

Note: City of Richland Resolution No. 100-20 temporarily designates virtual locations for all municipal meetings. This meeting will be held remotely via Zoom. Members of the public may attend this meeting remotely by selecting the Zoom link or by calling the phone numbers provided.



Agenda
Code Enforcement Board Meeting
Tuesday, January 11, 2022
Join the Zoom meeting [here](#)
Public Telephone Access: (206) 337-9723 or (253) 215-8782
Meeting ID No. 831 2379 3370

Board Members: Chair Levy, Vice-Chair White, and Board Members Bialy, Edmondson, and Faylor

Staff Liaison Sergeant Swanson

Regular Meeting - 6:00 p.m. via Zoom

Call to Order/Attendance:

Approval of Agenda: January 11, 2022 Agenda (Approved by Motion)

Approval of Minutes: December 14, 2021 Minutes (Approved by Motion)

Compliance Hearings/Administration of Oaths:

Continued Cases/Old Business:

- I. Status Report Discussion/Memo to City Council
- Edmondson

New Business/Liaison Comments:

- I. Chair and Vice Chair Nominations

Execution of Orders:

Adjournment

The next Code Enforcement Board Meeting is February 8, 2022

Richland City Hall is ADA accessible. Requests for sign interpreters, audio equipment, and/or other special services must be received 48 hours prior to the meeting by calling the City Clerk's Office at 509-942-7389.

Title 10 CIVIL VIOLATIONS

Chapters:

10.02 Violations and Procedures

10.04 Public Nuisances

10.06 Inoperable and Junk Vehicles

Chapter 10.02 VIOLATIONS AND PROCEDURES

Sections:

10.02.010 Applicability of chapter.

10.02.020 Purpose.

10.02.030 Definitions.

10.02.040 Voluntary correction.

10.02.050 Notice of civil violation.

10.02.060 Hearing before the code enforcement board.

10.02.070 Abatement by the city.

10.02.080 Additional enforcement procedures.

10.02.090 Approved collection methods.

10.02.100 Authority to negotiate settlement.

10.02.110 Conflicts.

10.02.120 Severability.

10.02.010 Applicability of chapter.

The provisions of this chapter shall apply to RMC Title 5, Licensing and Taxation; Title 6, Boating; Title 7, Animals; Title 8, Health and Sanitation; Title 10, Civil Violations; Title 11, Traffic; Title 12, Streets and Sidewalks; Title 14, Electricity; Title 15, Solid Waste; Title 17, Sewers; Title 18, Water; Title 20, Life

Safety; Title 21, Buildings and Construction; Title 22, Environment; Title 23, Zoning Regulations; Title 24, Plats and Subdivision; Title 26, Shoreline Management; and Title 27, Signs. [Ord. 04-10 § 1.01; Ord. 19-12 § 1].

10.02.020 Purpose.

The purpose of this chapter is to establish an efficient system to enforce the regulations of the city of Richland, to provide an opportunity for a prompt hearing on alleged violations of such regulations, to establish monetary penalties for violations as authorized by RCW 35.22.280, and to establish a standard procedure to be used by the city to abate unsafe or unlawful conditions.

Further, it is the purpose of this chapter to generally provide civil penalties for non-fire code violations of RMC Titles 5, 6, 7, 8, 10, 11, 12, 14, 15, 17, 18, 20, 21, 22, 23, 24, 26, and 27, all standards, regulations and procedures adopted pursuant to those titles, and the terms and conditions of any permit or approval issued pursuant to those titles which do not involve imminent danger to the public health, safety and welfare of persons or property, and such other code provisions as are specified. Criminal penalties provided in this code for non-fire violation of RMC Titles 5, 6, 7, 8, 9, 11, 12, 14, 15, 17, 18, 20, 21, 22, 23, 24, 26, and 27, and all standards, regulations and procedures adopted pursuant to those titles and the terms and conditions of any permit or approval issued pursuant to those titles whether contained in this chapter of the RMC or in the individual titles, are superseded to the extent provided herein. [Ord. 04-10 § 1.01; Ord. 19-12 § 1].

10.02.030 Definitions.

As used in this chapter, unless a different meaning is plainly required:

“Abate” means to repair, replace, remove, destroy or otherwise remedy a condition which constitutes a civil violation by such means, in such a manner and to such an extent as the applicable department director determines is necessary in the interest of the general health, safety and welfare of the community.

“Act” means doing or performing something.

“Applicable department director” means the director of the department or any designated alternate empowered by ordinance or by the city manager to enforce a city of Richland ordinance or regulation.

“Civil violation” means a violation for which a monetary penalty may be imposed as specified in this chapter. Each day or portion of a day during which a violation occurs is a separate violation.

“Code enforcement board” means the Richland code enforcement board established pursuant to RMC 2.20.010.

“Criminal violation” means a violation of the municipal code which may be imposed as provided in this code in those situations where multiple or ongoing and repeat offenses have occurred and is a misdemeanor subject to a misdemeanor penalty pursuant to RMC 9.02.020(C).

“Development” means the erection, alteration, enlargement, demolition, maintenance or use of any structure or the alteration or use of any land above, at or below ground or water level, and all acts authorized by a city of Richland regulation.

“Emergency” means a situation, which the applicable department director determines requires immediate action to prevent or eliminate threat to the health or safety of persons or property.

“Omission” means a failure to act.

“Person” means any individual, firm, association, partnership, corporation or any entity, public or private.

“Person responsible for the violation” means any person 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 the owner(s), lessor(s), tenant(s), or other person(s) entitled to control, use and/or occupy property where a civil violation occurs.

“Regulation” means and includes the following as now or hereafter amended:

A. RMC Title 5, Licensing and Taxation; Title 6, Boating; Title 7, Animals; Title 8, Health and Sanitation; Title 10, Civil Violations; Title 11, Traffic; Title 12, Streets and Sidewalks; Title 14, Electricity; Title 15, Solid Waste; Title 17, Sewers; Title 18, Water; Title 20, Life Safety; Title 21, Buildings and Construction; Title 22, Environment; Title 23, Zoning Regulations; Title 24, Plats and Subdivision; Title 26, Shoreline Management; and Title 27, Signs.

B. All standards, regulations and procedures adopted pursuant to the above; and

C. The terms and conditions of any permit or approval issued by the city or any concomitant agreement with the city.

“Repeat violation” means a violation of the same regulation in any location by the same person for which voluntary compliance previously has been sought within two years or a notice of civil violation has been issued within two years.

“Violation” means an act or omission contrary to a city of Richland regulation including an act or omission at the same or different location by the same person, and including a condition resulting from such act or omission. [Ord. 04-10 § 1.01; Ord. 19-12 § 1].

10.02.040 Voluntary correction.

A. Applicability. This section applies whenever the applicable department director determines that a violation of a regulation has occurred or is occurring.

B. General. The applicable department director shall pursue a reasonable attempt to secure voluntary correction by contacting the person responsible for the violation where possible, explaining the violation and requesting correction.

C. Issuance of Voluntary Correction Agreement. A voluntary correction agreement may be entered into between the person responsible for the violation and the city, acting through the applicable department director.

1. Content. The voluntary correction agreement is a contract between the city and the person responsible for the violation under which such person agrees to abate the violation within a specified time and according to specified conditions. The voluntary correction agreement shall include the following:

- a. The name and address of the person responsible for the violation; and
- b. The street address or a description sufficient for identification of the building, structure, premises, or land upon which or within which the violation has occurred or is occurring; and
- c. Description of the violation and a reference to the provision(s) of the city of Richland ordinance or regulations which has been violated; and
- d. The necessary corrective action to be taken, and a date and time by which the corrective action must be completed;
- e. An agreement by the person responsible for the violation that the city of Richland may abate the violation and recover its costs and expenses and a monetary penalty pursuant to this chapter from the person responsible for the violation if all terms of the voluntary correction agreement are not met; and
- f. An agreement that by entering into the voluntary correction agreement the person responsible for the violation waives the right to an administrative appeal of the violation and/or the required corrective action.

2. Administrative Review of Compliance. After the person responsible for the violation has given notice to the city of completion of the abatement required under the voluntary correction agreement, the applicable department director shall, within three working days, determine if the abatement is complete. If said director determines that the abatement is not complete, the person responsible for the violation shall have five days in which to file an appeal with the community and economic development director of the city for review of such determination, which review shall be completed within 30 days of the date of the receipt of the notice of review. The only issue subject to review shall be whether there has been complete compliance with the terms of the voluntary correction agreement.

3. Extension – Modification. An extension of the time limit for correction or modification of the required corrective action may be granted by the applicable department director if the person responsible for the violation has shown due diligence and/or substantial progress in correcting the violation but unforeseen circumstances render correction under the original conditions unattainable.

4. Abatement by the City. The city may abate the violation in accordance with RMC 10.02.070 if the terms of the voluntary correction agreement are not met.

5. Collection of Costs. If the terms of the voluntary correction agreement are not met, the person responsible for the violation shall be assessed a monetary penalty commencing on the date set for correction and thereafter, in accordance with RMC 10.02.050(E), plus all costs and expenses of abatement, as set forth in RMC 10.02.070(D). [Ord. 04-10 § 1.01; Ord. 19-12 § 1].

10.02.050 Notice of civil violation.

A. Issuance.

1. When the applicable department director determines that a violation has occurred or is occurring, and is unable to secure voluntary correction pursuant to RMC 10.02.040, the applicable department director may issue a notice of civil violation to the person responsible for the violation.

2. The applicable department director may issue a notice of civil violation without having attempted to secure voluntary correction as provided in RMC 10.02.040 under the following circumstances:

a. When an emergency exists; or

b. When a repeat violation occurs; or

c. When the violation creates a situation or condition which cannot be corrected; or

d. When the person knows or reasonably should have known that the action is in violation of a city of Richland regulation.

B. Content. The notice of civil violation shall include the following information:

1. The name and address of the person responsible for the violation; and
2. The street address or a description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring; and
3. A description of the violation and a reference to the provision(s) of the city of Richland regulations which has been violated; and
4. The required corrective action and a date and time by which the correction must be completed after which the city may abate the unlawful condition in accordance with RMC 10.02.070 and the code enforcement board's order; and
5. The date, time and location of an appeal hearing before the code enforcement board, which will be at least 10 days from the date the notice of civil violation is issued; and
6. A statement indicating that a minimum \$50.00 penalty shall be assessed by the code enforcement board; and
7. A statement that the costs and expenses of abatement incurred by the city pursuant to RMC 10.02.070(D) and a monetary penalty in an amount per day for each violation as specified in subsection (E) of this section may be assessed against the person to whom the notice of civil violation is directed as specified and ordered by the code enforcement board.

C. Service of Notice. The applicable department director shall serve the notice of civil violation upon the person to whom it is directed, either personally or by mailing, by both regular mail and certified mail, a copy of the notice of violation to such person at their last known address. If the person to whom it is directed cannot after due diligence be personally served within Benton County and if an address for mailed service cannot after due diligence be ascertained, notice shall be served by posting a copy of the notice of civil violation conspicuously on the affected property or structure. Proof of service shall be made by a written declaration under penalty of perjury executed by the person effecting the service, declaring the time and date of service, the manner by which the service was made, and if by posting the facts showing that due diligence was used in attempting to serve the person personally or by mail.

D. Extension. No extension of the time specified in the notice of civil violation for correction of the violation may be granted, except by order of the code enforcement board.

E. Monetary Penalty. A minimum penalty of \$50.00 shall be assessed for each offense requiring a notice of civil violation. The maximum monetary penalty for each separate violation per day or portion thereof shall be \$500.00 per violation per day or portion thereof to a maximum penalty of \$5,000 for all offenses. Repeat violations shall result in a doubled daily monetary amount. Upon the third violation of the same regulation at the same location within two years, the violation shall constitute a criminal offense and shall subject the violator to criminal prosecution and penalties as set forth in RMC 10.02.030.

F. Continued Duty to Correct. Payment of the monetary penalty does not relieve the person to whom the notice of civil violation was issued of the duty to correct the violation.

G. Collection of Monetary Penalty.

1. The monetary penalty constitutes a personal obligation of the person to whom the notice of violation is directed. Any monetary penalty assessed must be paid to the city of Richland within 30 calendar days from the date of mailing of the code enforcement board's decision or a notice from the city that penalties are due.
2. The city manager or his/her designee is authorized to take appropriate action to collect the monetary penalty.
3. In the event of an appeal to the code enforcement board, monetary penalties as provided herein shall accrue during the appeal period unless the appellant prevails on appeal. Accrued monetary penalties shall not exceed three times the amount of the daily monetary penalty for any single violation from the first date of violation through the date the code enforcement board renders a final decision.

H. Entry to Buildings and Premises – Warrants. Whenever necessary to make an inspection to determine whether a civil violation has occurred or is occurring, or to enforce any provision of the Richland Municipal Code, or regulation issued thereunder, violation of which is a civil violation under this chapter, the applicable department director or his designee may enter any building or premises at any reasonable time, provided if such building or premises is occupied he shall first present credentials and demand entry; and if such building or premises is not occupied, he shall first make a reasonable effort to locate the owner or other person having charge of the building or premises and demand entry. If such entry is refused, or the owner or other person having charge of the building or premises cannot be located, the applicable department director or his designee shall have recourse to every remedy provided by law to secure entry, including recourse to the district or superior court for issuance of a warrant authorizing such entry and inspection. [Ord. 04-10 § 1.01; Ord. 19-12 § 1].

10.02.060 Hearing before the code enforcement board.

A. Notice. A person to whom a notice of civil violation is issued will be scheduled to appear at a hearing before the code enforcement board at the next regularly scheduled code enforcement board meeting.

B. Prior Correction of Violation. A minimum \$50.00 penalty shall be assessed regardless if the required corrective action is completed prior to the scheduled hearing.

C. Procedures. The code enforcement board shall conduct a hearing on the civil violation pursuant to the rules of procedure of the code enforcement board. The applicable department director and the person to whom the notice of civil violation was directed 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 is reasonable. The determination of the applicable department director as to the need for the required correction action shall be accorded substantial weight by the code enforcement board in determining the reasonableness of the required corrective action.

D. Decision of the Code Enforcement Board.

1. The code enforcement board shall determine whether the city has established by a preponderance of the evidence that a violation has occurred and that the required corrective action is reasonable and shall affirm, vacate, or modify the city's decision regarding the alleged violation and/or the required corrective action, with or without written conditions.

2. The code enforcement board shall issue an order to the person responsible for the violation which contains the following information:

- a. The decision regarding the alleged violation including findings of fact and conclusion based thereon in support of the decision.
- b. The required corrective action.
- c. The date and time by which the correction must be completed.
- d. The monetary penalties assessed based on the criteria in subsection (D)(3) of this section.
- e. The date and time after which the city may proceed with abatement of the unlawful condition if the required correction is not completed.

3. Assessment of Monetary Penalty. Monetary penalties assessed by the code enforcement board shall be in accordance with the monetary penalty schedule in RMC 10.02.050(E). The code enforcement board shall have the following options in assessing monetary penalties:

- a. Assess monetary penalties beginning on the date the notice of civil violation was issued and thereafter; or
- b. Assess monetary penalties beginning on the correction date set by the applicable department director or an alternate correction date set by the code enforcement board and thereafter; or
- c. Assess less than the maximum monetary penalty.

4. Determining the Monetary Penalty Assessment. When determining the monetary penalty assessment, the code enforcement board shall consider the following factors:

- a. Whether the person responded to staff attempts to contact the person and cooperated with efforts to correct the violation;
- b. Whether the person failed to appear at the hearing;
- c. Whether the violation was a repeat violation;
- d. Whether the person showed due diligence and/or substantial progress in correcting the violation;
- e. Whether a genuine code interpretation issue exists; and
- f. Any other relevant factors.

The code enforcement board may double the daily monetary penalty schedule if the violation is a repeat violation. In determining the amount of the monetary penalty for repeat violations the code enforcement board shall consider the factors set forth in subsection (D)(3) of this section.

E. Notice of Decision. The code enforcement board shall mail, by both first class and certified mail, a copy of the decision to the appellant within 20 business days of the hearing.

F. Failure to Appear. If the person to whom the notice of civil violation was issued fails to appear at the scheduled hearing, the code enforcement board will enter an order finding that the violation occurred and assess the appropriate monetary penalty. The city will carry out the code enforcement board's order and recover all related expenses, plus the cost of the hearing and any monetary penalty from that person.

G. Appeal to Superior Court. An appeal of the code enforcement board's decision must be filed no later than 5:00 p.m. on the fourteenth day following the date the written decision is provided to the person responsible for the violation. [Ord. 04-10 § 1.01; Ord. 19-12 § 1; Ord. 05-18 § 1].

10.02.070 Abatement by the city.

A. The city may abate a condition which was caused by or continues to be a civil violation when:

1. The terms of voluntary corrective agreement pursuant to RMC 10.02.040 have not been met; or
2. A notice of civil violation has been issued pursuant to RMC 10.02.050 and a hearing has been held pursuant to RMC 10.02.060 and the required correction has not been completed by the date specified in the code enforcement board's order; or
3. The condition is subject to summary abatement as provided for in subsection (B) of this section.

B. Summary Abatement. Whenever any violation of a regulation causes a condition the continued existence of which constitutes an immediate and emergent 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.

C. Authorized Action by the City. Using any lawful means, the city may enter upon the subject property and may remove or correct the condition which is subject to abatement. The city may seek such judicial process as it deems necessary to effect the removal or correction of such condition. Judicial process may include but not be limited to the following:

1. Obtaining an injunction to terminate the nuisance; and/or
2. Seeking a warrant of abatement from the superior court, with the costs of all of the legal processes, including attorney's fees, to be assessed against the violator in addition to the actual costs of abating the nuisance. A judgment in favor of the city may ultimately result in a sale of the property to satisfy the liens for costs incurred in abating the nuisance.

D. Recovery of Costs and Expenses. The cost, including incidental expenses, of correcting the violation shall be billed to the person responsible for the violation and/or the owner, lessor, tenant or other person entitled to control, use and/or occupy the property and shall become due and payable to the city of Richland within 10 calendar days. The term "incidental expense" shall include but not be limited to personnel costs, both direct and indirect, including attorney's fees; costs incurred in documenting the violation; hauling, storage and disposal expenses; and actual expenses and costs of the city in preparing notices, specifications and contracts, and in accomplishing and/or contracting and inspecting the work; and the costs of any required printing and mailing.

E. Abatement Assessment Liens. In accordance with RCW 35.80.030, and following the hearing and authorization by the code enforcement board, the city finance officer will certify the assessment amount being due and owing, the county treasurer shall enter the amount of such assessment upon the tax rolls against the property for the current year and the same shall become a part of the general taxes for that year to be collected at the same time and with interest at such rates as provided in RCW 84.56.020, as now or hereafter amended, for delinquent taxes and when collected to be deposited to the credit of the general fund or other appropriate fund of the city. The lien shall be of equal rank with the state, county and municipal taxes.

F. Interference. No person shall obstruct, impede, or interfere with the city or its agents, or with any person who owns or holds any interest or estate in any property, in performing any acts necessary to correct the violation. [Ord. 04-10 § 1.01; Ord. 19-12 § 1].

10.02.080 Additional enforcement procedures.

The provisions of this chapter are not exclusive, and may be used in addition to other enforcement provisions authorized by the Richland Municipal Code except as precluded by law. [Ord. 04-10 § 1.01; Ord. 19-12 § 1].

10.02.090 Approved collection methods.

The city attorney or the city attorney's designee is authorized to take any appropriate legal action to collect monetary penalties and necessary and reasonable costs, including liens, materialmen's liens, personal obligations, assignment of claims to collection agencies and other collection methods authorized by law. [Ord. 04-10 § 1.01; Ord. 19-12 § 1].

10.02.100 Authority to negotiate settlement.

The city official and the city attorney or the city attorney's designee may negotiate a settlement, compromise or otherwise dispose of an action when to do so would be in the best interest of the city. [Ord. 04-10 § 1.01; Ord. 19-12 § 1].

10.02.110 Conflicts.

In the event of a conflict between this chapter and any other provision of the Richland Municipal Code or city ordinances providing for a civil penalty, this chapter shall control. [Ord. 04-10 § 1.01; Ord. 19-12 § 1].

10.02.120 Severability.

If any one or more sections, subsections or sentences of this chapter are held to be unconstitutional or invalid, such decision shall not affect the validity to the remaining portion of this chapter and the same shall remain in full force and effect. [Ord. 04-10 § 1.01; Ord. 19-12 § 1. Formerly 10.02.130].

Chapter 10.04 PUBLIC NUISANCES

Sections:

10.04.010 Definitions.

10.04.020 Public nuisance defined.

10.04.030 Public nuisances affecting health.

10.04.040 Public nuisance affecting peace and safety.

10.04.050 Civil and criminal violations – Penalties.

10.04.060 Provisions not exclusive – Public nuisance declared.

10.04.070 Purpose – Liability.

10.04.080 Correction by owner or other responsible person.

10.04.090 Correction by the city.

10.04.100 Immediate danger – Summary correction.

10.04.110 Abatement of dangerous buildings.

10.04.120 Abatement of drug houses and related nuisances.

10.04.010 Definitions.

The words and phrases used in this chapter, unless the context otherwise indicates, shall have the following meanings:

“Compliance officer” means the city manager’s designee.

“Correct” means to abate, repair, replace, remove, destroy or otherwise remedy the condition in question by such means and in such a manner and to such extent as the compliance officer, in the officer’s judgment, determines is necessary in the interest of the general health, safety, and welfare of the community.

“Deteriorated” means to have become inferior in quality or value, to have become impaired in quality, functioning, or condition, to have fallen from a higher to a lower level in quality, character, or vitality.

“Dilapidated” means having fallen into a state of disrepair or deterioration, as through neglect, broken-down and shabby. Includes battered, beat-up, broken-down, crumbling, crumbly, crummy, damaged, decayed, decaying, decrepit, dingy, dog-eared, faded, fallen in, impaired, injured, marred, neglected, old, ramshackle, ratty, raunchy, rickety, rinky-dink, ruined, ruinous, run-down, seedy, shabby, shaky, slummy, tacky, threadbare, tumbledown, uncared for, unimproved, unkempt, used up, worn out.

“Fence” means an upright structure serving as an enclosure, a barrier, or a boundary, usually made of posts, boards, wires or stakes joined together by boards, wire, or rails. For the purposes of enforcement of this nuisance code, a fence shall not be constructed of wooden pallets, tires, sheets of plywood or corrugated sheet metal or any type of metal. A sight-obscuring fence shall be a fence between the subject property and the abutting property, whether the property be publicly owned or in private ownership.

“Observe” means to see, to witness, to discern, to spot, to view.

“Premises” means any building, lot, parcel, real estate, or land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking lanes.

“Responsible person” means any agent, lessee, or other person occupying or having charge or control of any premises.

“Sight-obscuring” as used herein is defined as to make dark, dim, or indistinct or to 100 percent conceal or to hide. At any distance from the fence, viewed by a person standing not taller than six feet and from any point of view outside of the fenced area, any materials, equipment, or activity in the interior of the fenced area shall not be visible to the viewer from the intersection of the fence with the ground upwards.

“Trash” means worthless or discarded objects, refuse, or rubbish. Something broken off and to be discarded, much like plant materials. Also includes debris, dreck, dregs, droppings, dross, excess, filth, fragments, junk, leavings, litter, oddments, offal, pieces, refuse, residue, rubbish, rubble, rummage, scourings, scrap, scraps, scum, sediment, shavings, slag, sweepings, or waste. [Ord. 19-12 § 2].

10.04.020 Public nuisance defined.

Unlawful public nuisances affecting health, peace and safety are defined in RMC 10.04.030 and 10.04.040. [Ord. 10-86; Ord. 30-03; Ord. 18-12 § 6; Ord. 19-12 § 2. Formerly 9.16.020].

10.04.030 Public nuisances affecting health.

The following are declared to be nuisances affecting health:

- A. Defective or overflowing septic or sewage systems, and the existence of any noxious, foul, or putrid liquid or substance which poses a health hazard or creates a noxious odor;
- B. Any man-caused pool of standing or stagnant water, except storm drainage systems and properly maintained ornamental or landscape pools or ponds, which serves as a breeding area for insects;
- C. Accumulation of garbage, decaying vegetation, manure, dead animals, or other noxious things in a street or alley, or on public or private property to an extent injurious to the public health, safety, welfare or comfort of others;
- D. All other acts, failure to act, occupations, or use of property that is a menace to the health of the public. [Ord. 10-86; Ord. 30-03; Ord. 13-06; Ord. 18-12 § 6; Ord. 19-12 § 2. Formerly 9.16.030].

10.04.040 Public nuisance affecting peace and safety.

The following are declared to be nuisances affecting peace and safety:

- A. All public sidewalks not maintained in accordance with Chapter 12.16 RMC;
- B. All trees, hedges, fences, signs or other obstructions which are not installed or maintained in accordance with Chapter 12.11 RMC;
- C. All limbs of trees which are less than eight feet above the surface of any public sidewalk, or 14 feet above the surface of any street;
- D. All buildings, other structures, or portions thereof which have been damaged by fire, decay, or have otherwise deteriorated so as to endanger the safety of the public and the existence of any fence, other structure, or thing on private or public property abutting or fronting upon any public street, public sidewalk, or public place, which is sagging, leaning, fallen, decayed, or is otherwise dilapidated and creating an unsafe condition, which shall include any interior walls or other vertical

structural members which list, lean or buckle to such an extent that a plumbline passing through the center of gravity falls outside the middle third of its base;

E. All explosives, flammable liquids, and other dangerous substances stored or used in any manner in violation of the fire code shall be referred to the fire department;

F. Erecting, maintaining, using, placing, depositing, leaving, or permitting to be or remain in or upon any private lot, building, structure, or premises, or in or upon any street, alley, sidewalk, park, parkway, or other public or private place in the city, the total of which material would exceed two cubic yards in volume, any one or more of the following conditions or things:

1. Filthy, littered, or trash-covered yards, vacant lots, or other premises;
2. Trash, litter, rags, accumulations of empty barrels, boxes, crates, packing cases, and other pack materials, including scrap wood, lumber, scrap iron, metal, or other material which is not neatly piled;
3. Bottles, cans, glass, ashes, pieces of scrap iron, wire, metal articles, broken stone or cement, and all trash or abandoned material, unless kept in covered bins or receptacles, or anything whatsoever in which rodents or insects may breed or multiply, or which may be a fire hazard;
4. Accumulation of garbage, decaying vegetation, manure, dead animals, or other noxious things in a street or alley, or on public or private property;
5. This section shall include keeping or storing the equivalent amount of material in a trailer, pickup bed, or other portable container;

G. The permitting to remain outside any dwelling, building, or other structure any vehicle parts, ice chest, refrigerator, furniture, household appliances or other similar items, in any front, side or rear yard of the property which may be maintained by a "responsible person" as defined in RMC 10.04.010 and which items can be seen from a public sidewalk, street or road unless enclosed behind a 100 percent sight-obscuring fence and in a manner where it is not visible from public property or from private property when observer is standing at ground level;

H. Any pit, hole, basin, or excavation which is unguarded or has been abandoned, or is no longer used for the purpose constructed, or is maintained contrary to statutes, ordinances, or regulations;

I. Any well or storage tank permitted to remain on any public or private property without being securely closed or barring any entrance or trap door thereto, or without filling or capping any well;

J. The repair or abandonment of any automobile, truck, or other motor vehicle of any kind upon the public streets or alleys of the city as defined in Chapter 10.06 RMC;

K. All barbed wire fences or any fence charged with electricity in any amount whatsoever, except as permitted by RMC 23.38.070(F);

L. The keeping or permitting the existence of any bees or other insects, reptiles, rodents, fowl, or any other animals, domestic or wild, in any manner contrary to law, or which affect the safety of the public;

M. The existence of any fence, other structure, or thing on private or public property abutting or fronting upon any public street, sidewalk, or place, which is sagging, leaning, fallen, decayed, or is otherwise dilapidated and creating an unsafe condition or which vertical structural members list, lean or buckle to such an extent that a plumbline passing through the center of gravity falls outside the middle third of its base;

N. The existence of any vine, shrub, or plant growing on, around, or in front of any fire hydrant, utility pole, utility box, or any other appliance or facility provided for fire protection, public, or private utility purposes in such a way as to obscure from view or impair access thereto;

O. The keeping or permitting the existence of morning glory, tackweed, Russian thistle, or other noxious weed, growing or otherwise, which is a health or safety hazard to persons or property;

P. All grasses, weeds, or other vegetation growing or which has grown and died, determined to be a fire or safety hazard or a nuisance to persons, shall not exceed six inches in height measured above the ground except as follows:

1. Any parcel of land or contiguous segregated parcels of land which when combined represent a parcel larger than one acre in size, may comply with these requirements by providing a firebreak along that portion of the perimeter of the parcel which abuts developed property or an improved street. The firebreak shall be a minimum of 20 feet in width, within which all weeds and vegetation, except established trees, shall not exceed 12 inches in height measured above the ground;

2. Any designated public parkland, natural area, or environmentally sensitive area, or any large undeveloped parcels of land not adjacent to developed areas or which are used for agricultural purposes; any of the above exceptions may be waived and additional maintenance required by the compliance officer if he determines such action is necessary to protect the safety of persons or adjoining property. All maintenance shall be done in a manner so as to minimize disruption of soil stability;

Q. The existence of any dead, diseased, infested, or dying tree, shrub, or other vegetation which may pose a danger to vegetation, crops, property or persons;

R. Objects that interfere with, obstruct, tend to obstruct, or render dangerous for passage of either persons or vehicles to any public park, street, sidewalk, alley, highway or other public area. Objects subject to this section include but are not limited to basketball hoop standards, street hockey goals and nonoperational or abandoned vehicles, or parts thereof, or other articles of personal property, which are discarded or left in a state of partial repair. [Ord. 99-76 § 1.01; Ord. 10-86; Ord. 26-90; Ord. 30-03; Ord. 26-05; Ord. 28-05; Ord. 13-06; Ord. 18-12 § 6; Ord. 19-12 § 2; Ord. 26-18 § 1. Formerly 9.16.040].

10.04.050 Civil and criminal violations – Penalties.

A. Civil Penalty for Failure to Comply with Final Orders. In addition to any other sanction or remedial injunctive procedure that may be available at law or equity, any person failing to comply with a final order issued by the compliance officer or hearing examiner shall be subject to a civil penalty as set forth in RMC 10.02.050(E). The civil penalty shall be collected by such action brought in the name of the city.

Provided, if the same violator has been found to have committed an infraction violation for the same or similar conduct two separate times, with the violations occurring at the same location and involving the same or similar sections of the Richland Municipal Code or other similar codes, the third or subsequent violation shall constitute a misdemeanor, punishable as provided in RMC 1.30.010 for criminal offenses. [Ord. 30-03; Ord. 06-10 § 1.16; Ord. 18-12 § 6; Ord. 19-12 § 2. Formerly 9.16.090].

10.04.060 Provisions not exclusive – Public nuisance declared.

A. The provisions of this chapter shall be cumulative and nonexclusive, and shall not affect the city's right to any other claim, cause of action, or remedy available at law or equity.

B. Any violation of any provision of this chapter is hereby declared to be a public nuisance. The compliance officer may request that the city attorney, in addition to or in lieu of any other remedies set forth in this chapter, commence an action to enjoin, remove or abate such public nuisance in the manner provided by law or remove such public nuisance and restrain and enjoin any person from causing sound or permitting sound to originate that constitutes a violation under this chapter. [Ord. 30-03; Ord. 18-12 § 6; Ord. 19-12 § 2. Formerly 9.16.100].

10.04.070 Purpose – Liability.

A. It is expressly the purpose of this chapter to provide for and promote the health, safety and welfare of the general public, and not to create or otherwise establish or designate any particular

class or group of persons who will or should be especially protected or benefited by the terms of this chapter.

B. Nothing contained in this chapter is intended to be nor shall be construed to create or form the basis for any liability on the part of the city, its officers, employees or agents, for any injury or damage resulting from the failure of anyone to comply with the provisions of this chapter, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement pursuant to this chapter, or by reason of any action or inaction on the part of the city related in any manner to the enforcement of this chapter by its officers, employees or agents. [Ord. 30-03; Ord. 18-12 § 6; Ord. 19-12 § 2. Formerly 9.16.110].

10.04.080 Correction by owner or other responsible person.

If and when an owner or other responsible person shall undertake action to correct any condition described in this chapter, whether by order of the compliance officer, or otherwise, all necessary and legal conditions pertinent to the correction may be imposed by the compliance officer. It is unlawful for the owner or other responsible person to fail to comply with such conditions. Nothing in this chapter shall relieve any owner or other responsible person of the obligation of obtaining any required permits or approvals to do any work incidental to the correction. [Ord. 10-86; Ord. 30-03; Ord. 18-12 § 6; Ord. 19-12 § 2. Formerly 9.16.120].

10.04.090 Correction by the city.

In all cases where the compliance officer has determined to proceed with correction, 10 days after giving notice, the city shall acquire jurisdiction to correct the condition at the responsible person's expense, as herein provided. Upon correction of the condition, or any portion thereof, by the city, all the expenses thereof shall constitute a civil debt owing to the city jointly and severally by such of the persons who have been given notice as herein provided. The debt shall be collectible in the same manner as any civil debt owing to the city. [Ord. 10-86; Ord. 30-03; Ord. 18-12 § 6; Ord. 19-12 § 2. Formerly 9.16.130].

10.04.100 Immediate danger – Summary correction.

Whenever any condition on or use of property causes or constitutes or reasonably appears to cause or constitute an imminent or immediate danger to the health or safety of the public or significant portion thereof, the correction officer shall have the authority to summarily and without notice correct the same. The expense of such correction shall become a civil debt against the owner or other responsible party and be collectible in the same manner as any civil debt owing to the city. Correction

shall be as provided in this chapter or Washington statutes. [Ord. 10-86; Ord. 30-03; Ord. 18-12 § 6; Ord. 19-12 § 2. Formerly 9.16.140].

10.04.110 Abatement of dangerous buildings.

Considerations involving dangerous buildings shall be processed according to RMC Title 21 as it now exists or may be amended in the future. [Ord. 10-86; Ord. 30-03; Ord. 18-12 § 6; Ord. 19-12 § 2. Formerly 9.16.150].

10.04.120 Abatement of drug houses and related nuisances.

The city of Richland shall use the processes provided in Chapter 7.43 RCW as it currently exists or may hereafter be amended relating to drug nuisance laws and enforcement within the city of Richland. [Ord. 30-03; Ord. 18-12 § 6; Ord. 19-12 § 2. Formerly 9.16.160].

Chapter 10.06 INOPERABLE AND JUNK VEHICLES

Sections:

10.06.010 Purpose.

10.06.020 Definitions.

10.06.030 Storage – Unlawful.

10.06.040 Vehicles as a public nuisance.

10.06.050 Abatement and removal of public nuisance vehicles.

10.06.060 Removal of vehicle due to expired registration.

10.06.010 Purpose.

It is the purpose of this chapter to:

A. Establish procedures for the abatement and removal of inoperable and junk vehicles and parts thereof as public nuisances pursuant to RCW 46.56.230 through 46.56.240;

B. Decrease the likelihood of criminal conduct associated with inoperable and junk vehicles;

C. Enhance the aesthetic qualities of Richland;

- D. Conserve and stabilize property values;
- E. Reduce the inherent public health and safety problems associated with inoperable and junk vehicles;
- F. Prevent overcrowding of land; and
- G. Secure safety from fire and provide adequate open spaces for light and air. [Ord. 19-12 § 3].

10.06.020 Definitions.

“Inoperable motorized vehicle” means any car, truck, van, recreational vehicle, motorcycle, snowmobile or other vehicle typically powered by an engine, excepting watercraft, that has been in a stationary position for more than 14 calendar days, is apparently inoperable or requires repairs in order to be operable, or is unable to move a distance of 20 feet under its own power on a flat surface. “Inoperable motorized vehicle” may include vehicles that do not meet the definition of “junk vehicle.”

“Junk vehicle” is a vehicle or portion thereof that meets three or more of the following criteria:

- A. Three years old or older;
- B. Extensively damaged, such damage including but not limited to any of the following: broken window or windshield; or missing wheels, tires, motor, or transmission;
- C. Apparently inoperable;
- D. Without a valid current registration or license;
- E. Equal in value only to the fair market value of the scrap/parts in it. [Ord. 19-12 § 3].

10.06.030 Storage – Unlawful.

A. It is unlawful for any person, or corporation, to place or keep an inoperable motorized vehicle or junk vehicle, or portion thereof, upon any private or public property within the city of Richland or as owner, occupant, or party in control of any real property within the city to permit or allow any such automobile or portion thereof to be placed or kept upon such property unless:

1. The vehicle or part thereof is completely enclosed within a building or behind a 100 percent sight-obscuring fence, in a manner where it is not visible from the street or other public or private property. Visibility of the vehicle shall mean as viewed from street level as determined by the street in front of the subject property; or

2. The vehicle or part thereof is stored or parked in a lawful manner on private property in connection with the business of a licensed automobile dismantler or dealer, and the property is fenced according to the provisions of RCW 46.80.130.

B. Any vehicle that is deemed by the city manager, chief of police or a designated official to be a junk vehicle must be abated or removed in accordance with this chapter by the vehicle owner and/or property owner within 10 days of the receipt of notice from the chief of police or a designated official that the vehicle has been so designated as a junk vehicle. [Ord. 19-12 § 3].

10.06.040 Vehicles as a public nuisance.

A. An inoperable motorized vehicle will be considered a public nuisance unless contained entirely within an enclosed building. It is provided, however, that one inoperable motorized vehicle may be allowed on residential property, outside of an enclosed building, if it is stored in the rear yard of the property and screened from the neighboring properties and any street by a 100 percent sight-obstructing fence.

It is further provided that in the agricultural zone more than one inoperable vehicle may be allowed outside of a building, so long as the property on which the inoperable motorized vehicles are located consists of at least one acre of property per inoperable motorized vehicle; provided, that in no case shall there be more than five inoperable vehicles outside of buildings on any size of property.

B. All junk vehicles certified as such by a law enforcement officer or code enforcement officer designated by the director according to RCW 46.55.230 and the Richland Municipal Code and found on private and public property are declared to constitute a public nuisance subject to removal, impoundment and disposal. It is unlawful for any individual, firm, entity or corporation to allow, cause or place a junk vehicle on any premises. As a public nuisance, these shall be abated and removed in accordance with the provisions of this section as hereinafter set forth. [Ord. 19-12 § 3].

10.06.050 Abatement and removal of public nuisance vehicles.

A. Cost of abatement and removal of such vehicle may be assessed against the last registered owner of the nuisance vehicle if the identity of such owner can be determined unless such owner in the transfer of ownership of such vehicle or automobile hulk has complied with RCW 46.12.101, or the costs may be assessed against the owner of the real property on which the vehicle is stored and shall constitute a lien thereon.

B. Before the abatement or removal of such nuisance vehicle, notice shall be given to the last registered owner thereof of record and the real property owner of record that a public hearing may be requested before the code enforcement board, and if no hearing is requested within 10 days, the

nuisance vehicle will be removed and abated and the costs thereof assessed in accordance with this section.

C. If a request for hearing is received by the city, a notice giving the time, location and date of such hearing on the question of the abatement and removal of such vehicle as a public nuisance shall be mailed by certified or registered mail, with a five-day return requested, to the owner of the real property as shown on the last equalized assessment roll and to the last registered and legal owner of record of such nuisance vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership.

D. The applicant for hearing may appear in person at such hearing, or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the nuisance vehicle on the land with his reasons for such denial. If it is determined at the hearing that the nuisance vehicle was placed on the land without the consent of the landowner, and that he has not subsequently acquiesced in its presence, then the city shall not assess costs of administration or removal of the nuisance vehicle against the real property upon which the vehicle is located or otherwise attempt to collect such costs from the landowner.

E. Upon determination by the code enforcement board that a public nuisance vehicle located on private property is to be abated by the city, the city attorney shall file in the superior court a civil action for the abatement of a public nuisance and seek an order or warrant directing the city to abate the public nuisance vehicle under Chapter 7.48 RCW, Nuisances, as it now exists or may hereafter be amended.

F. After notice has been given of the intent of the city of Richland to dispose of a nuisance vehicle, the nuisance vehicle shall be removed from the private property by the chief of police or a designated official and disposed of to a licensed auto wrecker or tow truck operator with notice to the Washington State Patrol and Department of Motor Vehicles that the nuisance vehicle has been wrecked.

G. The city of Richland may, within 30 days after the removal by the chief of police or a designated official of an abandoned, wrecked, dismantled or inoperative automotive vehicle from real property, file for recording with the Benton County auditor a claim for lien for the costs of removal, which shall be in substance in accordance with provisions covering mechanics' liens in Chapter 60.04 RCW, and the lien may be foreclosed in the same manner as such lien; provided, that this section shall not apply to vehicles as set forth in RMC 10.06.030(A)(1) and (2). [Ord. 19-12 § 3].

10.06.060 Removal of vehicle due to expired registration.

The following is adopted by the city of Richland as set forth in RCW 46.55.113(2)(i), Removal by a Police Officer:

(2) In addition, a police officer may take custody of a vehicle, at his or her discretion, and provide for its prompt removal to a place of safety under any of the following circumstances;

(i) When a vehicle with an expired registration of more than forty-five days is parked on a public street.

[Ord. 19-12 § 3].

Code Enforcement Board Recommended Municipal Code Revisions To Further Incentivize Property Owner Code Compliance

Code Enforcement Board Members:

I have collected certain statements from the RMC for quick review that deal with the authority of the Board, including our ability to modify fine recommendations we receive from the Richland Police department. I have requested via our Board liaison personnel a copy of meeting minutes that override RMC 10.02.050 by restricting chronic violations to \$100/month. I hope that the rationale for this restriction is included in the minutes. Since the restriction has been in place for at least four years, I would have expected the city council to have changed the code to formally adopt it. I hope that we can review those minutes with the review of this document and the 11th.

Al Edmondson

Quips From The Richland Municipal Code That May Be Helpful In Our Discussion:

Find below a summary of RMC Titles and their subsections associated with civil violations of the Richland Municipal Code (RMC), Title 10 and 12.

1.30.010 Violations – Penalties

Any person convicted of violating the provisions of any criminal or civil ordinance of the city of Richland shall be penalized as set forth below:

E. Civil Violation. Every person found to have committed a civil violation of the Richland Municipal Code will be penalized as set forth in RMC 10.02.050.

10.02.050 Notice of civil violation *(cited for information only, no change)*

D. Extension. No extension to the time specified in the notice of civil violation for correction to the violation may be granted, except by order of the code enforcement board.

E. Monetary Penalty. A minimum penalty of \$50.00 shall be assessed for each offense requiring a notice of civil violation. The maximum monetary penalty for each separate violation per day or portion thereof shall be \$500.00 per violation per day or portion thereof to a maximum penalty of \$5000 for all offenses.

G. Collection Of Monetary Penalty

3. In the event of an appeal to the code enforcement board, monetary penalties as provided herein shall accrue during appeal period unless the appellant prevails on appeal. Accrued monetary penalties shall not exceed three times the amount of the daily monetary penalty for any single violation from the first date of violation through the date the code enforcement board renders a final decision.

Code Enforcement Board Recommended Municipal Code Revisions To Further Incentivize Property Owner Code Compliance

10.02.060 **Hearing before the code enforcement board.**

D. Decision of the Code Enforcement Board. *(cited for information only, no change)*

2. The code enforcement board shall issue an order to the person responsible for the violation which contains the following information:

d. The monetary penalties assessed based on the criteria in subsection (D)(3) of this section.

3. Assessment of Monetary Penalty. Monetary penalties assessed by the code enforcement board shall be in accordance with the monetary penalty schedule in RMC 10.02.050(E). The code enforcement board shall have the following options in assessing monetary penalties:

a. Assess monetary penalties beginning on the date the notice of civil violation was issued and thereafter; or

b. Assess monetary penalties beginning on the correction date set by the applicable department director or an alternate correction date set by the code enforcement board and thereafter; or

c. Assess less than the maximum monetary penalty.

10.02.090 **Approved collection methods.**

The city attorney or the city attorney's designee is authorized to . . . assignment of claims to collection agencies and other collection methods authorized by law.

10.02.110 **Conflicts**

In the event of a conflict between this chapter and another provision of the Richland Municipal Code or city ordinances providing for a civil penalty, this chapter shall control.

Code Enforcement Board Recommendation To the Richland City Council

The Code Enforcement Board's expressed mission and purpose includes the following responsibility:

Act in an advisory capacity to the City Council, City Manager and staff in matters relating to code enforcement and civil violations.

We are concerned that twenty-seven cases cannot be closed because property owners refuse to abide by the Richland Municipal Code (RMC). These cases are accumulating a monthly fine

Code Enforcement Board Recommended Municipal Code Revisions To Further Incentivize Property Owner Code Compliance

of \$100 for a continuing violation with some cases now carrying fines in the \$3,000 to \$5,000 range . As you are aware, the maximum accumulated fine is set at \$5,000 by the RMC. Having reached this maximum penalty, the offending property owner has, of course, even less incentive to voluntarily bring their property into a compliant condition. The existing violations in this category can continue for an indefinite time frame unless action is taken that changes methods used to disposition

We recognize the inequitable outcome for neighbors of property owners who selfishly and unjustly impose the consequences of their stubbornness and disrespect for the RMC and members of their neighborhood. It is the twenty-seven Richland neighborhoods who pay the greatest toll for the egregious behavior of a code noncompliant property owner. The lack of progress in resolving such cases represents a daily burden for those who value living, and raising their children in a safe and orderly environment, free of blight that affects their wellbeing and property values.

The Richland Police Department is highly successful with our residents, by resolving more than 97% of the approximate 1,500 cases filed each year using Richland's emphasis on voluntary compliance. Some cases require fines to incentive the people responsible for RMC violations. Unfortunately, our police are restricted from using the available incentives currently contained in the RMC by capping fines and collection of fines at a meaningless \$100/month. If the full measures of the RMC are not restored, the quantity of unresolved cases will grow.

Our adjacent cities, Kennewick and Pasco, address chronic non-conformance violations with stronger measures in two ways:

1. Both cities include in their code preamble statements that clearly recognize and protect the quality of life within their neighborhoods.

Pasco includes this preamble in their code: "Chronic nuisances present significant health, safety, and welfare concerns with a **negative impact upon the quality of life** in the neighborhoods where they are located, as well as an inordinate burden upon the City's emergency services. This chapter provides a remedy for chronic nuisance activities. (Ref. Chapter 9.95 titled Chronic Nuisances)"

Kennewick includes in their preamble an emphasis on the importance of corrective action motivated by a need to protect a neighborhood from those few property owners who would rather accumulate fines than obey civil law. Following is a paragraph taken from the Kennewick Code of Ordinances highlighting a requirement to protect the habitability and economic well-being of every city neighborhood.

"The City Council of the City of Kennewick finds that unkempt, unsafe, unsanitary and otherwise improperly maintained premises and structures, sidewalks and

Code Enforcement Board Recommended Municipal Code Revisions To Further Incentivize Property Owner Code Compliance

easements within the City of Kennewick, in addition to the obvious hazards which these conditions pose to the public health, safety and welfare, adversely affect the value, utility and habitability of property within the City as a whole and specifically cause substantial damage to adjoining and nearby property. **A property which is merely unkempt, may reduce the value of adjoining property by more than 30 percent, and when there are sufficient properties which are unkempt, unsightly and dangerous, that the habitability and economic well-being of the City are materially and adversely affected.** This Chapter conveys to the city administration, in accord with the procedures set out below, all necessary and proper powers to abate nuisances as they are described or found to exist . . . This Chapter is an exercise of the City's police power, and it shall be liberally construed to effect this purpose.” (Ref. Section 9.44.010 titled Purpose and Findings, Kennewick Code of Ordinances.)

2. Fines for chronic nuisances are addressed with a short-term window for correction, and thereafter fines reach a higher limit.

There is a notable difference between monetary enforcement of Pasco and Kennewick nuisance infractions compared to Richland; the former require greater penalty and fairly rapid payment. Non-payment can invoke collection agency action which has an immediate effect to motivate compliance ahead of City initiated abatement. [Kennewick: 9.48.030 titled “Nuisances”, Parts (1) (e), and (1)(g), and 9.48.40 titled “Abatement – Failure – Civil Penalties”, Part (2)].

The Kennewick city infraction notice includes the following:

- i. A statement that a civil penalty is being assessed, including the dollar amount of the civil penalties, and that any assessed penalties **must be paid within 15 days of service of the notice and order.**

As with Richland, Kennewick may use the services of a collection agency in order to collect any civil penalties, fees, costs and/or interest owing under their municipal code.

Kennewick fines:

Breach of Voluntary Correction penalty: \$1,000.

Penalty for reclassification as a chronic violation: \$1,500

If a condition is not abated within an agreed upon rescheduling of the required corrections, then an additional penalty is imposed: \$1,500

Code Enforcement Board Recommended Municipal Code Revisions To Further Incentivize Property Owner Code Compliance

The Pasco code includes a demand that the owner or other persons in charge respond in writing to the responsible official with seven days of service of the notice, schedule a meeting and comply with an agreed upon proposed voluntary correction agreement with the outlined time frame. However, **the time frame for abatement cannot exceed 60 days.**

Further, if the responsible person does not abate the nuisance or respond as provided in in the agreement, penalties shall be imposed. Note that the word “shall” is used.

Pasco fines: Up to \$1000 per day from the date of service of the notice of determination of chronic nuisance property until the responsible official confirms that the property is no longer a chronic nuisance property, in an amount up to \$25,000.

RICHLAND CODE ENFORCEMENT BOARD RECOMMENDATIONS

The Board recommends that the Council adopt a remedy to the current protocol that only fines a property owner \$100 per month for a chronic nuisance violation. This relatively low fine is, in many cases, considered tolerable to the owner because they can ignore code compliance, and even better, not pay any fine until the property is sold where the fine is collected as a consequence of a property lien. We therefore recommend that Richland code be revised to include a new section and section rewrites as drafted below:

10.02.045 Chronic code violations.

- A. In the event that the property owner, or responsible person, does not enter into a voluntary abatement agreement with the Richland Police Department and the violation is not fully abated within 60 days, the department shall issue a notice of violation and schedule a hearing with the code enforcement board.
- B. If the property owner does not respond to the NOV and does not appear at the CEB hearing, and the property is not fully In compliance with the NOV description of required abatement actions within 60 days of the dated of the NOV, the violation(s) shall be classified as a Chronic Code Violation(s) and a fine imposed as detailed in RMC 10.02.045(D).
- C. The property owner may appeal to the code enforcement board for more time for compliance, and/or a reduction of the fine. Such appeal may be granted based upon reasonable progress and factors outside the control of the owner. The board may accept, reject, or make changes prior to acceptance of a schedule extension for compliance and/or a change.

Code Enforcement Board Recommended Municipal Code Revisions To Further Incentivize Property Owner Code Compliance

- D. Reclassification of an initial violation to a Chronic Code Violation shall result in civil penalties pursuant to the following schedule:
1. Change of classification from civil violation to chronic code violation: \$500.
 2. Upon reclassification the responsible person shall be given notice that in 60 days an additional fine of \$1,000 shall be imposed if the required corrective action(s) have not been completed.
 3. A schedule extension for abatement for each subsequent 60-day period, i.e., after 180 days following the original notice of violation, shall result in a fine of \$1,500 for each subsequent 60-day extension, up to a maximum total accumulated fine of \$5,000.
 4. Civil penalties shall be paid within 15 days of service of the notice 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.
- E. Existing open code violations that exceed 180 days from the date of the original notice of violation shall be reclassified as a chronic civil violation(S). Existing unpaid fines for civil violation(s) shall be cancelled. The resolution of the violation(s) shall then follow the requirements of RMC 10.02.045(5).

10.02.100 Authority to negotiate settlement.

- A. The city official and the city attorney or the city attorney's designee may negotiate a settlement, compromise or otherwise dispose of an action when to do so would be in the best financial interest of the city. The negotiated time frame for settlement, compromise or disposition shall be weighted in favor of the rights of neighboring community property owners and residents to live in an area free of violations that create blight affecting the health, welfare or safety¹ of their neighborhood, and to preclude the negative effect that violations have on neighborhood property values.
- B. A violation case settlement, compromise, or disposition shall not result in an extension of time for completed corrective action greater than 90 days from the date established by RMC 10.02.050(B) for required corrective action. In the event that a violation is not corrected within the negotiated extension, the police department and city attorney shall develop and implement a plan for abatement within 30 days, and impose a \$1,500.00

¹ RCW 35.80A.010 states in part: Every county, city, and town may acquire by condemnation, in accordance with the notice requirements and other procedures for condemnation provided in Title 8 RCW, any property, dwelling, building, or other structure which constitutes a blight on the surrounding neighborhood.

Code Enforcement Board Recommended Municipal Code Revisions To Further Incentivize Property Owner Code Compliance

[RCW 10.02.050(E)(G)] fine on the property owner for failure to meet the negotiated compliance contract [RCW 10.02.040(C)].

- C. The city attorney shall semiannually report to the council, city police code enforcement department, and code enforcement board by civil violation case number and city address those properties that are involved in a city abatement judicial process.

The benefit of this new protocol is fourfold:

- 1) Neighborhood residents and the city will be better-served by likely resolution rather than a protracted standoff between a property owner and the city. In order to underpin the importance of serving the city residents as a priority, the preamble of the Richland Municipal Code should be revised to parallel language in the Kennewick preamble. The following preamble is recommended:
 - a. Insert here.
- 2) There would now be an immediate financial impact on property owners who choose to ignore the requirements of the municipal code. As stated earlier, under the currently implemented fine structure payment can be delayed until sometime in the distant future when a fine of \$5000 can be easily accommodated due to escalating property values. Thus, under the suggested protocol the owner has much greater incentive to actually work with the city and self-correct issues identified in the initial notice of violation.
- 3) The current RMC option for contracted professional services of a highly motivated collection agency relieves the city of diverting many hours of labor to a task in which they are probably less experienced nor efficient.
- 4) The city will spend fewer hours in litigation by having fewer cases to address.

Realistically, there will remain some owners who will choose not to correct violations. For these types of cases the city retains their right to abate a violation and back-charge an uncooperative owner.

With the cancellation of on-going month-by-month accumulated fines associated with the set of chronic violations, the Board recommends addressing the older cases first, forgiving the accumulated fines to date knowing that the new protocol will be more effective, i.e., most of the fines accumulated on old cases leave no room for implementation of further monetary penalties included in the recommended code changes (refer to the fine schedule), and the eventual collection of fines may prove more costly and troublesome than the fine warrants.



CODE ENFORCEMENT AGENDA ITEM COVERSHEET

Meeting Date: 1/11/2022

Agenda Category: New Business/Liaison Comments

Prepared By:

Subject:
Chair and Vice Chair Nominations

Department:
Police

Recommended Motion:

Summary:
Chairman Levy's term on the Code Enforcement Board ends March 2022.

Attachments: