



## AGENDA STAYTON CITY COUNCIL MEETING

Monday, October 3, 2016

Stayton Community Center  
400 W. Virginia Street  
Stayton, Oregon 97383

**CALL TO ORDER**

**7:00 PM**

**Mayor Porter**

**FLAG SALUTE**

**ROLL CALL/STAFF INTRODUCTIONS**

### **ANNOUNCEMENTS – PLEASE READ CAREFULLY**

*Items not on the agenda but relevant to City business may be discussed at this meeting. Citizens are encouraged to attend all meetings of the City Council to insure that they stay informed. Agenda items may be moved forward if a Public Hearing is scheduled.*

- a. Additions to the agenda
- b. Declaration of Ex Parte Contacts, Conflict of Interest, Bias, etc.

### **PRESENTATIONS / COMMENTS FROM THE PUBLIC**

Request for Recognition: If you wish to address the Council, please fill out a green "Request for Recognition" form. Forms are on the table at the back of the room. *Recommended time for presentation is 10 minutes. Recommended time for comments from the public is 3 minutes.*

### **CONSENT AGENDA**

- a. September 19, 2016 City Council Minutes

#### ***Purpose of the Consent Agenda:***

*In order to make more efficient use of meeting time, resolutions, minutes, bills, and other items which are routine in nature and for which no debate is anticipated, shall be placed on the Consent Agenda. Any item placed on the Consent Agenda may be removed at the request of any council member prior to the time a vote is taken. All remaining items of the Consent Agenda are then disposed of in a single motion to adopt the Consent Agenda. This motion is not debatable. The Recorder to the Council will then poll the council members individually by a roll call vote. If there are any dissenting votes, each item on the consent Agenda is then voted on individually by roll call vote. Copies of the Council packets include more detailed staff reports, letters, resolutions, and other supporting materials. A citizen wishing to review these materials may do so at Stayton City Hall, 362 N. Third Avenue, Stayton, or the Stayton Public Library, 515 N. First Avenue, Stayton.*

***The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or other accommodations for persons with disabilities should be made at least 48 hours prior to the meeting. If you require special accommodations contact Deputy City Recorder Alissa Angelo at (503) 769-3425.***

## **PUBLIC HEARING**

### **UNFINISHED BUSINESS**

#### **Consideration of Adoption of a Property Maintenance Code**

**Informational**

- a. Staff Report – Dan Fleishman
- b. Council Deliberation
- c. Council Decision

### **NEW BUSINESS**

#### **Criteria for Approval of Applications for Official Zone Map Amendments**

**Informational**

- a. Staff Report – Dan Fleishman
- b. Council Deliberation
- c. Council Decision

### **STAFF/COMMISSION REPORTS – None**

### **PRESENTATIONS/COMMENTS FROM THE PUBLIC**

*Recommended time for presentations is 10 minutes.*

*Recommended time for comments from the public is 3 minutes.*

### **BUSINESS FROM THE CITY ADMINISTRATOR**

### **BUSINESS FROM THE MAYOR**

### **BUSINESS FROM THE COUNCIL**

### **FUTURE AGENDA ITEMS – Monday, October 17, 2016**

- a. Cost and Revenue Alternatives
- b. Financial Policies

### **ADJOURN**

## CALENDAR OF EVENTS

### OCTOBER 2016

Monday	October 3	City Council	7:00 p.m.	Community Center (north end)
Tuesday	October 4	Parks & Recreation Board	6:30 p.m.	E.G. Siegmund Meeting Room
Tuesday	October 11	Commissioner's Breakfast	7:30 a.m.	Covered Bridge Café
Friday	October 14	Community Leaders Meeting	7:30 a.m.	Covered Bridge Café
Monday	October 17	City Council	7:00 p.m.	Community Center (north end)
Wednesday	October 19	Library Board	<i>Cancelled</i>	
Monday	October 31	Planning Commission	7:00 p.m.	Community Center (north end)

### NOVEMBER 2016

Tuesday	November 1	Parks & Recreation Board	6:30 p.m.	E.G. Siegmund Meeting Room
Monday	November 7	City Council	7:00 p.m.	Community Center (north end)
Tuesday	November 8	Commissioner's Breakfast	7:30 a.m.	Covered Bridge Café
Friday	November 11	<b>CITY OFFICES CLOSED IN OBSERVANCE OF VETERANS DAY</b>		
Wednesday	November 16	Library Board	6:00 p.m.	E.G. Siegmund Meeting Room
Monday	November 21	City Council	7:00 p.m.	Community Center (north end)
Thursday	November 24	<b>CITY OFFICES CLOSED IN OBSERVANCE OF THANKSGIVING HOLIDAY</b>		
Friday	November 25			
Monday	November 28	Planning Commission	7:00 p.m.	Community Center (north end)

### DECEMBER 2016

Monday	December 5	City Council	7:00 p.m.	Community Center (north end)
Tuesday	December 6	Parks & Recreation Board	6:30 p.m.	E.G. Siegmund Meeting Room
Friday	December 9	Community Leaders	7:30 a.m.	Covered Bridge Café
Tuesday	December 13	Commissioner's Breakfast	7:30 a.m.	Covered Bridge Café
Monday	December 19	City Council	7:00 p.m.	Community Center (north end)
Wednesday	December 21	Library Board	6:00 p.m.	E.G. Siegmund Meeting Room
Monday	December 26	<b>CITY OFFICES CLOSED IN OBSERVANCE OF CHRISTMAS HOLIDAY</b>		

### JANUARY 2017

Monday	January 2	<b>CITY OFFICES CLOSED IN OBSERVANCE OF NEW YEARS DAY HOLIDAY</b>		
Tuesday	January 3	City Council	7:00 p.m.	Community Center (north end)
Tuesday	January 3	Parks & Recreation Board	6:30 p.m.	E.G. Siegmund Meeting Room
Tuesday	January 10	Commissioner's Breakfast	7:30 a.m.	Covered Bridge Café
Friday	January 13	Community Leaders	7:30 a.m.	Covered Bridge Café
Monday	January 16	<b>CITY OFFICES CLOSED IN OBSERVANCE OF MARTIN LUTHER KING, JR. DAY</b>		
Tuesday	January 17	City Council	7:00 p.m.	Community Center (north end)
Wednesday	January 18	Library Board	6:00 p.m.	E.G. Siegmund Meeting Room
Monday	January 30	Planning Commission	7:00 p.m.	Community Center (north end)

**City of Stayton  
City Council Meeting Action Minutes  
September 19, 2016**

**LOCATION:** STAYTON COMMUNITY CENTER, 400 W. VIRGINIA STREET, STAYTON

**Time Start:** 7:00 P.M.

**Time End:** 9:15 P.M.

**COUNCIL MEETING ATTENDANCE LOG**

COUNCIL	STAYTON STAFF
Mayor Henry Porter	Alissa Angelo, Deputy City Recorder
Councilor Priscilla Glidewell	Keith Campbell, City Administrator
Councilor Ralph Lewis	Dan Fleishman, Director of Planning & Development
Councilor Jennifer Niegel	Rich Sebens, Police Chief
Councilor Brian Quigley	Andy Parks, Finance Consultant
Councilor Joe Usselman	Lance Ludwick, Public Works Director
	Janna Moser, Library Director
	Wallace Lien, Special Counsel Land Use

AGENDA	ACTIONS
<b>REGULAR MEETING</b>	
<b>Announcements</b>	
a. Additions to the Agenda	None.
b. Declaration of Ex Parte Contacts, Conflict of Interest, Bias, etc.	None.
<b>Presentations / Comments from the Public</b>	
a. Donna Davis, 1881 Westminster Place	Ms. Davis is experiencing issue with a neighbor who she feels is harassing her with a drone. She would like to see an ordinance adopted to regulate drones. Mr. Campbell and Chief Sebens responded with research they have done on this subject.
b. Judy Skinner, 610 E. Cedar Street	Ms. Skinner spoke in opposition to the 72 hour parking rule; feels it should be a longer period of time.
c. Dan Morgan, 2195 Cardinal Avenue	Mr. Morgan provided a handout and spoke about weed issues. He proposed an idea he has seen in Castle Rock, Washington called "America in Bloom." Mr. Campbell and Mr. Fleishman both offered responses.  Wendy Stone (525 Myrtle Street) also pointed out the State has a noxious weeds program.
<b>Consent Agenda</b>	
a. August 15, 2016 City Council Minutes	Motion from Councilor Quigley, seconded by Councilor Niegel, to accept the consent agenda. <b>Motion passed 5:0.</b>
b. City Administrator's Employment Agreement	

<p><b>Public Hearing</b>  <b>Resolution No. 949, Rate Increase for Solid Waste Management</b></p> <p>a. Staff Report – Keith Campbell</p> <p>b. Open Public Hearing</p> <p>c. Public Hearing</p> <p>d. Close Public Hearing</p> <p>e. Council Deliberation</p> <p>f. Council Decision on Resolution No. 949</p>	<p>Mayor Porter read the opening statement. Mr. Campbell reviewed the staff report.</p> <p>Mayor Porter opened the hearing at 7:33 p.m.</p> <p>Matt Cofer of Republic Services spoke on the proposed rate increase. This is a Marion County increase being passed through to rate payers.</p> <p>Discussion of last bid process completed for the solid waste franchise. Mr. Campbell spoke about the known history of Stayton’s solid waste franchise.</p> <p>Judy Skinner (610 E. Cedar) feels the addition of food waste should have been included in the proposal.</p> <p>Brian May of Marion County Public Works spoke about the reason behind the \$20 per ton increase.</p> <p>Donna Davis (1881 Westminster Place) opposes the rate increase as she is on a fixed income. There was further discussion of garbage pick-up options.</p> <p>Mayor Porter closed the hearing at 7:55 p.m.</p> <p>No further discussion.</p> <p>Motion from Councilor Quigley, seconded by Councilor Lewis, to approve Resolution No. 949.  <b>Motion passed 5:0.</b></p>
<p><b>Unfinished Business</b>  <b>Ordinance No. 997, Zone Map Amendment for 1510 E. Santiam Street</b></p> <p>a. Staff Report – Dan Fleishman</p> <p>b. Council Deliberation</p> <p>c. Council Decision</p>	<p>Mr. Fleishman reviewed the staff report. Discussion of changes made to the Ordinance. Motion from Councilor Niegel, seconded by Councilor Lewis, to approve the second consideration of Ordinance No. 997. <b>Motion passed 3:1 (Glidewell opposed, Quigley abstained).</b></p>
<p><b>New Business</b>  <b>Resolution No. 950, a Resolution Setting Forth Stayton’s Commitment to Put Healthy Options within Reach of All Residents</b></p> <p>a. Staff Report – Keith Campbell</p> <p>b. Council Deliberation</p>	<p>Mr. Campbell reviewed the staff report. Councilor Glidewell spoke about why she’d like to see the City pursue becoming a HEAL city.</p>

Donna Davis (1881 Westminster Place) spoke in favor of the resolution.

Motion from Councilor Niegel, seconded by Councilor Usselman, to approve Resolution No. 950.

Council Discussion

Councilor Quigley expressed concern of the City being forced to adopt certain policies. Mr. Campbell responded that those requirements have been removed from the resolution.

**Motion passed 5:0.**

Mr. Campbell reviewed the staff report. He also declared a potential conflict because his wife is a board member of the Stayton Elementary PTC.

Councilor Glidewell inquired if the City is provided with any information from of how funds were used by past organizations awarded a grant. Mr. Campbell stated there is no requirement for an organization to do so.

Wendy Stone of the Santiam Heritage Foundation offered to provide an update on how they used the funds last year.

Motion from Councilor Niegel, seconded by Councilor Glidewell, to award the Community Grant applicants their requested amounts. **Motion passed 5:0.**

Chief Sebens reviewed the staff report and why this issue is coming before the Council.

Further discussion on the 72 hour parking rule, abandoned vehicles, discarded vehicles, and enforcement frequency.

Tom Petersen (2190 Cardinal Avenue) raised a concern about a vehicle that has not moved from the street for over two weeks.

Motion from Councilor Quigley, seconded by Councilor Lewis, to approve Ordinance No. 999 as presented. **Motion passed 5:0.**

c. Council Decision

**Community Grant Applications**

a. Staff Report – Keith Campbell

b. Council Deliberation

c. Council Decision

**Ordinance No. 999, Amending SMC Chapter 10.12 “Stopping, Standing, and Parking”**

a. Staff Report – Chief Rich Sebens

b. Council Deliberation

c. Council Decision

<b>Comprehensive Fiscal Policies</b> a. Staff Report – Andy Parks	Mr. Parks presented draft fiscal policies. He reviewed a presentation with the Council on fiscal policies and public contracting.
<b>Staff / Commission Reports</b> <b>Finance Department Report – Cindy Chauran &amp; Elizabeth Baldwin</b> a. July 2016 Monthly Finance Department Report	No discussion.
<b>Police Chief’s Report – Chief Rich Sebens</b> a. July 2016 Statistical Report	No discussion.
<b>Public Works Director’s Report – Lance Ludwick</b> a. July 2016 Operating Report	Brief discussion on installation of radio read meters.
<b>Planning &amp; Development Director’s Report – Dan Fleishman</b> a. July 2016 Activities Report	No discussion.
<b>Library Director’s Report – Janna Moser</b> a. July 2016 Activities	No discussion.
<b>Presentations / Comments From the Public</b> a. Rese Bourdeau, 525 Mill Stream Woods	Reminded the Council of the upcoming Friends of Old Town Stayton meeting and Fall Fest.
<b>Business from the City Administrator</b>	Mr. Campbell expressed thanks to Richard Lewis who provided photos which have now been hung at City Hall.
<b>Business from the Mayor</b>	None.
<b>Business from the Council</b>	Councilor Quigley gave a reminder about the CARTS meeting which will discuss scheduling.
<b>Future Agenda Items – Monday, October 3, 2016</b> a. Zone Conditions b. Property Maintenance Code	

APPROVED BY THE STAYTON CITY COUNCIL THIS 3<sup>RD</sup> DAY OF OCTOBER 2016, BY A \_\_\_\_ VOTE OF THE STAYTON CITY COUNCIL.

Date: \_\_\_\_\_

By: \_\_\_\_\_

Henry A. Porter, Mayor

Date: \_\_\_\_\_

Attest: \_\_\_\_\_

Keith D. Campbell, City Administrator

Date: \_\_\_\_\_

Transcribed by: \_\_\_\_\_

Alissa Angelo, Deputy City Recorder



## CITY OF STAYTON

# MEMORANDUM

**TO: Mayor Henry A Porter and the Stayton City Council**  
**FROM: Dan Fleishman, Director of Planning and Development**  
**DATE: October 3, 2016**  
**SUBJECT: Consideration of Adoption of a Property Maintenance Code**

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### ISSUE

The issue before the City Council is the consideration of adoption of property maintenance standards within the Stayton Municipal Code. The issue was discussed at the August 1 meeting, and staff was requested to create an ordinance for further review and discussion by the Council.

The draft is presented to the Council for discussion purposes is not ready for formal consideration for adoption, as it has not been "placed on the counter" at City Hall for seven days in advance of the meeting. Further, as staff has previously recommended, if the Council proposes to adopt the fee included in the draft ordinance, outreach to rental property owners is recommended.

### RECOMMENDATION

If the Council would like to move forward with the adoption of a rental property code, then staff recommends the Council hold a public hearing before consideration of the ordinance and staff will schedule on for the November 7 meeting.

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE ENACTING THE STAYTON RENTAL HOUSING CODE**

WHEREAS, Oregon Revised Statutes, Chapter 90 establishes minimum habitability standards for residential rental housing;

WHEREAS, the statutory standards provide for remedies by the tenant but do not provide for enforcement by a municipality;

WHEREAS, the City Council has been informed of instances where existing residential rental housing does not meet the minimum habitability standards of ORS Chapter 90;

WHEREAS, it is adopted policy of the City of Stayton to assure that all occupied housing units are safe, decent and suitable for healthful habitation;

WHEREAS, the City Council desires to be able enforce standards to assure the health and safety of residents of the City; and

WHEREAS, the City Council find the standards to be adopted are reasonable standards for enforcement by the City;

NOW, THEREFORE, the City of Stayton ordains:

**Section 1. SMC Chapter 15.08 Enacted.** Stayton Municipal Code, Title 15, Chapter 15.08 is hereby enacted as shown on Exhibit A attached hereto and incorporated herein.

**Section 2. Effective Date.** This ordinance shall become effective 30 days after adoption by the Stayton City Council and the Mayor's signing.

ADOPTED BY THE STAYTON CITY COUNCIL this \_\_\_\_ day of \_\_\_\_\_, 2016.

CITY OF STAYTON

Signed: \_\_\_\_\_, 2016

BY: \_\_\_\_\_  
Henry A. Porter, Mayor

Signed: \_\_\_\_\_, 2016

ATTEST: \_\_\_\_\_  
Keith D. Campbell,  
City Administrator

APPROVED AS TO FORM:

\_\_\_\_\_  
David A. Rhoten, City Attorney

## TITLE 15 - BUILDINGS AND CONSTRUCTION

### Chapter 15.08 RENTAL HOUSING CODE

#### Sections:

Section 15.08.010 Title.

Section 15.08.020 Purpose.

Section 15.08.030 State of Oregon Residential Landlord and Tenant Act.

Section 15.08.040 Scope.

Section 15.08.050 Dangerous Buildings Code.

Section 15.08.060 Severability.

Section 15.08.070 Liability.

Section 15.08.080 Definitions.

Section 15.08.090 Standards.

Section 15.08.100 Enforcement.

Section 15.08.110 Appeals.

Section 15.08.120 Fees.

#### **Section 15.08.010 Title.**

These regulations shall be known as the Stayton Rental Housing Code, may be cited as such, and will be referred to herein as "this Chapter."

#### **Section 15.08.020 Purpose.**

The purpose of this Chapter is to provide minimum habitability criteria to safeguard health, property, and public welfare of the owners, occupants, and users of residential rental buildings.

#### **Section 15.08.030 State of Oregon Residential Landlord and Tenant Act.**

This code is intended to supplement rather than conflict with the habitability standards of the State of Oregon Residential Landlord and Tenant Act (ORS Chapter 90).

#### **Section 15.08.040 Scope.**

- 1) Except as described below, this Chapter shall apply to all buildings or portions thereof which are legally used for human habitation and are covered by a rental agreement.
- 2) Those arrangements identified in the State of Oregon Residential Landlord and Tenant Act as excluded from its authority are also exempted from this Chapter. The following are exempted from this Chapter either through the State of Oregon Residential Landlord and Tenant Act or in addition to it:
  - a) Hotels, motels and lodging houses.
  - b) Hospitals and other medical facilities.

- d) Nursing homes and similar facilities.
- e) Group SR Occupancies.

#### **Section 15.08.050 Dangerous Buildings Code.**

Conditions which define a building as dangerous under SMC Title 8, Chapter 8.04 will be abated through the procedures specified in SMC Title 8, Chapter 8.04.

#### **Section 15.08.060 Severability.**

If any section, paragraph, subdivision, clause, sentence, or provisions of this Chapter shall be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of the Chapter, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered, it being the intent of the governing body to enact the remainder of this Chapter notwithstanding the parts to be declared unconstitutional and invalid.

#### **Section 15.08.070 Liability.**

The City officials charged with the enforcement of this Chapter, acting in good faith and without malice in the discharge of the duties required by this Chapter or other related laws and ordinances shall not thereby be rendered personally liable for damages that may accrue to persons or property as a result of an act or by reason of an act or omission in the discharge of such duties.

#### **Section 15.08.080 Definitions.**

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

1. **Agent:** A person authorized by another to act in his/her behalf.
2. **Building Code:** The currently adopted edition of the State of Oregon Structural Specialty Code.
3. **Building Official:** The individual(s) designated by the City Administrator to administer and enforce the building codes and inspect buildings.
4. **Dangerous Buildings Code:** Those provisions of SMC Title 8, Chapter 8.04 adopted for the abatement of unsafe buildings.
5. **Dwelling Unit:** A single unit providing complete independent living facilities for one or more persons including provisions for living, sleeping, eating, cooking and sanitation. For purposes of this Chapter, where portions of a residential building are occupied under separate rental agreements, but tenants share eating, cooking, and/or sanitation facilities, each portion under a separate rental agreement shall be considered a dwelling unit.
6. **Habitable Room:** Any room used for sleeping, living, cooking or dining purposes, but excluding closets, pantries, bath or toilet rooms, hallways, laundries, storage spaces, utility rooms and similar spaces.
7. **Group SR Occupancies:** Special residences where personal care is administered and that are licensed by, or subject to licensure by, or under the authority of the Oregon Department of Human Services or any other State agency.

8. **Mechanical Code:** The currently adopted edition of the State of Oregon Mechanical Specialty Code.
9. **Ordinance Enforcement Officer:** The individual designated by the City Administrator to enforce the provisions of this Chapter.
10. **Plumbing Code:** The currently adopted edition of the State of Oregon Plumbing Specialty Code.
11. **Rental Agreement:** All agreements, written or oral, concerning the use and occupancy of a dwelling unit and premises.

#### **Section 15.08.090 Standards.**

1. Structural Integrity.
  - A. Roofs, floors, walls, foundations, stairways and railings, and all other structural components shall be capable of resisting any reasonable stresses and loads to which these components may be subjected and shall be maintained in good repair.
  - B. Structural components shall be of materials allowed or approved by the Building Code.
2. Plumbing.
  - A. Each dwelling unit shall be provided with access to a toilet, bath or shower, and lavatory in a room or rooms separate from the habitable rooms and which affords privacy, within the building in which the dwelling unit is located.
  - B. Plumbing systems shall be installed and maintained in a safe and sanitary condition and shall be free of defects, leaks and obstructions.
  - C. Plumbing components shall be of materials allowed or approved by the Plumbing Code.
3. Heating.
  - A. There shall be a permanently installed heat source with the ability to provide a room temperature of 68 degrees Fahrenheit three feet above the floor, measured in the approximate center of the room, in all habitable rooms. Portable space heaters shall not be used to achieve compliance with this section.
  - B. All heating devices or appliances shall be of an approved type and shall conform to applicable law at the time of installation.
  - C. Ventilation for fuel-burning heating appliances shall be as required by the Mechanical Code at the time of installation.
4. Electrical. Electrical lighting, fixtures and outlet and all other electrical equipment shall conform to applicable law at the time of installation and shall be maintained in good working order.
5. Weatherproofing.
  - A. Roof, exterior walls, windows and doors shall be maintained to prevent water leakage into living areas which may cause damage to the structure or its contents or may adversely affect the health of an occupant.

- B. Repairs must be permanent rather than temporary and shall be through generally accepted construction methods.
6. Smoke Detectors. Every dwelling unit shall be equipped with an approved and properly functioning smoke alarm or smoke detector installed and maintained in accordance with the State Building Code, ORS 479.270, 479.275, and 479.285, and applicable rules of the State Fire Marshal.
  7. Carbon Monoxide Detectors. Every dwelling unit shall be equipped with an approved and properly functioning carbon monoxide alarm in accordance with applicable rules of the State Fire Marshal if the dwelling unit contains a carbon monoxide source or is located within a structure that contains a carbon monoxide source and the dwelling unit is connected to the room in which the carbon monoxide source is located by a door, ductwork or a ventilation shaft.
  8. Security. Doors and windows leading into a dwelling unit must be equipped with locks and shall be maintained in a condition so as to restrict access into the dwelling unit.
  9. Buildings and Grounds. Buildings, grounds and appurtenances must be, at the time of the commencement of the rental agreement, in every part safe for normal and reasonably foreseeable uses, and shall be kept clean, sanitary and free from all accumulations of debris, filth, rubbish, garbage, rodents and vermin, and all areas under control of the landlord shall be kept in every part safe for normal and reasonably foreseeable uses, clean, sanitary and free from all accumulations of debris, filth, rubbish, garbage, rodents and vermin.
10. Interpretations.
- A. The Ordinance Enforcement Officer is empowered to render interpretations of this Section.
  - B. Such interpretations shall be in conformance with the intent and purpose of this Chapter.

**Section 15.08.100 Enforcement.**

1. Authority. The Ordinance Enforcement Officer is hereby authorized and directed to enforce all the provisions of this Chapter.
2. Complaint.
  - A. A complaint must be in writing and may be filed in person or by mail, e-mail or fax.
  - B. A complaint must include the following:
    - 1) Name of person filing the complaint; complaints may not be submitted anonymously.
    - 2) Name of the landlord.
    - 3) Address of the alleged violation.
    - 4) A complete description of the alleged violation.
    - 5) A copy of the written notice of the alleged habitability violation that has been sent by the tenant to the landlord.
  - C. A person who files a complaint must be a party to the current rental agreement covering the property in question or an agent of this party.

- D. The Ordinance Enforcement Officer or any other City official shall not report a person who files a complaint to immigration officials.
  - E. Complaints will be processed by Ordinance Enforcement Officer using an administratively adopted written procedure which includes the following:
    - 1) confirmation that the complainant has standing to file a complaint
    - 2) confirmation that the subject of the complaint, if confirmed, would be a violation of this Chapter.
    - 3) confirmation that the landlord has had seven days, plus three days for mailing per ORS 90.150(3), since mailing of the written notice by the tenant to respond to the complaint except that when the violation is an absence of: heat, water or hot water, or any properly functioning toilets, sinks or smoke detectors in the dwelling unit, confirmation that the landlord has had 48 hours by written notice from the tenant to respond to the complaint.
    - 4) written notification of the landlord by the Ordinance Enforcement Officer of the complaint.
3. Investigations.
- A. Investigations will be initiated only after the above process has been followed.
  - B. The Ordinance Enforcement Officer will conduct an investigation to confirm the validity of the complaint.
  - C. If the complaint is determined to be not valid, the case will be closed and all parties notified.
  - D. If the complaint is determined to be valid, the Ordinance Enforcement Officer will issue a Notice of Violation and Order of Abatement.
4. Inspection and Right of Entry. When it may be necessary to inspect to enforce the provisions of this Chapter, the Ordinance Enforcement Officer, in accordance with administrative policy, may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this Chapter, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the Ordinance Enforcement Officer shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the Ordinance Enforcement Officer shall have recourse to the remedies provided by SMC Title 1, Chapter 1.24 to secure entry.
5. Notices and Orders.
- A. For valid complaints, the Ordinance Enforcement Officer shall issue a Notice of Violation and Order of Abatement to the landlord. The Notice and Order shall include the following:
    - 1) Street address.
    - 2) A statement that the Ordinance Enforcement Officer has found the premises to be in violation of this Chapter as alleged in the complaint.
    - 3) A thorough description of the violation.

- 4) Statements advising the landlord that if the required repairs are not completed within seven days, plus three days for mailing from the date of the Notice and Order (48 hours when the Code violation is an absence of: heat, water or hot water, or any properly functioning toilets, sinks or smoke detectors in the dwelling unit), then Ordinance Enforcement Officer will:
  - a) Record the notice and order against the property.
  - b) Coordinate the issuance of a citation to the landlord to appear in Municipal Court.
  - c) Initiate action to recover all City costs associated with the processing of the complaint, investigation and the resolution of the issue.
- 5) Statements that the landlord may appeal the notice and order as specified in this Chapter.
- 6) The date by which the repairs must be completed and a reinspection scheduled.
- B. The Notice of Violation and Order of Abatement, and any amended or supplemental Notice and Order, shall be posted on the premises and shall be served to the landlord by first class mail, at the address of record in the Marion County Assessor's records.
6. Failure to Comply. If there is no compliance with the Notice and Order by the specified date, the Ordinance Enforcement Officer will:
  - A. Coordinate the issuance of a citation to the landlord to appear in Municipal Court;
  - B. Record the Notice and Order against the property with all recording costs to be the responsibility of the landlord; and
  - C. Initiate an accounting for all costs associated with the processing of the complaint, investigation and the resolution of the issue with the intent of recovering these costs from the landlord.
7. Compliance.
  - A. Upon compliance with the Order of Abatement, the Ordinance Enforcement Officer will issue a Notice of Compliance to the landlord and to the complainant.
  - B. If a Notice and Order was recorded against the property, Housing Division staff will record the Notice of Compliance against the property.
  - C. If an accounting was initiated for all costs associated with the processing of the complaint, investigation and the resolution of the issue, the Finance Director will proceed with collecting these costs from the landlord using adopted City procedures.
8. Penalties. Any person violating any of the provisions of this Chapter shall, upon court conviction thereof, be punished by a fine as specified by Council Resolution. Each day that a violation exists is a separate offense.

#### **Section 15.08.110 Appeals.**

1. Appeal to City Administrator. Any tenant who has filed a complaint that the Ordinance Enforcement Officer has determined is not valid may file a written appeal to the City Administrator within 10 days of the date the notice was mailed. Any landlord who has been issued a Notice of Violation by the Ordinance Enforcement Officer may file a written appeal

to the City Administrator within 10 days of the date the notice was mailed. The written appeal shall state one or more of the following grounds for the appeal:

2. City Administrator's Decision on the Appeal. The City Administrator shall consider the appeal within 15 days from the date of the City's receipt of the appeal. The City Administrator may, at the City Administrator's sole discretion,
  - A. Remand the issue back to the Ordinance Enforcement Officer for reconsideration,
  - B. Grant the request on appeal, with or without conditions, or
  - C. Deny the request on appeal.

The City Administrator shall issue a written Notice of Decision regarding the appeal. The City Administrator's decision may be appealed, in writing, to the City Council.

3. Appeal to City Council. The City Administrator's decision to approve or deny an appeal may be appealed by the tenant or the landlord to the City Council within 10 days of the mailing of the Notice of Decision. The appeal shall be in writing and shall clearly state the issue being appealed and the grounds for the appeal. The City Council shall consider the appeal at a regularly scheduled meeting, no later than 45 days from the date of the City's receipt of the appeal. The Mayor may invite testimony, at the Mayor's discretion. The City Council may, at its discretion,
  - A. Remand the issue back to the City Administrator for reconsideration,
  - B. Grant the request on appeal, with or without conditions, or
  - C. Deny the request on appeal based on the record.

The City Council's decision is final.

4. Appeal Fee. Any appeal submitted under this Section shall include a \$50.00 filing fee.
5. Scope of Appeal. Appeals may be filed regarding notices, orders, interpretations and decisions made by the Ordinance Enforcement Officer relative to this Chapter.
6. Form of Appeal. An appeal must be in writing and include the following:
  - A. Name of person filing the appeal.
  - B. Copy of the notice and order.
  - C. Copy of the section of this code which is being appealed.
  - D. A complete explanation of the appeal.
  - E. What is requested of the City Administrator or City Council.
7. Appeal Procedure.
  - A. Appeals shall be submitted to the Planning and Development Director. The Planning and Development Director shall confirm that the appeal meets the filing criteria and the appeal request is complete.
  - B. If the filing criteria have not been met, the person filing the appeal will be so notified. The Planning and Development Director, at his/her discretion, may extend the filing

deadline by an additional three days to allow the appellant to resubmit an appeal that has been deemed incomplete. Only one extension may be granted.

- C. If the filing criteria is met, the Planning and Development Director shall forward the appeal to the City Administrator or schedule a hearing of the City Council, as is appropriate.

**Section 15.08.120 Fees.**

1. For the purpose of offsetting costs to the City associated with the enforcement of this Chapter there is hereby imposed an annual fee, to be set by Council Resolution, for each dwelling unit covered by a rental agreement.
2. The following unit types, while subject to the standards, enforcement procedures, and other requirements established in this Chapter, shall be exempt from the fee payment requirements of this Section: rentals with a recorded deed restriction requiring the units to be rented affordably to households at or below 50% of the Area Median Income; rentals under contract with a public agency that requires the rental to be inspected at least annually and verifies that the dwelling is rented to a low income household; and rentals designated as senior or disabled housing by a public agency.
3. The landlord is responsible for paying the annual fee upon written or electronic request. The Finance Director shall adopt and implement policies and procedures which include multiple written or electronic communications with landlords before assessing a penalty. The penalty established below is necessary to offset the actual cost of these procedures when payment of the annual fee is not timely or when payment of the annual fee is not made.
4. Policy regarding penalties. Providing minimally habitable rental housing is of great importance within the City of Stayton. The costs of this program are intended to be somewhat offset by the annual fees, but the City Council also desires to not greatly increase the cost of renting residential property within the City. The City Council has balanced raising the amount of the annual fee in order to offset the cost of the program against the desire for landlords to pay the annual fee in a timely manner, and finds that an artificially lower annual fee that encourages timely payment is more likely to provide funding that offsets the costs of this essential program than is a higher fee which would capture all the administrative costs of collection. The City finds that staff charged with administration and enforcement of this program spend a grossly disproportionate portion of their time attempting to collect fees or to collect untimely fees from a relatively few landlords. The City Council finds that relatively low penalties for failing to pay the annual fee or for failing to pay the annual fee in a timely manner, encourages some landlords to fail to make payments or to make late and untimely payments. The City Council finds that relatively low penalties therefore result in an even more unfair apportionment of the cost of providing this essential program to other landlords and taxpayers, and threatens the City's ability to provide the service for the low annual fee.
5. Failure to pay the fee as requested will subject the landlord to the following actions:
  - A. A penalty fee of \$250.00 will be assessed to the landlord for each unpaid per unit fee if the annual fee is not paid by the date specified in the written or electronic request for payment.
  - B. The City will initiate appropriate action to collect the fees due and all costs associated with these actions will be assessed to the landlord.

C. Appropriate action may include placing a lien on the property.

DRAFT



**CITY OF STAYTON**  
**M E M O R A N D U M**

**TO: Mayor Henry Porter and the Stayton City Council**  
**FROM: Dan Fleishman, Director of Planning and Development**  
**DATE: October 3, 2016**  
**SUBJECT: Criteria for Approval of Applications for Official Zone Map Amendments**

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**ISSUE**

The issue before the City Council is a discussion of possible additional criteria for approval of amendments to the Official Zoning Map.

**BACKGROUND INFORMATION**

At the City Council's August 15 meeting several Council members expressed frustration over the existing criteria for approval for Zoning Map amendments and requesting staff return with ideas on addressing the potential impact of a zone change on the neighborhood.

**ANALYSIS**

Section 17.12.180.6 currently contains six criteria for the approval of an application for a zone map amendment. These criteria are

- 1) The proposed zone is consistent with the Comprehensive Plan map designation for the subject property unless a Comprehensive Plan Map amendment has also been applied for and is otherwise compatible with applicable provisions of the Comprehensive Plan.
- 2) Existing or anticipated services (water, sanitary sewers, storm sewers, schools, police and fire protection) can accommodate potential development in the subject area without adverse impact on the affected service area.
- 3) Existing or anticipated transportation facilities are adequate for uses permitted under the proposed zone designation and the proposed amendment is in conformance with the Oregon Transportation Planning Rule (OAR 660-012-0060).
- 4) The purpose of the proposed zoning district satisfies the goals and policies of the Comprehensive Plan.
- 5) Balance is maintained in the supply of vacant land in the zones affected by the zone change to meet the demand for projected development in the Comprehensive Plan. Vacant land in the proposed zone is not adequate in size, configuration or other characteristics to support the proposed use or development. A Zone Map

Amendment shall not eliminate all available vacant land from any zoning designation.

- 6) The proposed zone amendment satisfies applicable provisions of Oregon Administrative Rules.

Several Council members expressed a desire to be able to judge a proposed Zoning Map Amendment on the compatibility of proposed development or potential development with the neighborhood.

Staff has conducted some research on the criteria for approval in a number of other communities. Monmouth, for example includes a criterion that requires a finding that “the proposed change is appropriate considering the surrounding land uses and the density and pattern of development in the area.” Salem has included the following criterion in their Code,

The zone change is justified based on the existing of one or more of the following:

(i) \*\*\*

(ii) \*\*\*

(iii) A demonstration that the proposed zone is equally or better suited for the property than the existing zone. A proposed zone is equally or better suited for the property than an existing zone if the physical characteristics of the property are appropriate for the proposed zone and the uses allowed by the proposed zone are logical with the surrounding land uses.

A number of area cities have among the criteria for approving a zone map amendment the concept that either a mistake was in the original zoning or that conditions have changed such that the original zoning is no longer appropriate. An example of a mistake could be that the existing uses are nonconforming and the applicant is looking to change the zone map so that they are a conforming use. An example of change in conditions could be that an area that was zone industrial is now occupied by vacant mill buildings that are functionally obsolete.

Finally, staff understands that one source of frustration with the most recent application for a zone map amendment that was before the City Council was that that the application was not accompanied by a concurrent application for land development. An option for the Council to consider would be to require such a concurrent application. While there is no guarantee that the development proposal will actually be constructed or will not change, by requiring a concurrent application for development, there will be a higher degree of certainty in what will take place as a result of the zone change. For instance, rather than being told that the applicant intends to build a triplex if the zoning is changed, the Planning Commission and City Council would have before them the actual site plan for the proposed triplex development and would have a better idea of the impacts of that development on the neighboring property.

I have attached a compilation of the zone map amendment criteria from other cities’ codes that staff collected has.

## **RECOMMENDATION**

Staff recommends that the Code be amended to include a requirement that an application for zone map amendment include a concurrent application for development (partitioning,

subdivision, and/or site plan approval) unless the purpose of the application is to make an existing nonconforming use conforming and no further development is proposed. Staff further recommends that the Code be amended to include an additional criterion that addresses, in some fashion, the compatibility of the potential development under the new zoning to the existing development patterns in the vicinity.

#### **NEXT STEPS**

Based on the discussion by and direction from the City Council, staff could either prepare ideas for specific amendments for review by the City Council prior to presentation to the Planning Commission, or could present a proposed amendment to the Planning Commission directly. The Planning Commission must hold a public hearing on any proposed amendments prior to the City Council's hearing and consideration of those amendments.

## **Independence**

No zone change shall be approved by the Planning Commission or enacted by the City Council unless it conforms to the Comprehensive Plan, including the Transportation System Plan, and at least one of the following standards is met:

- A. The zoning on the land for which the zone change is initiated is erroneous and the zone change would correct the error;
- B. Conditions in the neighborhood surrounding the land for which the zone change is initiated have changed to such a degree that the zoning is no longer appropriate and the zone change would conform to the new conditions of the neighborhood;
- C. There is a public need for land use of the kind for which the zone change is initiated and that public need can best be met by the zone change.

## **Monmouth**

No zone change shall be approved by the Planning Commission or enacted by the City Council unless it conforms to the Comprehensive Plan and meets the following standards:

- (1) The proposed zone change meets at least one of the following standards:
  - (a) The zoning on the land for which the zone change is initiated is erroneous and the zone change would correct the error;
  - (b) Conditions in the neighborhood surrounding the land for which the zone change is initiated have changed to such a degree that the zoning is no longer appropriate, and the zone change would conform to the new conditions of the neighborhood;
  - (c) There is a public need for land use of the kind for which the zone change is initiated and that public need can best be met by the zone change.
- (2) The proposed change is consistent with applicable goals and policies of the Comprehensive Plan.
- (3) Adequate public facilities, services, and transportation networks are in place or are planned to be provided concurrently with the development of the property. A traffic impact analysis, pursuant to MCC [18.150.030](#), may be required by the Public Works Director to determine the adequacy of existing or planned transportation facilities and demonstrate compliance with OAR [660-012-0060](#).
- (4) The proposed change is appropriate considering the surrounding land uses and the density and pattern of development in the area.

## **Silverton**

- B. Criteria for Quasi-Judicial Amendments. The city shall consider the following review criteria and may approve, approve with conditions or deny a quasi-judicial amendment based on the following; if the application for an amendment originates from a party other than the city, the applicant shall bear the burden of proof.
  1. Approval of the request is consistent with the statewide planning goals;

2. Approval of the request is consistent with the relevant comprehensive plan policies and on balance has been found to be more supportive of the comprehensive plan as a whole than the old designation;
3. The requested designation is consistent with any relevant area plans adopted by the city council;
4. The requested designation is consistent with the comprehensive plan map pattern and any negative impacts upon the area resulting from the change, if any, have been considered and deemed acceptable by the city;
5. A public need will be met by the proposed change that is not already met by other available properties, or the amendment corrects a mistake or inconsistency in the comprehensive plan or zoning map regarding the property which is the subject of the application;
6. The property and affected area are presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided in the planning period; and
7. The amendment conforms to other applicable provisions of this code, such as the transportation planning rule requirements incorporated into SDC [4.7.600](#).
8. Any amendment involving a change to the city's urban growth boundary shall conform to applicable state planning rules for such amendments.

### **Aumsville**

After each public hearing for a zone change the Commission shall forward to the Council its decision and include in its decision, findings of fact to support the public health, safety and welfare by relating to, but not limited to the following:

- (A) That the change is in conformance with the Aumsville Comprehensive Plan, or that there was a mistake in the amended plan, or conditions in the area have changed since adoption of the amended plan. This includes both the plan map, and the goals, objectives and policies of the plan.
- (B) That there is a public need for the proposed use or zone.
- (C) That this need will best be met by a zone change of the property in question as compared with other property.
- (D) That there is no other appropriately zoned property in the surrounding area that could be used.
- (E) That the range of uses allowed by the proposed zone will not over-burden existing and future capacity of public facilities.

### **Canby**

In judging whether or not the zoning map should be amended or changed, the Planning Commission and City Council shall consider:

- A. The Comprehensive Plan of the city, giving special attention to Policy 6 of the land use element and implementation measures therefore, and the plans and policies of the county, state and local districts in order to preserve functions and local aspects of land conservation and development;
- B. Whether all required public facilities and services exist or will be provided concurrent with development to adequately meet the needs of any use or development which would be permitted by the new zoning designation.

### **Dallas**

A recommendation or a decision to approve, approve with conditions or to deny an application for a quasi-judicial amendment shall be based on all of the following criteria:

1. Approval of the request is consistent with the Statewide Planning Goals;
2. Approval of the request is consistent with the Comprehensive Plan;
3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided in the planning period; and
4. The change is in the public interest with regard to neighborhood or community conditions, or corrects a mistake or inconsistency in the comprehensive plan map or zoning map regarding the property which is the subject of the application; and
5. The amendment conforms to the Transportation Planning Rule provisions under Section 4.7.060.

### **Salem**

(1) A quasi-judicial zone change shall be granted if all of the following criteria are met:

(A) The zone change is justified based on the existence of one or more of the following:

- (i) A mistake in the application of a land use designation to the property;
- (ii) A demonstration that there has been a change in the economic, demographic, or physical character of the vicinity such that the proposed zone would be compatible with the vicinity's development pattern; or
- (iii) A demonstration that the proposed zone is equally or better suited for the property than the existing zone. A proposed zone is equally or better suited for the property than an existing zone if the physical characteristics of the property are appropriate for the proposed zone and the uses allowed by the proposed zone are logical with the surrounding land uses.

(B) If the zone change is City-initiated, and the change is for other than City-owned property, the zone change is in the public interest and would be of general benefit.

(C) The zone change complies with the applicable provisions of the Salem Area Comprehensive Plan.

- (D) The zone change complies with applicable Statewide Planning Goals and applicable administrative rules adopted by the Department of Land Conservation and Development.
  - (E) If the zone change requires a comprehensive plan change from an industrial designation to a non-industrial designation, or a comprehensive plan change from a commercial or employment designation to any other designation, a demonstration that the proposed zone change is consistent with the most recent economic opportunities analysis and the parts of the Comprehensive Plan which address the provision of land for economic development and employment growth; or be accompanied by an amendment to the Comprehensive Plan to address the proposed zone change; or include both the demonstration and an amendment to the Comprehensive Plan.
  - (F) The zone change does not significantly affect a transportation facility, or, if the zone change would significantly affect a transportation facility, the significant effects can be adequately addressed through the measures associated with, or conditions imposed on, the zone change.
  - (G) The property is currently served, or is capable of being served, with public facilities and services necessary to support the uses allowed by the proposed zone.
- (2) The greater the impact of the proposed zone change on the area, the greater the burden on the applicant to demonstrate that the criteria are satisfied.