-191. Statement of actions.](#)

[Sec. 6-192. Posting of an unsafe occupied structure.](#)

[Sec. 6-193. Abatement of dangerous structures.](#)

[Sec. 6-194. Inspections required; right of entry.](#)

[Sec. 6-195. Occupancy of structure after notification of the violation.](#)

[Sec. 6-196. Illegal residential occupancy.](#)

[Sec. 6-197. Interference with repair, demolition, or abatement prohibited.](#)

[Sec. 6-198. Violations.](#)

### **DIVISION I. GENERALLY**

#### **Sec. 6-152. Prohibited.**

No property shall contain any dangerous or derelict structure as described in this article. All such dangerous or derelict structures shall be repaired or demolished.

*(Code 2006, § 15.03.360; Ord. No. 1469, § 1(15.03.360), 6-10-2008; Ord. No. 1500, § 1(15.03.360), 12-13-2011)*

#### **Sec. 6-153. Dangerous structures.**

(a) *Prohibited.* Any structure, or portion thereof, which has any of the conditions described in this section to the extent that life, health, property, or safety of the public or persons are endangered, shall be deemed to be a dangerous structure, declared a nuisance and such conditions or defects shall be abated pursuant to section 6-193.

(b) *High loads.* Whenever any material, member or portion of a structure is not able to support the structure's constant weight (dead load) and/or the items stored within the structure (live load).

(c) *Weakened or unstable structural members or appendages.* Whenever any portion of a structure including parapet walls, appendages, cornices, spires, towers, tanks, statuary or

other appendages or members which are supported by, attached to, or part of a structure are in a deteriorated condition or otherwise unable to sustain their loads.

(d) *Buckled or leaning walls or structural members.* Whenever the exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

(e) *Vulnerability to earthquakes, high winds.*

(1) Whenever any portion of a structure have walls or other structural portions that are materially less resistant to winds or earthquakes than is required in similar new construction; or

(2) Whenever any portion of a structure, or any member, appurtenance, or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified for a new similar structure purpose or location.

(f) *Insufficient strength or fire resistance.* Whenever any structure:

(1) Has any non-supporting part, member, or portion, with less than 50 percent of the strength or the fire-resisting qualities or characteristics for a newly constructed structure of like area, height, and occupancy in the same location; or

(2) Has any supporting part, member, or portion with less than 66 percent of the strength or the fire-resisting qualities or characteristics of a newly constructed structure of like area, height, and occupancy in the same location.

(g) *Risk of failure or collapse.*

(1) Whenever any portion, member or appurtenance is likely to fail, or to become disabled or dislodged, or to collapse and thereby injure persons or damage property; or

(2) Whenever the structure, or any portion thereof, is likely to partially or completely collapse as a result of any cause, including but not limited to:

a. Dilapidation, deterioration, or decay;

b. Faulty construction;

c. The removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such structure; or

d. The deterioration, decay, or inadequacy of its foundation.

(h) *Excessive damage or deterioration.* Whenever the structure exclusive of the foundation:

(1) Shows 33 percent or more damage or deterioration of any supporting member or members;

(2) Shows 50 percent damage or deterioration of its non-supporting members; or

(3) Shows 50 percent damage or deterioration of its enclosing, or outside wall coverings.

(i) *Demolition remnants on-site.* Whenever any portion of a structure, including unfilled excavations, remain on a site for more than 30 days after the demolition or destruction of the structure.

(j) *Fire hazard.* Whenever any structure is a fire hazard as a result of any cause, including but not limited to: dilapidated condition, deterioration, or damage; inadequate exits; lack of sufficient fire-resistive construction; or faulty electric wiring, gas connections, or heating apparatus.

(k) *Other hazards to health, safety, or public welfare.*

(1) Whenever, for any reason, the structure or any portion thereof is manifestly unsafe for the purpose for which it is lawfully constructed or currently is being used; or

(2) Whenever a structure is structurally unsafe or is otherwise hazardous to human life, including but not limited to whenever a structure constitutes a hazard to health, safety, or public welfare by reason of inadequate maintenance, dilapidation, unsanitary conditions, obsolescence, fire hazard, disaster, damage, or abandonment.

(l) *Public nuisance.*

(1) Whenever any structure is in such a condition as to constitute a nuisance known to the City; or

(2) Whenever the structure has become so dilapidated or deteriorated as to become:

- a. An attractive nuisance as referred to in IMC 14-100; or
- b. A harbor for vagrants, criminals or other persons that have no legal affiliation with the property.

- c. A harborage for nuisance wildlife or other infestations.

(m) *Violations of codes, laws.* Whenever any structure is maintained in violation of any specific requirement applicable to such structure provided by this article, or any law of this city.

(Code 2006, § 15.03.380; Ord. No. 1469, § 1(15.03.380), 6-10-2008; Ord. No. 1500, § 1(15.03.380), 12-13-2011)

**Sec. 6-154. Derelict structures.**

(a) A derelict structure is any building, structure, or portion thereof that meets any of the following criteria:

(1) Has been ordered vacated by the Building Official pursuant to sections 6-190 through 6-192;

(2) Has been declared a dangerous structure by the Building Official;

(3) Is left unsecured and unoccupied for over ten days;

(4) Is occupied in violation of section 6-192;

(5) Has, while vacant, had a nuisance declared by the city on the property upon which it is located;

(6) Is partially burned or destroyed from wind, water or other natural causes and unoccupied for over 30 days.



(b) Any property which has been declared by the Building Official to be a derelict structure shall be considered in violation of this article until:

(1) The structure has been demolished and the lot cleared and graded after demolition approval is issued by the city, with final inspection and approval by the Building Official; or

(2) The owner has demonstrated to the satisfaction of the Building Official that the property is free of all conditions causing its status as a derelict structure.

*(Code 2006, § 15.03.370; Ord. No. 1469, § 1(15.03.370), 6-10-2008; Ord. No. 1500, § 1(15.03.370), 12-13-2011)*

**Sec. 6-155. Penalty.**

The offenses described in these sections are an Independence Municipal Code Class A violation, per section 1-22.

**Secs. 6-156—6-189. Reserved.**

**DIVISION II. ABATEMENT OF DANGEROUS OR DERELICT STRUCTURES**

**Sec. 6-190. Notification of status as derelict or dangerous structure.**

When the Building Official determines that a structure is a dangerous or derelict structure, the Building Official shall notify any responsible person of the determination in writing, as provided in sections 6-191 and 6-192 of this division. If necessary, the Building Official may include an order to vacate as described in sections 6-191 and 6-192.

*(Code 2006, § 15.03.385; Ord. No. 1469, § 1(15.03.385), 6-10-2008; Ord. No. 1500, § 1(15.03.385), 12-13-2011)*

**Sec. 6-191. Statement of actions.**

In addition to the information in the dangerous or derelict notification, the Building Official may include any of the following:

(1) If the Building Official has determined that the structure must be vacated, the notification shall require that the building or structure be vacated within the time specified by the Building Official.

(2) If the Building Official has determined that:

a. The structure is vacant or

b. The structure has presented or is likely to present a danger to individuals who may enter the structure even though they are unauthorized to do so, the violation notification shall require that the structure be secured against unauthorized entry.

(3) If the Building Official has determined that the structure must be demolished, the violation notification may require that the structure be vacated, that all required permits be secured and that the demolition is to be completed within the time specified.

(4) Statements advising that if any required repair or demolition work is not commenced within the time specified, the Building Official may order the structure to be vacated and post the structure to prevent further occupancy until the work is completed.

(5) If there is an immediate danger to the public or the environment, the Building Official may, after obtaining authorization to enter the property, proceed to cause the repair or demolition to be done. Any incurred costs for the abatement shall be charged to any responsible persons. Failure to pay the assessed abatement costs within 30 days may cause the City to assess a lien against real property owned by the responsible person(s).

(6) In addition to other authorized methods of enforcement of this article, any failure to pay any imposed City fine shall be grounds for withholding issuance of any City permits or licenses or certificates of occupancy, revocation or suspension of any City issued permits, licenses or certificates of occupancy, or issuance of a stop work order, if applicable.

*(Code 2006, § 15.03.390; Ord. No. 1469, § 1(15.03.390), 6-10-2008; Ord. No. 1500, § 1(15.03.390), 12-13-2011)*

**Sec. 6-192. Posting of an unsafe structure.**

(a) *Posting notice.* If the Building Official orders that a structure be vacated or demolished, the Building Official shall post a notice at each entrance of the structure that the Building Official can legally access. The posted notice shall contain any restrictions of use, the applicable city code references, the date posted, the name and title of the official causing the notice to be posted, the advisory to not tamper with the posting and the name of the government entity that employs the posting official.

(b) *Compliance.* Upon issuance of a notification to vacate or demolish and the posting of an unsafe structure notice, no person shall remain in or enter any structure which has been so posted, except that entry may be made to repair, demolish or remove such structure pursuant to a validly issued permit. No unauthorized person shall remove or deface any such notice until the required abatement has been completed and the Building Official has verified the abatement. Any such removal or defacement of the posted notice shall constitute a violation of this article.

*(Code 2006, § 15.03.400; Ord. No. 1469, § 1(15.03.400), 6-10-2008; Ord. No. 1500, § 1(15.03.400), 12-13-2011)*

**Sec. 6-193. Abatement of dangerous structures.**

All structures or portions thereof, which are determined to be dangerous as defined in this article, are hereby declared to be public nuisances and shall be abated by repair, rehabilitation,

demolition, or removal in accordance with the procedures specified in this article. If the Building Official determines that a structure is dangerous, the Building Official may commence proceedings to cause the repair, vacation or demolition of the structure, as listed in 6-191.

*(Code 2006, § 15.03.410; Ord. No. 1469, § 1(15.03.410), 6-10-2008; Ord. No. 1500, § 1(15.03.410), 12-13-2011)*

**Sec. 6-194. Inspections required; right of entry.**

(a) *Inspections.* All structures, or other improvements regulated by this article and any work for which a permit is required shall be subject to inspection by the Building Official.

(b) *Right of entry.* Whenever the Building Official has reasonable cause to suspect that a violation of any provision of this article or article III of this chapter exists, or when necessary to investigate an application for or revocation of any approval under any of the procedures described in this article, or article III of this chapter, the Building Official may enter on any site or into any structure for the purpose of investigation; provided, that no premises shall be entered without first obtaining the consent of any responsible person for the premises, or by obtaining an administrative search warrant.

(c) *Administrative search warrant.* If consent for entry cannot be obtained from any responsible person, the Building Official shall secure an administrative search warrant from the city's municipal court before further attempts to gain entry and shall have recourse to every other remedy provided by law to secure entry.

*(Code 2006, § 15.03.420; Ord. No. 1469, § 1(15.03.420), 6-10-2008; Ord. No. 1500, § 1(15.03.420), 12-13-2011)*

**Sec. 6-195. Occupancy of structure after notification of violation.**

(a) After the violation notification has been issued and the affected structure is or becomes vacant, it shall be unlawful to reoccupy or allow re-occupancy of the structure until the necessary approvals are given by the Building Official.

(b) Notwithstanding subsection (a) of this section, the Building Official may allow re-occupancy of the structure if, in the Building Official's opinion, all safety hazards have been rectified.

*(Code 2006, § 15.03.440; Ord. No. 1469, § 1(15.03.440), 6-10-2008; Ord. No. 1500, § 1(15.03.440), 12-13-2011)*

**Sec. 6-196. Illegal residential occupancy.**

When a property has an illegal residential occupancy, including but not limited to occupancy of tents, campers, motor homes, recreational vehicles, or other structures or spaces not intended for residential use or occupancy, the illegal residential use shall be immediately discontinued upon notification.

*(Code 2006, § 15.03.450; Ord. No. 1469, § 1(15.03.450), 6-10-2008; Ord. No. 1500, § 1(15.03.450), 12-13-2011)*

**Sec. 6-197. Interference with repair, demolition, or abatement prohibited.**

It is unlawful for any person to obstruct, impede, or interfere with any person lawfully engaged in:

(1) the work of repairing, vacating or demolishing any structure, or any preliminary or incidental work pursuant to the provisions of this chapter.

(2) the abatement of any nuisance pursuant to the provisions of this article, or article III of this chapter.

*(Code 2006, § 15.03.460; Ord. No. 1469, § 1(15.03.460), 6-10-2008; Ord. No. 1500, § 1(15.03.460), 12-13-2011)*

**Sec. 6-198. Violations.**

(a) The offenses described in this article are an Independence Municipal Code Class A violation, per section 1-22.

(b) A finding of a violation of this article shall not relieve any responsible party of the duty to abate the violation. The penalties imposed by this section are in addition to and not in lieu of any other remedies available to the city.

(c) If a provision of this article is violated by a firm or corporation, the officer or officers or person or persons responsible for the violation may also be subject to any penalties imposed by this article, or article III of this chapter.

*(Code 2006, § 15.03.470; Ord. No. 1469, § 1(15.03.470), 6-10-2008; Ord. No. 1500, § 1(15.03.470), 12-13-2011)*