



City Hall – Council Chambers
206 N. Main Street
Toledo, Oregon 97391
6:00 p.m.

TOLEDO CITY COUNCIL
Regular Meeting – also via Zoom Meeting Platform
November 15, 2023

Virtual Meeting: The City Council will hold the meeting for the City Council and staff in person as well as through the Zoom video meeting platform. The public is encouraged to attend the meeting electronically. Visit the meetings page on the city website for details including meeting login information.

Public Comments: The City Council may take limited verbal comments during the meeting. Written comments may be submitted by email to lisa.figueroa@cityoftoledo.org 3:00 p.m. the day of the meeting to be included in the record. Comments received will be shared with the City Council and included in the record.

1. **Call to Order, Pledge of Allegiance and roll call**
2. **Proclamations/Presentations**
 - Presentation – City Manager Doug Wiggins
 - Presentation – Fire Chief Larry Robeson
 - Presentation – Toledo Elementary School
3. **Visitors/Public Comment**

(The public comment period provides the public with an opportunity to address the City Council regarding items not on the agenda. Please limit your comments to three (3) minutes).
4. **Consent Agenda**
 - Minutes from the executive session held June 8, 2023, the work session held June 28, 2023 and the regular meeting held July 19, 2023
5. **Discussion Items**

There are no items for consideration
6. **Decision Items**
 - Ordinance No. 1416, amending Title 8 of the Toledo Municipal Code, creating Chapter 8.24, the Toledo Livability Code
7. **Reports and Comments**
 - Committee updates
 - Sturdevant Road jurisdiction to reduce speed limit
8. **Adjournment**

**TOLEDO CITY COUNCIL
EXECUTIVE SESSION
June 8, 2023**

1. EXECUTIVE SESSION

Mayor Rod Cross called the Executive Session to order at 1:00 p.m. in the City Hall upstairs meeting room. He read the declaration of meeting in Executive Session under the provisions of ORS 192.660(2)(a) To consider the employment of a public officer, employee, staff member or individual agent.

Representatives of the news media and designated staff were allowed to attend the Executive Session. All other members of the audience were prohibited. Representatives of the news media were specifically directed not to report on any of the deliberations except to state the general subject of the session as previously announced.

Present	Absent	
X	_____	Mayor Rod Cross
X	_____	Council President Betty Kamikawa
X	_____	Councilor Jackie Kauffman
X	_____	Councilor Tracy Mix
X	_____	Councilor Kim Bush
_____	_____	Vacant
_____	_____	Vacant
X	_____	City Manager Judy Richter

Others Present: Doug Wiggins, Erik Glover, Jake Boone

The City Council recessed at 4:25 p.m. and reconvened at 4:30 in the City Council Chambers.

Others present: City Attorney Mike Adams, City Recorder Lisa Figueroa, Public Works Director Bill Zuspan, Police Chief Mike Pace, Library Director Deborah Trusty, Fire Chief Larry Robeson, Public Works Supervisor Jeff Chatterton, Lane County Local Government Personnel Services Program Manager Stacey Marple

No decisions were made in Executive Session.

2. ADJOURNMENT

The Executive Session adjourned at 5:43 p.m.

APPROVE:

ATTEST:

Mayor Rod Cross

City Recorder Lisa Figueroa

TOLEDO CITY COUNCIL
WORK SESSION
June 28, 2023

1. CALL TO ORDER

Mayor Rod Cross called the meeting to order at 6:03 p.m. also via Zoom in Toledo, Oregon.

Present	Absent	
X		Mayor Rod Cross
X		Council President Betty Kamikawa
X		Councilor Jackie Kauffman
X		Councilor Tracy Mix
X		Councilor Kim Bush
		Vacant
		Vacant

Staff present: City Manager (CM) Judy Richter, City Recorder (CR) Lisa Figueroa, City Attorney (CA) Mike Adams, Police Chief (PC) Michael Pace, Fire Chief (FC) Larry Robeson, Community Outreach Specialist Katy Keuter

2. PRESENTATIONS

Presentation – Draft Drinking Water Protection Plan; Water Resources Consultant Suzanne de Szoeki

Water Resources Consultant Suzanne de Szoeki addressed the Council. She provided a summary of the Drinking Water Protection Plan and said the advisory group was able to develop several activities to protect its source waters. She said if the Council approves the draft plan, it will be sent to the Oregon Health Authority and the Department of Environmental Quality for review. She said they have already seen a preliminary report but may have some final revisions. The Council did not have many questions for Ms. de Szoeki and thanked her for her efforts on the report.

3. VISITORS/PUBLIC COMMENT

Cynthia George, citizen, addressed the City Council. She commented she did not understand why she was being taxed for the pool since it has not been in service for several months. She mentioned the Recreational Vehicle (RV) removal program and expressed concern, stating RVs will be disassembled at Dahl’s Disposal Services location, which is located on a wetland. She said she hoped there will be an environmental study for the approved housing development.

4. CONSENT AGENDA

There were no items for consideration.

5. DISCUSSION ITEMS

Discussion regarding Street Lighting fee for fiscal 2023-2024

CM Richter presented the council report and said a few years ago at the suggestion of the budget committee, the street lighting fee was reduced by \$5 per month and the sewer base charge was increased by the \$5. She said recently, the Council considered reversing that decision and add the \$5 back to the street lighting fee and reduce the sewer base fee and staff is seeking direction on whether the Council wishes to increase the fee for fiscal 2023-2024. She said she could bring a resolution back to the Council for a formal action. The Council deliberated an asked clarification questions in regards to the cost incurred by the City. The Council commented about not wanting

1 to raise the fee this year but switching it back. Following discussion, the Council indicated they
2 could raise the fee next year. CM Richter indicated she would bring a resolution back for the
3 Council at the next meeting.

4
5 **6. DECISION ITEMS**

6 **Refer draft Drinking Water Protection Plan to Oregon Health Authority (OHA) and**
7 **Department of Environmental Quality (DEQ) for approval**

8 There was no discussion from the Council.

9
10 Ms. George inquired whether the Council is in the process of acquiring a new water supply. Mayor
11 Cross answered the City is not seeking any new water source.

12
13 **Motion** – It was moved and seconded (Bush/Kamikawa) to refer the draft Drinking Water
14 Protection Plan to Oregon Health Authority and Department of Environmental Quality for
15 approval and the motion carried unanimously.

16
17 **Approve Intergovernmental Agreement for contract planning services**

18 CM Richter summarized the council report and said Contract Planner Peterson has been working
19 on the Comprehensive Plan. She noted one change to the contract, which would be made before
20 she signs it, is the billing will occur monthly instead of quarterly.

21
22 **Motion** – It was moved and seconded (Kamikawa/Mix) to approve an Intergovernmental
23 Agreement with Oregon Cascades West Council of Governments for contract planning and GIS
24 Services and authorize the City Manager to sign the agreement and the motion carried
25 unanimously.

26
27 **Outdoor event application – Street closure request (City of Toledo/ART Toledo)**

28 CR Figueroa presented the council report and indicated it is similar to the request made last year.
29 She referenced the packet, which included the dates of the street closure request as well as the
30 map. She said the street closure request would be for the day of each event from approximately
31 9:00 a.m. to 6:00 p.m.

32
33 **Motion** – It was moved and seconded (Kauffman/Kamikawa) to approve the street closure request
34 for Art, Oysters & Brew as presented and the motion carried unanimously.

35
36 **Consideration of street closure requests for Summer Festival parades**

37 CR Figueroa presented the council report and referenced the materials included in the packet. PC
38 Pace and FC Robeson did not have any concerns regarding the requests.

39
40 **Motion** – It was moved and seconded (Mix/Bush) to approve the street closure requests for the
41 Summer Festival parades and the motion carried unanimously.

42
43 **Resolution No 1522, A Resolution recognizing Grant Revenue and making appropriations**
44 **for spending for Fiscal Year 2022-2023**

45 CM Richter provided the council report and indicated the Library Department received a grant for
46 travel and training. She said the resolution would recognize the monies received.

1 **Motion** – It was moved and seconded (Mix/ Kamikawa) to adopt Resolution No 1522, A
2 Resolution of the Toledo City Council to recognize Grant Revenue and make appropriations for
3 spending for the Fiscal Year 2022-2023 and the motion carried unanimously.
4

5 **Ordinance No. 1411, an ordinance amending the Toledo Municipal Code related to**
6 **recreational vehicle use as a temporary living quarter**

7 CA Adams presented the council report. He said this is the second review by the Council. He
8 reviewed the changes to the ordinance and noted the temporary use was reduced to one year by or
9 six months if floodplain requirements were applicable.
10

11 Mayor Cross opened a public hearing at 6:34 p.m. and asked Council members for any declarations
12 of ex parte contact or conflicts of interest. There were no declarations.
13

14 Mayor Cross opened the floor for comments and there were no comments.
15

16 Ms. George asked for clarification on the topic and CA Adams provided a summary of the use of
17 recreational vehicles as a temporary living quarter.
18

19 After hearing no further comments, Mayor Cross closed the public hearing at 6:38 p.m.
20

21 **Motion** – It was moved and seconded (Kamikawa/Kauffman) to adopt Ordinance No. 1411 by
22 title only, an ordinance of the Toledo City Council repealing Toledo Municipal Code Chapter 8.08
23 and Ordinance 1310, Section 1 (part), 2006, and Ordinance 1396, 2021; replacing with new Toledo
24 Municipal Code chapter 8.08, recreational vehicle use as a temporary living quarter on privately
25 owned property; and declaring an emergency and the motion carried unanimously.
26

27 **Consideration of a permit to consume alcohol in public places; Elks Lodge**

28 CR Figueroa summarized the council report. She indicated the permit was received late last week
29 and it has not been reviewed by the police department yet. She noted Barry Bruster the applicant
30 was available to answer any questions the Council may have. The Council had concern about
31 restricting access to the residents on First Street. Mr. Bruster indicated there would not be any
32 restrictions to those residences. CA Adams inquired whether any of the event would occur on city
33 property and Mr. Bruster replied no.
34

35 **Motion** – It was moved and seconded (Mix/Bush) to approve the permit to consume alcohol in
36 public places for the Elks Lodge and the motion carried unanimously.
37

38 **Ordinance no. 1412, an ordinance regulating camping on public property by adding Chapter**
39 **12.28 to the Toledo Municipal Code and declaring an emergency**

40 CA Adams presented the council report and provided background on the topic. He said the
41 proposed ordinance would bring the City into compliance with state law. He said it was brought
42 to the Council previously and reviewed the changes to the draft; deleted #17, the elementary school
43 and modified #16, Head start because neither one is city property.
44

45 Mayor Cross opened the floor for public comment. Ms. George asked what the ordinance is about
46 and Mayor Cross provided a summary of the ordinance.
47

48 **Motion** – It was moved and seconded (Kamikawa/Mix) to adopt Ordinance No. 1412 by title only,
49 an ordinance of the Toledo City Council regulating camping on public property by adding chapter

1 12.28 to the Toledo Municipal Code; and declaring an emergency (title must be read twice) and
2 the motion carried unanimously.
3

4 **Ordinance No. 1413, an ordinance amending the Toledo Municipal Code related to the**
5 **impoundment of vehicles, offenses against public decency and exclusions from public**
6 **property**

7 Mayor Cross opened the public hearing at 6:56 p.m. and asked the Council members for
8 declarations of conflicts of interest or ex parte contact. There were none.
9

10 CA Adams presented the council report and indicated the Council reviewed a draft of the
11 ordinance on June 23. He said the ordinance will remove urination or defecation in public places
12 to create a workable situation for persons experiencing homelessness under current legal
13 constraints of case law and ORS provisions.
14

15 Mayor Cross opened the floor for public comments and after hearing none, he closed the public
16 hearing at 7:01 p.m.
17

18 **Motion** – It was moved and seconded (Kamikawa/Mix) to adopt Ordinance No. 1413, by title only
19 an ordinance of the Toledo City Council regulating the impoundment of vehicles, offenses against
20 public decency and exclusions from public property by amending Toledo Municipal Code; Section
21 10.08.06, amending chapter 10.24, deleting Chapter 9.08 and amending Section 12.20.040 and
22 declaring an emergency (title was read twice) and the motion carried unanimously.
23

24 Mayor Cross stated for the record, “Please understand that under state law, it is still illegal to
25 urinate and defecate in public. So there is still the ability to cite people under that, but because we
26 are a city jurisdiction those abilities of a city government have been called into question by the
27 court cases. So that’s why we are going this way, is to make it clear, not just for our police officers
28 but also for our citizens.”
29

30 **7. REPORTS AND COMMENTS**

31 Ms. Keuter updated the Council on Art Toledo activities such as the teen mural walk, which had
32 approximately 15 students. She reminded the Council Arts, Oysters & Brews is happening on the
33 first Saturday of July.
34

35 FC Robeson said the department has received several calls in regards to fireworks and said he
36 would like to include more outreach education in regards to fireworks.
37

38 PC Pace informed the Council on the status of Highway 229 designation for former Toledo Officer
39 Gary Sumpter.
40

41 CR Figueroa noted there will be a resolution before the council to adjust the master fee schedule,
42 however staff wants to wait until the newest ordinances presented by CA Adams are adopted to
43 include any proposed fees.
44

45 CM Richter said City Manager candidate Doug Wiggins passed his background check and now
46 CA Adams will negotiate a contract with him on behalf of the City Council.
47

1 Councilor Bush announced the police will host National Night out on the first Tuesday in August
2 and encouraged everyone to attend. She said they are looking for raffle items and indicated people
3 can donate items to the Police Department for the event.
4

5 Mayor Cross said it was an honor to attend the Senate presentation for the Gary Sumpter Highway
6 dedication. He emphasized the need for funding for the public safety building as well as funding
7 for arts within Toledo.
8

9 **8. ADJOURNMENT**

10 The work session adjourned at 7:25 p.m.

11
12 Approve:

Attest:

13
14
15 _____
16 Mayor Rod Cross

City Recorder Lisa Figueroa

DRAFT

**TOLEDO CITY COUNCIL
REGULAR MEETING
July 19, 2023**

1. CALL TO ORDER

Mayor Rod Cross called the meeting to order at 6:00 p.m. also via Zoom in Toledo, Oregon.

Present	Absent	
X		Mayor Rod Cross
X		Council President Betty Kamikawa
X		Councilor Jackie Kauffman
X		Councilor Tracy Mix
X		Councilor Kim Bush
		Vacant
		Vacant

Staff present: City Manager (CM) Judy Richter, City Recorder (CR) Lisa Figueroa, City Attorney (CA) Mike Adams, Police Chief (PC) Michael Pace, Fire Chief (FC) Larry Robeson, Community Outreach Specialist Katy Keuter

Mayor Cross amended the agenda to consider Resolution No. 1527 as the first item for the meeting.

Approve Resolution No. 1527, a resolution ratifying and approving an employment agreement for the City Manager position

CA Adams presented the council report. He said the Council went through an extensive process to hire a new City Manager and indicated the resolution is a formal action for the Council to appoint Doug Wiggins as the new City Manager. He said the draft agreement is similar to CM Richter’s contract with minor changes. He noted there was a request for an increase in salary.

Motion – It was moved and seconded (Bush/Kauffman) to approve Resolution No. 1527 to ratify and approve an employment agreement for City Manager and to officially appoint Doug Wiggins as the Toledo City Manager and the motion carried unanimously.

2. PROCLAMATIONS/PRESENTATIONS

Presentation – Yaquina Bay Estuary Management Plan; Oregon Coastal Management Program Coastal Policy Specialist Meg Reed

Ms. Reed addressed the Council. She provided a report on the Yaquina Bay Estuary Management Plan (Plan). She said The Plan is the local implementation of Goal 16: Estuarine Resources, one of Oregon’s 19 Statewide Planning Goals.

- In 2020, the Oregon Department of Land Conservation & Development (DLCD) formed an initial Steering Committee with Lincoln County
- In 2021, based on recommendations of the Steering Committee and research of local stakeholder groups, the Project Team convened an Advisory Group representing a diversity of expertise and interests in the management of Yaquina Bay

- 1 • In 2022, the Project Team conducted a Needs & Gaps Assessment (Assessment) to identify
2 proposed updates to the Plan to ensure it reflects current conditions and meets the present
3 and future needs of the communities that depend on the Bay
- 4 • The Assessment prioritized the set of recommended updates and identified the ones to be
5 included in this current update
- 6 • The Project Team developed an outreach and engagement strategy to ensure residents and
7 stakeholders can participate in the process and a series of three Town Halls were planned
8 throughout the Summer of 2023
- 9 • The Needs & Gaps Assessment was developed to determine how the current Estuary
10 Management Plan needs to be updated in order to better reflect the social, ecological and
11 economic conditions of Yaquina Bay

12
13 Ms. Reed said any changes to the Estuary Management Plan must be adopted through Lincoln
14 County and the cities of Newport and Toledo. She said it is typical to adopt the state plan since it
15 is multijurisdictional. She referenced the fact sheet included in the Council packet. Mayor Cross
16 noted the Cora Warfield listed on the Advisory group is currently a Planning Commissioner, not a
17 Councilor. Ms. Reed said the Yaquina Bay has been carved out into seven sub areas that have
18 similar characteristics but Toledo is just one sub area. She said each area now has a list of climate
19 vulnerabilities that could occur in that area over time. She said they also identified sections of the
20 Plan that may need to be updated more frequently. She reviewed several maps within the Plan that
21 were identified in the Plan and/or needing updates.

22 23 **3. VISITORS/PUBLIC COMMENT**

24 There were no comments.

25 26 **4. CONSENT AGENDA**

27 **Minutes from the regular meeting held April 19, 2023 and the special meeting held April 24,**
28 **2023**

29
30 **Motion** – It was moved and seconded (Kauffman/Mix) to approve the consent agenda as presented
31 and the motion carried unanimously.

32 33 **5. DISCUSSION ITEMS**

34 There were no items for discussion.

35 36 **6. DECISION ITEMS**

37 **Resolution No.1526, A Resolution authorizing the City Manager to sign the grant agreement**
38 **for the Safe Routes to School construction grant**

39 CA Adams provided the council report. He said the City applied for a Safe Routes to School
40 construction grant (SRTS) for sidewalks and two radar speed signs adjacent to the Toledo
41 Elementary School from the Oregon Department of Transportation (ODOT). He noted Toledo did
42 not receive an award however upon further review, Contract Planner Peterson found the City's
43 application was scored incorrectly and notified ODOT. ODOT decided to partially fund (up to
44 approximately \$44,000) the application for two radar signs because of the miscalculation. The
45 Council inquired whether the City is required to complete the project within three years as noted
46 in the contract, because it did not specify whether the timeframe had changed from the partially

1 awarded grant. They reviewed the contract to determine whether it would obligate them to
2 complete the sidewalks within three years but found no statement that would require that as part
3 of the agreement for the grant award.

4
5 **Motion** – It was moved and seconded (Bush/Kamikawa) to approve Resolution No.1526, A
6 Resolution of the Toledo City Council authorizing the City Manager to sign the grant agreement
7 for the Safe Routes to School construction grant and the motion carried unanimously.
8

9 **Resolution No. 1528, A resolution updating the Master Fee Schedule for services provided**
10 **by the City of Toledo and repealing Resolution No. 1500**

11 CR Figueroa presented the council report. She noted the Master Fee schedule is typically adopted
12 by July however it was delayed in order to include fees that were adopted in new ordinances
13 recently. She referenced page 48 of the packet and indicated the ‘Temporary Use permit’ and
14 Recreational Vehicle permit are the same, staff would like to omit ‘temporary use permit’ and keep
15 ‘recreational vehicle permit’ at \$50.00. She referred to page 49 and noted the finance staff would
16 prefer to charge a flat fee of \$30 or \$32.00 for Haulable water. She also noted there is now a
17 proposed fee of \$20 to submit the outdoor event and permit applications. She said the Council may
18 adopt the fees as proposed or make any changes and adopt as amended.
19

20 **Motion** – It was moved and seconded (Kamikawa/Mix) to adopt Resolution No.1528, A resolution
21 of the Toledo City Council updating the Master Fee Schedule for services provided by the City of
22 Toledo and repealing Resolution No. 1500 as amended and the motion carried unanimously.
23

24 **Approval of Contract to purchase new Tasers for the Toledo Police Department**

25 PC Pace summarized the council report and indicated the current tasers will no longer be
26 supported. He indicated the replacement was included in this fiscal year’s budget and entering into
27 the contract, the current tasers would be traded in as part of the replacement. There were no
28 questions from the Council.
29

30 **Motion** – It was moved and seconded (Bush/Kauffman) to approve the contract for purchase of
31 seven T7 Tasers, which will occur only after seven (7) days of publication on the City website;
32 make findings below and declare it is sole source procurement; and authorize the City Manager to
33 sign the contract and the motion carried unanimously.
34

35 **Consideration of a permit to consume alcohol in public places; Granite and Light**

36 CR Figueroa presented the council report. She said the event will be held on the Port of Toledo
37 property. She said this is the second year they will be in Toledo.
38

39 **Motion** – It was moved and seconded (Kauffman/Kamikawa) to approve the permit application to
40 consume alcohol in public places by Granite & Light and the motion carried unanimously.
41

42 **7. REPORTS AND COMMENTS**

43 Ms. Keuter said this is her last meeting and thanked the Council for their support during her time
44 here. The Council thanked Ms. Keuter for all her assistance to the City.
45

1 FC Robeson answered questions in regards to the dashboard report. He commented the report does
2 not provide a true account of how many out of district calls the department addresses.

3
4 There was discussion about the return of the Summer Festival following the pandemic and how
5 busy the festival was including the fireworks.

6
7 Councilor Bush asked if the City Council could host another table at the National Night out event
8 this year and Councilor Mix volunteered.

9
10 CP Kamikawa announced her husband will retire within the next couple of months and they will
11 be moving out of state to Wisconsin.

12
13 Mayor Cross commended the Summer Festival committee for putting the event this year with
14 hardly any of the previous members.

15
16 **8. ADJOURNMENT**

17 The meeting adjourned at 7:40 p.m.

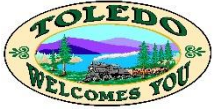
18 Approve:

Attest:

19
20
21
22 _____
23 Mayor Rod Cross

City Recorder Lisa Figueroa

**CITY OF TOLEDO
REQUEST FOR COUNCIL ACTION**

	Meeting Date:	Agenda Topic:
	November 15, 2023	Ordinance No. 1416, amending Title 8 of the Toledo Municipal Code, creating Chapter 8.24, the Toledo Livability Code
Council Goal:	Agenda Type:	
Not Applicable	Decision Items	
Prepared by:	Reviewed by:	Approved by:
City Attorney M. Adams	City Manager Doug Wiggins	City Manager Doug Wiggins

Recommendation:

Motion to adopt Ordinance No. 1416, an ordinance of the Toledo City Council amending Title 8 of the Toledo Municipal Code, creating Chapter 8.24, the Toledo Livability Code, regulating the exterior conditions of all residential and non-residential structures, interior conditions of residential tenant occupied structures, and recreational vehicles occupied for a temporary residential use and repealing Toledo Municipal Code Chapter 15.12 by title only.

The City Council will conduct its first reading at this meeting with a second reading and final adoption on December 6, 2023.

Background:

The draft ordinance regulates the exterior conditions of all residential and nonresidential structures, and the interior conditions of residential tenant occupied structures, and recreational vehicles in the Toledo Municipal Code (TMC).

Per the Council’s request, this draft includes the following significant revisions:

- 1. Change to complaint-based response; incorporation of “good neighbor” attempt to resolve.** Language added: “Before initiating a complaint, the person making the complaint must take such actions that are a bonafide attempt to resolve the issue which at a minimum is a neighborly conversation. As part of the complaint process, the complaining party must provide an explanation of what actions were taken to resolve the issue.” (TMC 8.24.090(A)).
- 2. Change to complaint-based response; discretion of Director to not enforce.** Language added: “[T]he Director may choose to not initiate or continue administrative or enforcement activities under this chapter when the Director has determined that the city has received a complaint based on untruthfulness, or this chapter is being used as a pretext to resolve a neighborhood dispute, property-line dispute, or other civil issue.” (TMC 8.24.090(C)).
- 3. Change definition of “junk” to exclude project vehicles.** Language added: “Excluded from a), b) and c) of this definition are projects where a motor vehicle, RV, trailer, or boat are actively being repaired, and machinery or parts related to such projects are not considered junk.” (TMC 8.24.130(D)(39)).
- 4. Clarifying section on heat in bathrooms and habitable rooms.** Language changed to: “The use of portable open flame and/or unvented fuel burning devices in occupancies or situations where such use or operation would present an undue danger to life or property is prohibited.” (TMC 8.24.240(B)).
- 5. Make more lenient for use of tarps.** Language added: “except when weather conditions necessitate keeping the building, home, or structure dry until the siding or roof can be repaired,” (TMC 8.24.270(F)).

**CITY OF TOLEDO
REQUEST FOR COUNCIL ACTION**

6. Make thickets focused on life and safety, not livability. Language added, in part: “Not all thickets are required to be addressed, but keeping adequate defensible space is a necessity, requiring an owner, occupant of agent to cut and remove and keep cut and removed those thickets, in close proximity to buildings, structures and fences, to protect life and property.” (TMC 8.24.280(F)).

7. Revise trash and debris section. Language added: “even if located behind a private fence where not readily visible from the right-of-way or a neighboring lot or parcel,” (TMC 8.24.280(G)).

8. Clarify compost okay. Accumulations of dead organic matter and yard debris are prohibited, “but only if it results in a nuisance, excluding an accumulation of such material in a maintained compost area if such material does” not result in a nuisance (TMC 8.24.280(G)).

9. Change general maintenance definition. Language in quotes added: The exterior of a building or structure and “any attached decorative features” shall be maintained in good repair, “with proper anchorage,” and structurally sound “in a safe condition” so as not to be in a state of deterioration, and in a sanitary condition so as not to pose a threat to the public health, safety or welfare. (TMC 8.24.300(A)).

10. Related; delete Decorative Features section. “All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features on a building or structure shall be maintained in good repair with proper anchorage and in a safe condition, so as not to be in a state of deterioration.” (See former deleted TMC 8.24.300(G)).

11. Change “Fire Marshal” to “Fire Inspector.” (TMC 8.24.400).

12. Clarify liens. Add “County’s Deed Recording System” to be used for liens, make liens not applicable to landlords unless they are a responsible party. (TMC 8.24.420).

Fiscal Impact:	Fiscal Year:	GL Number:
None	2023-2024	N/A

Attachment:

1. Ordinance No. 1416
2. Red-lined Ordinance

**CITY OF TOLEDO
ORDINANCE NO. 1416**

AN ORDINANCE OF THE TOLEDO CITY COUNCIL AMENDING TITLE 8 OF THE TOLEDO MUNICIPAL CODE, CREATING CHAPTER 8.24, THE TOLEDO LIVABILITY CODE, REGULATING THE EXTERIOR CONDITIONS OF ALL RESIDENTIAL AND NON-RESIDENTIAL STRUCTURES, INTERIOR CONDITIONS OF RESIDENTIAL TENANT OCCUPIED STRUCTURES, AND RECREATIONAL VEHICLES OCCUPIED FOR A TEMPORARY RESIDENTIAL USE; REPEALING TOLEDO MUNICIPAL CODE CHAPTER 15.12

WHEREAS, the City Council has a duty to ensure and protect the public health, safety and welfare of all residents of Toledo; and

WHEREAS, all residents and property owners in the City of Toledo benefit from the prevention of urban blight and the preservation of community livability; and

WHEREAS, minimum property maintenance standards and minimum livability standards prevent urban blight and preserve community livability; and

WHEREAS, special considerations for rental housing habitability are necessary to ensure the health, safety and welfare of tenants and to preserve community livability.

NOW THEREFORE, THE CITY OF TOLEDO ORDAINS AS FOLLOWS:

- Section 1. Toledo Municipal Code Chapter 8.24, Toledo Livability Code, is hereby created to read as set out in Sections 1-57 of Exhibit A of this Ordinance and incorporated by this reference as if fully set out herein.
- Section 2. Toledo Municipal Code Chapter 15.12, Abatement of Dangerous Buildings, consisting of Sections § 1-9 of Ord. 1101 (1980), Section §10 of Ord. 1101 (1980), as amended by Ord. 1118 (1980), and as further amended by Section § 14 of Ord. 1244 (1996), are hereby repealed.
- Section 3. This ordinance being necessary for the immediate preservation of the public welfare, health and safety, an emergency is declared to exist and this ordinance shall take effect on January 1, 2024.

This Ordinance adopted by the Toledo City Council this 6th day of December, 2023.

APPROVED:

ATTEST:

Mayor Rod Cross

City Recorder Lisa Figueroa

Ordinance No. 1416 (2023) - Exhibit A

Section 1. Sections 2 through 57 of this Ordinance are added to and made a part of the Toledo Municipal Code to create Chapter 8.24, “Toledo Livability Code,” as indicated.

Section 2. Section § 8.24.010 of the Toledo Municipal Code is created to read as follows:

8.24.010 - Short Title.

This chapter shall be known and may be cited as the “Toledo Livability Code” and may be referred to herein as "this chapter."

Section 3. Section § 8.24.020 of the Toledo Municipal Code is added to read as follows:

8.24.020 - Purpose.

The purpose of this chapter is to ensure and protect the public health, safety and welfare and to prevent or reduce urban blight by establishing minimum property maintenance and livability standards for all premises.

Section 4. Section § 8.24.030 of the Toledo Municipal Code is added to read as follows:

8.24.030 - Application of other Laws.

- A. Nothing in this chapter shall be construed to relieve a person from complying with any federal, state or local law, including any other provisions of the Toledo municipal code or the requirement to obtain all necessary permits and approvals.
- B. **Changes and Alterations.** Any repair, alteration, or addition to, or change of occupancy in an existing building, or any change of use of any property, shall be made in accordance with all applicable provisions of law, including, but not limited to the Toledo Municipal Code.
- C. No provisions in this chapter shall preclude the abatement of a nuisance as provided in the general nuisance ordinance of the city, TMC Chapter 8.04.
- D. **Conflicts.**
 - 1. Except as provided otherwise by federal, state or local law, if a provision of this chapter conflicts with a residential property maintenance law, rule or regulation promulgated by a state or federal authority having jurisdiction over residential property in the City of Toledo, the provision of the state or federal law, rule or regulation shall apply to the exclusion of the conflicting provision of this chapter.

2. This chapter is intended to supplement rather than conflict with the habitability standards and the assignment of landlord and tenant responsibilities in the State of Oregon Residential Landlord and Tenant Act.
3. This chapter is intended to expand the regulation of the temporary residential use of recreational vehicles located within the city limits, beyond TMC Chapter 8.08, whether or not a temporary permit has been granted under TMC Chapter 8.08.040, including the regulation of the interior and exterior conditions in or near recreational vehicles.
4. If a provision of this chapter conflicts with a provision of the adopted building code, the provision of the building code shall apply to the exclusion of the conflicting provision of this chapter.

Section 5. Section § 8.24.040 of the Toledo Municipal Code is added to read as follows:

8.24.040 - Scope.

- A. This chapter establishes minimum requirements and standards for the protection of structures and premises from the elements, life safety and other hazards, and for their safe and sanitary maintenance; assigning the responsibility of owners and occupants; and, establishes the processes and standards for the administration of this chapter, its administration, enforcement, Appeals, and penalties.
- B. Provisions of this chapter that address the interior conditions of residential structures apply to tenant occupied residential structures and recreational vehicles only.
- C. Provisions of this chapter that address the exterior conditions of structures and the conditions of premises apply to all residential and nonresidential structures and all premises, with the exclusion of children's play structures which shall be exempt from the maintenance standards established by this chapter other than with respect to conditions that constitute imminent or incipient hazards, as those terms are defined in this chapter.
- D. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health, safety and maintenance, as required by the provisions of this chapter.

Section 6. Section § 8.24.050 of the Toledo Municipal Code is added to read as follows:

8.24.050 - Saving Clause.

Compliance with this chapter shall not affect violations of any other ordinance, code or regulation existing prior to the effective date hereof, and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes or regulations in effect at the time the violation was committed.

Section 7. Section § 8.24.060 of the Toledo Municipal Code is added to read as follows:

8.24.060 - Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this chapter shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this chapter which shall continue in full force and effect, and to this end the provisions of this chapter are hereby declared to be severable.

Section 8. Section § 8.24.070 of the Toledo Municipal Code is added to read as follows:

8.24.070 - Administration.

- A. The City Manager is hereby authorized to administer and enforce all of the provisions of this chapter. The authority of the City Manager to enforce the provisions of this chapter is independent of and in addition to the authority of other city officials to enforce the provisions of other city codes.
- B. The City Manager may grant authority to enforce all or a portion of this chapter to the administrator of the City Planning Department, or the Chief of Police, or the Chief of the Fire Department, or Code Enforcement Officer, or any combination, and/or their respective designees.
- C. This chapter shall be liberally construed to the end that the City Manager shall not be required to personally perform the administrative or enforcement duties and functions that are the responsibilities of the City Manager under the terms and standards of this chapter.

Section 9. Section § 8.24.080 of the Toledo Municipal Code is added to read as follows:

8.24.080 - Appointments.

- A. The City Manager may retain the authority to administer and enforce all of the provisions of this chapter, as Director, or may appoint a Director and delegate authority to administer this chapter to the Director.
- B. The Director may appoint such number of officers, technical assistants, inspectors and other employees as shall be necessary for the administration and enforcement of this chapter.
- C. The Director is authorized to designate an employee as deputy who shall exercise all the powers of the Director during the temporary absence or disability of the Director.
- D. Any acts done by any employee who is under the direct supervision and control of the Director and done pursuant to a delegation of authority given by the Director to said

employee shall be deemed to be done by the Director as required by the terms and standards of this chapter.

Section 10. Section § 8.24.090 of the Toledo Municipal Code is added to read as follows:

8.24.090 – Complaint Based Response.

- A. Administrative and enforcement responses under this chapter are intended to be initiated on the basis of a complaint. Before initiating a complaint, the person making the complaint must take such actions that are a bonafide attempt to resolve the issue which at a minimum is a neighborly conversation. As part of the complaint process, the complaining party must provide an explanation of what actions were taken to resolve the issue.
- B. Complaints may be filed by members of the public, by representatives of the city organization and by representatives of external agencies in a manner that shall be consistent with administrative operating guidelines.
- C. Notwithstanding the provisions above in subsections A and B., the Director may choose to not initiate or continue administrative or enforcement activities under this chapter when the Director has determined that the city has received a complaint based on untruthfulness, or this chapter is being used as a pretext to resolve a neighborhood dispute, property-line dispute, or other civil issue.
- D. Anonymous complaints will not be accepted.
- E. Notwithstanding the provisions above in subsection A., the Director may choose to initiate administrative or enforcement activities when conditions are known or suspected to be present on a property, premises or a structure that would constitute an imminent hazard or an incipient hazard, as those terms are defined herein.

Section 11. Section § 8.24.100 of the Toledo Municipal Code is added to read as follows:

8.24.100 – Relationship to Other Chapters.

- A. The Director is authorized to make all inspections, and seek administrative search warrants, pursuant to TMC Chapter 1.16, “Right of Entry for Inspections,” necessary for the purposes of enforcing this chapter. A right of entry exists, and the Director may enter all premises, including the interior of structures, at all reasonable times whenever an inspection is necessary to enforce any regulations of this code, or whenever the Director has reasonable cause to believe that there exists in any structure or upon any premises any condition which makes such premises substandard as defined in any regulations of this code.
- B. The Director is authorized to seek the imposition of civil penalties under TMC Chapter 1.20, “Civil Enforcement,” for all violations of this chapter.

Section 12. Section § 8.24.110 of the Toledo Municipal Code is added to read as follows:

8.24.110 - Historic Structures.

The provisions of this chapter shall not be mandatory for an existing structure designated as a local or national historic resource when such structure is judged by the Director to be safe and its continued maintenance in historic condition to be in the public interest.

Section 13. Section § 8.24.120 of the Toledo Municipal Code is added to read as follows:

8.24.120 - Modifications.

Where there are extreme hardships involved in carrying out provisions of this chapter, the Director shall have the right to vary or modify such provisions upon application of an owner or occupant, provided that the spirit and intent of the law is observed and that the public health, safety and welfare is assured.

Section 14. Section § 8.24.130 of the Toledo Municipal Code is added to read as follows:

8.24.130 - Definitions.

- A. All words and terms assume their dictionary definitions unless they are specifically defined in this chapter.
- B. Words stated in the present tense in this chapter include the future; the singular number includes the plural, and the plural includes the singular.
- C. Whenever the words "dwelling unit," "dwelling," "premises," "structure," or "building" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof."
- D. Unless the context otherwise specifically requires, for purposes of this chapter, the following terms and phrases mean:
 - 1. **Abandoned Structure.** A vacant structure that is an attractive nuisance.
 - 2. **Abatement [e.g., of a Nuisance].** The act of removing, repairing, or taking other steps as may be necessary in order to remove a nuisance.
 - 3. **Accessible Means of Egress.** This term shall have the meaning provided under the Oregon Fire Code, Chapter 2, Section 202: A continuous and unobstructed way of egress travel from any accessible point in a building or facility to a public way.
 - 4. **Accessory Structure.** Any structure not intended for human occupancy. Accessory structures may or may not be attached to a primary structure. Examples of accessory structures include, but are not limited to: garages, carports, sheds, playhouses, decks,

awnings, heat pumps, fences, trellises, flag poles, tanks, towers, exterior stairs, driveways and walkways.

5. **Agent.** A person authorized by another to act in his/her behalf.

6. **Approved.** Meets the standards set forth by this chapter, or is approved by the Director.

7. **Attic.** The unfinished, non-habitable part of a structure between the roof and the ceiling immediately below.

8. **Attractive Nuisance.** Buildings, structures, or premises that are in an unsecured, derelict or dangerous condition so as potentially to constitute an attraction to minors, vagrants, criminals or other unauthorized persons, or so as to enable persons to resort thereto for the purpose of committing an unlawful act.

9. **Basement.** That portion of a building or structure which is partly or completely below grade.

10. **Bathroom.** A room containing plumbing fixtures including a bathtub or shower.

11. **Bedroom.** Any room or space used or intended to be used for sleeping purposes.

12. **Boarded.** The securing of an unoccupied building or structure against entry by the placement of material such as plywood, boards, or other similar material over openings, consistent with administrative operating guidelines, that are designed or intended for windows or doors, where the materials are visible off the premises and where the materials are not lawfully or customarily installed on a building or structure that would be occupied.

13. **Building.** Any structure designed for habitation, shelter, storage, trade, manufacture, business, education, or other similar purposes.

14. **Building Code.** The specialty codes adopted by the State of Oregon, which includes any enforcement performed by the Lincoln County Building Office through an IGA with the County.

15. **Building Official.** The Lincoln County Building Office, through an IGA the City has entered with Lincoln County.

16. **Bulk Solid Waste.** Discarded bedding, mattresses and furniture, junk, yard debris, uprooted tree stumps, demolition or construction debris, or other non-putrefactive and nonhazardous materials not placed in a receptacle, or too large to be placed into a receptacle.

17. **City Council.** The Toledo City Council, interpreting its code, to serve and to decide matters stipulated for quasi-judicial review under this chapter.

18. **Civil infraction.** A “Civil infraction” means a violation of a city ordinance designated as a civil infraction.

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

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

- a) Is unoccupied and unsecured;
- b) Is partially constructed;
- c) Is an abandoned structure or attractive nuisance;
- d) Is in condition-of deterioration;
- e) Has an infestation of pests;
- f) Has doors or windows boarded over, or;
- g) Other condition that in the opinion of the Director is detrimental to public health, safety or welfare.

21. **Dilapidation.** Being in a state of partial ruin, decay or disrepair.

22. **Director.** The City Manager, the person appointed by the City Manager as the administrator of the City’s Planning Department for the City of Toledo, or the person charged by the City Manager with the implementation and enforcement of this chapter, or the appointed person’s designee.

23. **Dwelling.** Any structure containing one or more dwelling unit.

24. **Dwelling Unit.** A single unit within a dwelling providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

25. **Exit.** A continuous, unobstructed means of egress from a dwelling to the exterior of the building and to a public way.

26. **Exterior Property.** The areas of a property which are outside the exterior walls and roof of a building. All parts of property that are exposed to the weather including the exterior of structures built for human occupancy. This includes, but is not limited to, yards, gardens, vehicles parked on the property; open and accessible porches, carports, garages, and decks; accessory structures, and any outdoor storage structure.

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

28. **Forfeiture.** A “Forfeiture” means the penalty imposed for a civil infraction if a violation is found to be have been committed.

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

30. **Habitable.** Suitable for human habitation.

31. **Habitable Space.** A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

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

33. **Human Habitation.** The use of a structure, portion of the structure, or space, in which any person remains for a continuous period of two or more hours per day, or for periods which will accumulate to four or more hours in a day.

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

35. **Incipient Hazard.** Any condition that can become an imminent hazard if further deterioration is allowed to occur.

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

37. **Indoor Furnishing/Furniture.** Any item that is designed to be used indoors or otherwise protected from environmental elements including, but not limited to, upholstered furniture, indoor appliances and indoor carpet.

38. **Infestation.** The presence of pests in large numbers that is harmful or bothersome within or adjacent to a building or structure or upon premises.

39. **Junk.** Articles of personal property that have outlived their usefulness in their original form, or articles of personal property that have been discarded and are no longer used for their manufactured purpose, regardless of value. As used in this chapter the term "junk" includes, but is not limited to:

a) any derelict motor vehicle, RV, trailer, or boat, i.e., any used motor vehicle, RV, trailer, or boat without a vehicle license or with an expired license; or,

b) neglected motor vehicle, RV, trailer, or boat, i.e., a motor vehicle, RV, trailer, or boat, that is missing critical parts required for the normal and legal operation of the vehicle, but has all of its body parts intact, including fenders, hood, trunk, glass, and tires; or,

c) wrecked motor vehicle, recreational vehicle, trailer, or boat or part thereof, i.e., a motor vehicle, RV, trailer, or boat, that is dismantled or partially dismantled, or having a broken or missing window or windshield, or lacking a wheel or tire; or,

d) machinery or parts thereof that are inoperative, worn out, or in a state of disrepair; or,

e) any appliances or parts thereof that are inoperative, worn out, or in a state of disrepair; or,

f) any worn out or dilapidated indoor fixtures or furnishings, or parts thereof; or,

g) any bulk solid waste; or,

h) solid waste items that are of a type or quantity inconsistent with normal and usual use such as wood, metal, scrap and other similar items; and

i) Excluded from a), b) and c) of this definition are projects where a motor vehicle, RV, trailer, or boat are actively being repaired, and machinery or parts related to such projects are not considered junk

40. **Landlord.** The owner or lessor of a dwelling unit, a building, or premises, including a person authorized by the owner or lessor to manage the premises or to enter into a rental agreement.

41. **Legally Occupied.** The use of premises for a purpose authorized by law, including the building code and the Toledo land development code. For the purposes of this chapter, a premises shall be considered legally occupied, even if presently vacant, as long as the premises is maintained in compliance with the provisions of this chapter, and in the case of a building or structure, conditions that would qualify the building or structure as derelict are not present.

42. **Let for Occupancy or Let.** To permit, to provide, or to offer possession or occupancy of a dwelling unit, building, structure or premises, pursuant to a lease, permit, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

43. **Maintained Compost.** A small portion of a property set aside for the purpose of methodically encouraging the rapid decomposition of yard debris and other vegetable matter into a suitable fertilizer or amendment for the soil on the property. Maintained compost shows clear indicators that the organic materials placed there are being actively managed to encourage its rapid decomposition. Possible signs of such active management may include evidence of regular turning, a mixture of yard debris types, any woody materials present having been chopped into small sizes, and the presence of internal heat in the composting mixture. A location where yard debris is placed primarily as a means to store it or dump it without reasonable expectation of rapid decomposition does not constitute maintained compost.

44. **Means of Egress/Doors.** A continuous and unobstructed path of vertical and horizontal egress travel from any occupied portion of a building or structure to a public way. Includes any doors that are present at the exit access, along the path of exit, and at the exit discharge.

45. **Multi-Family Dwelling.** A building containing two or more dwelling units.

46. **Must.** Mandatory.

47. **Naturescape.** Landscaping and gardening approaches that use predominately native plants for the purpose of creating improved outdoor habitat for native insects, birds, and mammals and reducing the need for pesticides, chemical fertilizers, and summer watering.

48. **Occupancy.** The purpose for which a building, structure or premises is used or intended to be used.

49. **Occupant.** Any person, including an owner, tenant or operator, using a building or any part of a building for its lawful, intended use or having possession of a space within a building or structure or possession of a premises.

50. **Owner.** The person recorded in the official records of the state, county or city as holding title to premises, and that person's agent; any person who has purchased or

otherwise acquired a premises but whose ownership is not yet reflected in the official records of the state, county or city; a trustee, executor, administrator, guardian or mortgagee in possession and having control of the premises; a person who has care and control of a premises in the case of the absence or disability of the person holding title thereto.

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

52. **Person.** An individual, corporation, a limited liability company, cooperative, association, partnership, or any other entity in law or fact.

53. **Pests.** Animals detrimental to humans or human concerns including, but not limited to, insects, rodents, rats or vermin.

54. **Premises.** A lot or parcel of land, including any buildings or structures thereon.

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

56. **Receptacle.** With respect to solid waste containment, a trash can, cart, bin, container, drop box or other vessel used for the disposal of solid waste that has been approved by the City Manager and into which solid waste, compostable material, mixed compostables, recyclable material or mixed recycling may be placed for such disposal.

57. **Recreational vehicle (RV).** As defined in TMC 8.08.020, which can be a derelict structure, or junk, as defined, under this chapter.

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

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

60. **Repair.** The reconstruction or renewal of any part of an existing structure for the purpose of its maintenance.

61. **Residential Property.** Real property and all improvements thereon including edifices, structures, buildings, dwelling units or parts thereof used or intended to be used for residential purposes including single-family, duplex, multi-family structures and mixed-use structures including accessory dwellings which have one or more dwelling units. Hotels and other building types used exclusively for transient occupancy are

included in this definition of residential property. Recreational vehicles are also included in this definition of residential property.

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

63. **Shall.** Mandatory.

64. **Solid Waste.** This term shall have the same meaning in TMC Section 8.16.030.

65. **Structure.** That which is built or constructed, an edifice or building of any kind, or any piece or work artificially built up or composed of parts joined together in some definite manner. A structure includes a recreational vehicle.

66. **Temporary.** Unless otherwise specified, a period up to 6 months in any 12 month period.

67. **Unfit for Human Habitation.** A building or structure that, as found by the Director, is unfit for human habitation due to unsanitary conditions, infestation, accumulation of filth or contamination, lack of required ventilation, illumination, sanitary or heating facilities, or is not connected to approved water or electricity, such that habitation would be injurious to the health, safety, or welfare of the occupants.

68. **Unoccupied.** Not legally occupied.

69. **Unsecured.** Any structure in which doors, windows, or apertures are open or able to be opened from the outside so as to allow access by unauthorized persons; unlocked or otherwise open to entry.

70. **Ventilation.** The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

71. **Watertight.** As secure as possible against the entry of rain, melt water and storm water.

72. **Waste Tire.** A tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.

73. **Weathertight.** As secure as possible against the entry of wind, rain, melt water, storm water and natural elements.

74. **Workmanlike.** Executed in a skilled manner, consistent with generally accepted standards of construction and maintenance, e.g., generally plumb, level, square, in line, undamaged, without marring adjacent work.

Section 15. Section § 8.24.140 of the Toledo Municipal Code is added to read as follows:

8.24.140 - General Maintenance Requirements.

No person shall maintain or permit to be maintained any structure or premises that does not comply with the requirements of this chapter. All systems, devices and safeguards required by this chapter or by a previous statute or code applicable to the building, structure or premises at the time the building, structure or premises were erected or altered shall be maintained in good working order, thus ensuring the health and safety of all inhabitants.

Section 16. Section § 8.24.150 of the Toledo Municipal Code is added to read as follows:

8.24.150 - Existing Structures.

An existing structure that does not comply with the provisions of this chapter shall be altered or repaired to provide a minimum level of public health, safety and maintenance as required herein.

Section 17. Section § 8.24.160 of the Toledo Municipal Code is added to read as follows:

8.24.160 - Applicable Building Code.

All structures shall be constructed, altered or repaired in accordance with the standards of the applicable building code in effect at the time of construction, alteration or repair.

Section 18. Section § 8.24.170 of the Toledo Municipal Code is added to read as follows:

8.24.170 - Skilled Work Required.

All repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this chapter shall be executed and installed in a workmanlike manner.

Section 19. Section § 8.24.180 of the Toledo Municipal Code is added to read as follows:

8.24.180 - Interior Conditions of Tenant Occupied Residential Structures and Recreational Vehicles.

The provisions of TMC Sections 8.24.190, 8.24.200, 8.24.210, 8.24.220, 8.24.230, 8.24.240, 8.24.250, 8.24.260, shall be exclusively applicable to all structures, including recreational vehicles, occupied for residential use by tenants, at all times, regardless of the terms of their possession, and regardless of whether they are current on their rent or otherwise in violation of a written or unwritten agreement.

Section 20. Section § 8.24.190 of the Toledo Municipal Code is added to read as follows:

8.24.190 - Lighting of Accessible Means of Egress.

- A. Every landlord of any structure, building, or premises who rents, leases or lets a dwelling unit or sleeping unit within any such space, other than in 1-2 family dwellings, shall, at all times:
 - 1. provide illumination at floors, landings and stairs for all common areas and spaces in all residential occupancies, with responsibility to maintain functioning bulbs; and,
 - 2. for all other accessible means of egress within dwelling units, shall provide the means for illumination at floors, landings and stairs, or shall provide at least one operable fixture capable of illuminating a 60-watt standard incandescent bulb, or equivalent, for each 200 square feet of floor area, not spaced greater than 30 feet apart.
- B. Every landlord who rents, leases or lets one or more dwelling unit or sleeping unit of any 1-2 family structure shall provide the means for minimum illumination of either:
 - 1. at floors, landings and stairs; or,
 - 2. shall provide at least one operable fixture capable of illuminating a 60-watt standard incandescent bulb, or equivalent, for each 200 square feet of floor area, not spaced greater than 30 feet apart, for all accessible means of egress.

Section 21. Section § 8.24.200 of the Toledo Municipal Code is added to read as follows:

8.24.200 - Ventilation.

- A. Every dwelling, including basements, and attics shall be maintained reasonably free from dampness to prevent conditions conducive to decay, mold growth, or deterioration of the structure.
- B. Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space shall be responsible to maintain an openable window area in every bathroom and toilet room or compartment or approved mechanical ventilation system to provide ventilation.
 - 1. In kitchens, a local exhaust ventilation system shall be maintained to remove the contaminating agent at the source.
 - 2. Clothes dryer exhaust systems shall be independent of all other systems, shall be exhausted outside the structure and shall be installed in accordance with manufacturer's instructions.
 - 3. Mechanical clothes drying appliances and exhaust systems shall be properly installed, connected, and maintained in a safe condition and good working order. Exhaust hoses must be free from leaks and obstructions and kept functioning properly so as to be free from fire, health, and accident hazards.

Section 22. Section § 8.24.210 of the Toledo Municipal Code is added to read as follows:

8.24.210 – Recreational Vehicles.

A. All recreational vehicles, whether located on public or private property, used for a temporary residential use, as allowed under TMC Chapter 8.08, are hereby regulated, and must comply with all the provisions of this chapter, regardless of whether or not a temporary permit has been issued under TMC Chapter 8.08.040.

B. If a recreational vehicle does not meet the criteria for which a permit may be issued under TMC Section 8.08.060, or does meet the conditions for which the revocation of a permit is permitted under TMC Section 8.08.080, all of the provisions of this chapter may be used to ensure compliance, regardless of whether or not rent, or any other form of compensation is provided by the person occupying the recreational vehicle, or whether or not the occupants of the recreational vehicle are otherwise in violation of a written or unwritten agreement.

Section 23. Section § 8.24.220 of the Toledo Municipal Code is added to read as follows:

8.24.220 - Circuit Protection and Equipment Exposed to Water.

A. Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space shall be responsible to provide and maintain each building and dwelling unit in accordance with these standards:

1. Every kitchen and other interior location with a water containment or water supply fixture in its area shall contain at least one grounded type receptacle or a receptacle with a ground fault circuit interrupter.

2. Every bathroom shall contain at least one receptacle. Any new or replacement bathroom receptacle outlet shall have ground fault circuit interrupter protection.

3. All receptacle outlets shall have the appropriate faceplate cover for the location.

B. Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space shall replace electrical equipment or portions of electrical systems that have been exposed to water.

C. For purposes of this subsection, “exposed to water” shall include but is not limited to: submersion due to flooding; inundation due to firefighting activities; drenching by stormwater; intrusion of moisture; or plumbing system failures.

D. Exception: Electrical equipment or portions of electrical systems that are exposed to water shall be allowed to be repaired where an inspection and testing report from the equipment manufacturer, approved manufacturer's representative, or a state of Oregon Licensed Supervising Electrician indicates that the electrical equipment or electrical

system has not sustained damage that requires replacement and may be repaired, safely reenergized, and placed back into service.

Section 24. Section § 8.24.230 of the Toledo Municipal Code is added to read as follows:

8.24.230 - Plumbing System - hot water.

Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space shall be responsible to provide and maintain each dwelling unit in accordance with these standards:

- A. Plumbing systems shall be installed and maintained in a safe and sanitary condition and shall be free of defects, leaks and obstructions. Plumbing components shall be of materials allowed or approved by the Plumbing Code.
- B. All sinks, lavatory basins, bathtubs and showers within a dwelling unit shall be supplied with both hot and cold running water facilities which are installed in an approved manner, properly maintained, properly connected and have a reasonably objective appropriate water pressure for the intended use.
- C. Water heating facilities shall be supplied for each dwelling unit. Water heating facilities within a dwelling unit shall be capable of heating an adequate amount of water to provide hot water at each hot water outlet.

Section 25. Section § 8.24.240 of the Toledo Municipal Code is added to read as follows:

8.24.240 - Heat in Bathrooms and Habitable Rooms.

Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space shall be responsible to provide and maintain every dwelling unit with permanent heating facilities in all habitable rooms and all bathrooms as described herein:

- A. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.
- B. The use of portable open flame and/or unvented fuel burning devices in occupancies or situations where such use or operation would present an undue danger to life or property is prohibited.
- C. All heating devices or appliances shall be of an approved type.
- D. Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat to all habitable rooms and all bathrooms.

Section 26. Section § 8.24.250 of the Toledo Municipal Code is added to read as follows:

8.24.250 - Interior Sanitation.

- A. The interior of every structure that is rented, leased or let for residential occupancy shall be maintained in good repair, in a clean and sanitary condition, free from any accumulation of rubbish, garbage or solid wastes. For purposes of this subsection, the term "clean and sanitary" shall mean free from any material or condition that:
1. Provides a breeding place for insects, rodents or vermin; or,
 2. Produces dangerous or offensive gases or odors; or,
 3. Blocks exits, hallways, corridors or accessible means of egress; or,
 4. Provides a surface, exposed or concealed, which is conducive for the growth of mold or mildew.
- B. **Occupant Responsibilities.** Occupants shall keep that part of the dwelling unit which they occupy or control in a clean and sanitary condition.
- C. **Landlord Responsibilities.** Every landlord of any dwelling who rents, leases or lets a dwelling unit within any such space shall:
1. Maintain the common halls, stairways, utility rooms and areas, and similar public areas of the dwelling in a clean and sanitary condition; and,
 2. Pursuant to this subsection A. but notwithstanding the requirement under this subsection B. that the occupants shall keep such spaces in a clean and sanitary condition, provide and maintain all interior surfaces in good repair, including windows and doors, as follows: Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered; cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected; walls, floors, ceilings, cabinets and interior doors shall be free of holes larger than four inches in diameter and cracks wider than one-half inch; and,
 3. Pursuant to this subsection A. but notwithstanding the requirement under this subsection B. that the occupants shall keep such spaces in a clean and sanitary condition, be responsible to ensure that every toilet compartment, bathroom, and kitchen floor surface of every dwelling unit is constructed and maintained to be substantially impervious to water and to permit the floor to be kept in a clean and sanitary condition.

Section 27. Section § 8.24.260 of the Toledo Municipal Code is added to read as follows:

8.24.260 – Window and Door Security.

- A. Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space shall be responsible to provide and maintain all exterior

doors, windows or hatchways for every dwelling unit with devices designed to provide security for the occupants and property within.

- B. **Entrance Doors.** Every entrance door to a dwelling unit shall be provided with a door knob and a dead bolt lock, and keys for same, designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort.
1. Dead bolt locks shall be installed according to the manufacturer's specifications.
 2. All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door to discourage unwanted entry.
 3. For the purpose of this subsection, a sliding bolt shall not be considered an acceptable deadbolt lock.
- C. **Operable Windows.** Operable windows located in whole or in part within 10 feet above ground level or a walking surface below that provide access to a dwelling unit shall be equipped with a window sash locking device.
- D. **Basement Hatchways.** Basement hatchways that provide access to a dwelling unit shall be equipped with devices that secure the unit from unauthorized entry.

Section 28. Section § 8.24.270 of the Toledo Municipal Code is added to read as follows:

8.24.270 - Exterior Structure and Premises Conditions.

The provisions of this section shall be applicable to all structures, properties and premises and for all occupancy and use types, including but not limited to structures occupied for residential use by tenants, with the exception that children's play structures shall be exempt from the maintenance standards herein established other than with respect to conditions that constitute imminent or incipient hazards, as those terms are herein defined. The assignment of responsibilities for owner, landlord and tenant occupants shall be as set forth within the following standards.

Weatherproofing and Waterproofing. It is the responsibility of the owner of every property to maintain every building and structure on the property in a manner that complies with the following requirements:

- A. **Roofs and Drainage.** All roofs, flashing, vent stacks and boots, and chimneys shall have no defects which might admit rain or melt water.
1. Roof drainage shall be adequate to prevent rain or melt water from causing dampness in the walls, attic or interior portion of the building and shall channel rain or melt water in an approved manner to an approved point of disposal.

2. Any building or structure having originally been designed for and fitted with gutters and downspouts shall continuously be maintained with such devices, in sound condition and good repair.

3. Roof drains, gutters and downspouts of a building or structure shall be free from obstructions and maintained in good repair, so as not to be plugged, overflowing, or in a state of deterioration.

B. Exterior Walls and Exposed Surfaces. Every exterior wall and weather-exposed exterior surface or attachment of a building or structure shall be free of holes, breaks, loose or rotting boards, or timbers, and any other conditions which might admit rain or melt water or dampness to the interior portions of the walls or the occupied spaces of the building or structure.

1. All exterior wood surfaces shall be made substantially impervious to the adverse effects of weather by periodic application of an approved protective coating of weather-resistant preservative, and be maintained in good condition.

2. Every landlord of a structure, building or premises who rents, leases or lets a dwelling or dwelling unit for residential occupancy within any such space shall maintain in a weathertight condition all siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights.

3. Every owner of any structure, building or premises that is not for rent, lease or to be let for residential occupancy, shall maintain in a watertight condition all siding and masonry and joints, including those between the building envelope and the perimeter of windows, doors and skylights.

4. Exterior metal surfaces shall be protected from rust and corrosion. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion.

C. Windows and Doors. Every window, sash, door and door frame of a building shall be kept in sound condition and in good repair. Every exterior door, skylight, and window shall comply with the following:

1. Every exterior door, door hinge, door knob, door lock, and strike plate shall be maintained in good condition;

2. Every exterior door, when closed, shall fit reasonably well within its frame;

3. Every exterior door frame shall be constructed and maintained in relation to the adjacent wall construction so as to exclude rain or melt water as completely as possible; and, with respect to all dwellings and dwelling units that are for rent, lease or to be let for residential occupancy, to also substantially exclude wind from entering a building;

4. Every window sash shall be maintained in sound condition and good repair; and, with respect to all dwellings and dwelling units that are for rent, lease or to be let for residential occupancy, shall also substantially exclude wind from entering a building when the window components are placed in a closed position within the frame and jamb;

5. Every window frame and casing shall be constructed and maintained in relation to the adjacent wall construction so as to substantially exclude rain or melt water as completely as possible; and, with respect to all dwellings and dwelling units that are for rent, lease or to be let for residential occupancy, shall also substantially exclude wind from entering a building.

D. **Glazing.** Every window sash of a building exterior envelope shall be fully supplied with glass window panes or an approved substitute without open cracks and holes.

1. All glazing materials shall be maintained free from cracks and holes.

2. Glazing with holes, cracks, or that is partially or wholly missing shall be replaced within thirty (30) calendar days of the incident that caused the defect.

E. **Basement Hatchways.** Every basement hatchway shall be maintained to prevent as completely as possible the entrance of rodents, rain or melt water and surface drainage water.

F. **Temporary Measures.** The use of tarps or similar material for emergency repair, or in place of a customary building component such as siding or roofing, shall not exceed a continuous period of more than 30 days, and shall not exceed 90 days total in any 12 month period, except when weather conditions necessitate keeping the building, home, or structure dry until the siding or roof can be repaired, or except for use during construction in association with a building permit, or as a requirement included in a lawfully served Public Nuisance notice.

Section 29. Section § 8.24.280 of the Toledo Municipal Code is added to read as follows:

8.24.280 - Exterior Sanitation.

All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The exterior property and premises and the adjacent rights of way shall be maintained in a manner that complies with the following requirements:

A. **Responsibilities.** The owner of every property shall maintain the structures, premises and all common areas of the exterior property in compliance with these requirements. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

- B. **Holes, Tanks, and Child Traps.** Remove, or fill where filling will abate the nuisance, all holes, cisterns, open cesspools, open or unsanitary septic tanks, excavations, open foundations, refrigerators, freezers, or iceboxes with unlocked attached doors and any other similar substance, material or condition which may endanger neighboring property or the health or safety of the public or the occupants of the property.
- C. **Unsecured Structures.** Board over or otherwise secure, and keep boarded over or otherwise secured, all open or broken exterior doors, windows, or apertures of any unsecured structure so as to prevent access by unauthorized persons through such openings. No requirement imposed under this section shall constitute relief from or an exemption to compliance with the provisions in subsection C. and D. of TMC Section 8.24.270 for weathertight and watertight standards.
- D. **Rat Harborage.** Remove or repair, and keep removed or repaired, any condition that provides a place where rats gain shelter, feed, or breed.
- E. **Emergency Access Routes.** All brush, vines, overgrowth and other entangling or rank vegetation located within 10 feet of a structure or within 10 feet of a property line, which is likely to obstruct or impede the necessary passage of fire or other emergency personnel, shall be removed and kept clear.
- F. **Thickets that Conceal Hazards.** Not all thickets are required to be addressed, but keeping adequate defensible space is a necessity, requiring an owner, occupant of agent to cut and remove and keep cut and removed those thickets, in close proximity to buildings, structures and fences, to protect life and property. To mitigate the risk to life, structures, and other values, from fire or nuisances, such growth shall be cut when it is found to be:
1. Concealing trash and debris; or,
 2. Creating rat harborage; or,
 3. Creating harborage for people involved in criminal or prohibited activity or for products used for criminal activity.
- G. **Trash and Debris.** Remove, and keep removed, even if located behind a private fence where not readily visible from the right-of-way or a neighboring lot or parcel, unless specifically authorized by ordinance to do otherwise:
1. All garbage, offal, dead animals, animal and human waste, and waste materials;
 2. Accumulations of litter, glass, scrap materials (such as wood, metal, paper, and plastics), junk, combustible materials, stagnant water, or trash;
 3. All dead bushes, dead trees, and stumps with the exception of such material which:

- a) Is being maintained as part of a naturescaped property, or chipping area and wood piles for use as firewood; and,
- b) Does not result in a nuisance as otherwise defined in this chapter; and,
- c) Is located on a property which is otherwise substantially in compliance with this chapter;

4. All trees which are dead, dying or dangerous and are determined by the Director or a private certified arborist to require removal in order to safeguard people or property;

5. Accumulations of dead organic matter and yard debris but only if it results in a nuisance, excluding an accumulation of such material in a maintained compost area if such material does not result in a nuisance, such as creating rat harborage, as otherwise defined in this chapter; and,

6. Accumulations of clothing and any other items not designed for outdoor storage.

H. **Storage of non-Trash Items.** Remove, and keep removed, unless specifically authorized by ordinance to do otherwise:

1. Accumulations of wood pallets;

2. Any woody debris from Elm trees and all firewood that is not stacked and useable. "Useable" firewood has more wood than rot and is cut to lengths that will fit an approved fireplace or wood stove on the property. Elmwood which is infected with Dutch Elm Disease must be properly disposed of at the direction of the Director;

3. Accumulations of vehicle parts or waste tires except for storage of nonwaste, serviceable parts or tires that are reasonably expected to be used on a vehicle and are stored in a manner to protect their utility and prevent deterioration;

4. All construction materials except those that are stored in a manner to protect their utility and prevent deterioration and are reasonably expected to be used at the site;

5. All appliances or appliance parts except for storage of appliances that are reasonably expected to be used at the site and are stored in a manner to protect their utility and prevent deterioration;

6. All indoor furniture except that which is stored in a manner to protect its utility and prevent deterioration and is reasonably expected to be used at the property;

7. All recycling materials except for reasonable accumulations that are stored in a well-maintained manner;

8. All other non-trash items which:

- a) Are of a type or quantity inconsistent with normal and usual use; or,
- b) Are likely to obstruct or impede the necessary passage of fire or other emergency personnel.

Section 30. Section § 8.24.290 of the Toledo Municipal Code is added to read as follows:

8.24.290 – Solid Waste Removal.

- A. **General.** All exterior property and premises, and the interior of every structure, shall be kept free from any accumulation of solid waste as defined in TMC Section 8.16.030.
 - 1. Approved receptacles for solid waste shall be provided and utilized for the containment and disposal of solid waste;
 - 2. Bulk solid waste shall be disposed of within a week of discard, or in accordance with franchise utility services, or approved alternative.
- B. **Occupant Responsibilities.** Every occupant of a structure or premises shall dispose of solid waste by placing all such material in an approved solid waste disposal facility or approved receptacles.
- C. **Landlord Responsibilities.**

The landlord of any multi-family dwelling shall:

- 1. Provide, in a location accessible to all dwelling units, adequate solid waste receptacle capacity for the containment of solid waste generated or discarded on the property or premises, whether that containment capacity is provided individually for each dwelling unit or cumulatively for more than individual dwelling units, into which all solid waste from the dwellings unit may be emptied for storage between days of collection. Receptacles must be of sufficient capacity to prevent the overflow of solid waste from occurring; and,
- 2. Subscribe to and pay for weekly solid waste management services, including recycling and yard waste service, by a person holding a valid franchise from the City of Toledo. Notwithstanding the minimum of solid waste management services herein established, the period and frequency of collection must be sufficient to prevent the overflow of solid waste from occurring.

The landlord of any 1 and 2 family dwelling, except as otherwise provided by written agreement between the landlord and the tenant, shall:

1. Provide, in a location accessible to each dwelling unit, adequate solid waste receptacle capacity for the containment of solid waste generated or discarded on the property or premises, whether that containment capacity is provided individually for each dwelling unit or cumulatively for more than individual dwelling units, into which solid waste from the dwelling unit(s) may be emptied for storage between days of collection. Receptacles must be of sufficient capacity to prevent the overflow of solid from occurring; and,

2. Subscribe to and pay for weekly solid waste management services, including recycling and yard waste service, by a person holding a valid franchise from the City of Toledo. Notwithstanding the minimum of solid waste management services herein established, the period and frequency of collection must be sufficient to prevent the overflow of solid waste from occurring.

Section 31. Section § 8.24.300 of the Toledo Municipal Code is added to read as follows:

8.24.300 - Building and Accessory Structures.

It is the responsibility of the owner of any property, improved or unimproved, to maintain the exterior property, premises, buildings and structures of the property and the adjacent right of way in a manner that complies with the following requirements:

A. **General Maintenance.** The exterior of a building or structure and any attached decorative features shall be maintained in good repair, with proper anchorage, and structurally sound in a safe condition so as not to be in a state of deterioration, and in a sanitary condition so as not to pose a threat to the public health, safety or welfare.

B. **Foundations and Structural Members.** Foundation elements shall adequately support the building and shall be free of rot, crumbling elements, or similar deterioration.

1. All foundation walls shall be maintained free from large open cracks and breaks and shall be kept in such condition so as to prevent the entry of insects, rodents or pests.

2. All supporting structural members in every building and structure shall be maintained structurally sound, showing no evidence of deterioration or decay which would substantially impair their ability to carry imposed loads.

C. **Exterior Walls and Exposed Surfaces.** Every exterior wall of a building and all weather-exposed exterior surface or attachment of a building shall be free of holes, breaks, loose or rotting boards, or timbers.

D. **Brick and Veneers.** Every section of exterior brick, stone, masonry or other veneer applied to a building shall be maintained structurally sound and be adequately supported and tied back to its supporting structure.

E. **Chimneys.** Every masonry, metal, or other chimney shall remain adequately supported and free from obstructions and shall be maintained in a condition which ensures there

will be no leakage or backup of noxious gases. Every chimney shall be reasonably plumb. Loose bricks or blocks shall be rebonded. Loose or missing mortar shall be replaced. Unused openings into the interior of a structure shall be permanently sealed using approved materials.

- F. **Roofs.** All building roofs shall be structurally sound.
- G. **Accessory Structures.** Every accessory structure, including sheds, trellises, awnings, fences, and other similar features, shall be maintained structurally safe and sound, and in good repair. Exterior steps and walkways shall be maintained free of unsafe obstructions or hazardous conditions.
- H. **Retaining walls.** All retaining walls stabilize slopes by retaining the soil behind them, and the city has topography that requires retaining walls to be built and remain in good repair to avoid unsafe or hazardous conditions, consistent with the standards in TMC Chapter 15.20. Retaining walls can be made from a variety of materials such as sheet pile, timbers, stacked rock, poured concrete or gabions. Regardless of construction material or method, every retaining wall must continue to retain the soil and must not be missing materials to accomplish this purpose, or leaning, tipping, or bulging, to create a potential safety hazard, or otherwise impede normal and expected movement on an exterior stairway or sidewalk. Retaining walls that do not meet these standards and the standards in TMC Chapter 15.20 are a nuisance, may be declared dangerous, and must be abated due to being in violation this code.
- I. **Vacant Structures and Land.** All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.
- J. **Decks, Stairs and Handrails; Maintenance.** It is the responsibility of the owner of every property to maintain the building and structures on the property in a manner that complies with the following requirements:
 - 1. Every exterior stairway, deck, porch and balcony and attachment to stairways, decks, porches and balconies shall be:
 - a) Maintained so as to be safe to use and capable of supporting the loads to which it is subjected;
 - b) Kept in sound condition and good repair, including replacement as necessary of flooring, treads, risers, and stringers that evidence excessive wear and are broken, warped, rotten, deteriorated or loose;
 - 2. Every handrail and guardrail shall be firmly fastened, maintained in sound condition and good repair, and capable of supporting the loads to which it is subjected;

3. Handrails and guardrails required by building codes at the time of construction shall be maintained or, if removed, shall be replaced.

- K. **Exterior Lighting.** Exterior site lighting required by the Toledo land development code or the building code at the time of development shall be maintained or, if removed, shall be replaced.

Section 32. Section § 8.24.310 of the Toledo Municipal Code is added to read as follows:

8.24.310 - Fire Safety.

In addition to, and unless in conflict with, the Oregon Fire Code (OFC), referenced in TMC Section 8.20.010, the further emphasis of life, fire, and safety is required for all structures, properties and premises and for all occupancy and use types, including but not limited to structures occupied for residential use by tenants, by this section.

- A. **Means of Egress Door Locks.** All means of egress doors shall be readily openable from the side from which egress is to be made without the use of a key or any special knowledge or effort.

B. **Unobstructed Path of Travel.**

1. Every accessible means of egress, fire escape or stairway, stair platform, corridor or passageway which may be one of the regular accessible means of egress or means of emergency exit from a residential structure shall be kept free of encumbrances or obstructions of any kind.

2. Any installed storm windows on windows required for emergency escape must be easily openable from the inside without the use of a key or special knowledge or effort.

C. **Fire-Resistive Assembly; Maintenance.**

1. Where required by the code in effect at the time of construction, the fire resistance rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained.

2. The surfaces of all other non-rated interior walls, floors and ceilings shall be free of holes larger than four inches in diameter.

D. **Smoke Detectors.**

1. 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 Department of the State Fire Marshal.

2. No person shall remove or tamper with a properly functioning smoke alarm or smoke detector. This prohibition included removal of working batteries.

3. A violation of this subsection is a separate Class A infraction each day that the violation exists or continues.

Section 33. Section § 8.24.320 of the Toledo Municipal Code is added to read as follows:

8.24.320 - Enforcement.

A. Enforcing compliance. To enforce any of the requirements of this chapter, the Director may gain compliance by:

1. Instituting an action before the Toledo Municipal Court; or,
2. Causing appropriate action to be instituted in any other court of competent jurisdiction; or,
3. If denied access, seeking an administrative search warrant, pursuant to TMC Chapter 1.16, "Right of Entry for Inspections; or
4. Imposing civil penalties; or,
5. Taking other action as the Director in the exercise of the Director's discretion deems appropriate.

B. Initial Contacts.

1. The Director receives complaint or information of possible violation of this chapter.
2. One contact is made with responsible party, when possible, and the property is inspected.
3. If no violation exists or violation conditions are immediately corrected, file is closed.
4. If violation exists and cannot be immediately corrected, the Director may issue to the responsible party a correction notice that identifies code violation, specifies required abatement action, and assigns a deadline for completion of abatement, consistent with the provision of this chapter. Service of the correction notice may be made:
 - a) in person when contact can be promptly made at the premises; or,
 - b) for occupant responsibility circumstances at 1-2 Family dwellings, the correction notice may be posted conspicuously on the dwelling if in person contact is not made; or,

c) via US First Class mail.

d) Failure for service to be made in the manner provided for within this paragraph shall not render the correction notice void.

C. **Notice of Violations.** If violation exists and remains uncorrected after issuance of correction notice, the Director may issue a notice of violation to the responsible party.

1. Notice of violation will identify code violation, will specify required abatement action, and will assign a deadline for completion of abatement, consistent with the provision of this chapter.

2. A copy of a notice of violation issued shall be forwarded to the landlord and the occupant if either is not the responsible party identified as recipient of the notice;

a) copy will be mailed to the owner of the property at the address on record with the county assessor's office;

b) copy will be mailed to the occupant(s) of the affected premises by situs address(es); and

c) Additionally, a link to an electronically accessible copy will be emailed to the landlord if that person has provided an email address.

3. Person receiving a notice of violation may request an extension of period of time to correct the violation.

D. **Compliance Period for Required Abatement Response.**

1. Other than as specifically provided for under paragraph 2 of this subsection, the landlord or occupant responsible for any violation of the standards in the sections specified under TMC Section 8.24.180 shall be ordered to complete required repairs or abatement within 7 days, plus three days if the notice and order are mailed rather than served on the person.

2. When the finding of violation of a standard of this chapter is due to any of the following conditions the landlord or occupant, as applicable, shall be ordered to complete the required repair or abatement within 48 hours:

A) lack of heat, per TMC Section 8.24.240;

b) lack of water, or any properly functioning toilets or sinks, per TMC Section 8.24.230;

c) lack of hot water, per TMC Section 8.24.230;

d) lack of a properly functioning or tampering or removal of a smoke detector, per TMC Section 8.24.310;

e) uncontained solid waste, other than bulk solid wastes, per TMC Section 8.24.290; or

f) is otherwise unfit for human habitation, as defined in TMC Section 8.24.130(66).

E. Failure to Obey Order of Director.

1. It shall be unlawful for any person acting intentionally to refuse to obey an order by the Director acting in the discharge or apparent discharge of official duty administering this chapter.

2. It is no defense to a prosecution for a violation of this section that the Director lacked legal authority to issue the order, provided the Director was acting under color of official authority.

Section 34. Section § 8.24.330 of the Toledo Municipal Code is added to read as follows:

8.24.330 - Derelict Structures.

A. Derelict Structures Prohibited. Derelict structures on any premises are hereby declared to be a public nuisance and their presence prohibited.

B. Prohibited Habitation.

1. No person shall inhabit a derelict structure, and no owner shall allow any person to inhabit a derelict structure, or a building or structure ordered vacated by the Director.

2. A violation of this subsection is a separate Class A infraction each day that the violation exists or continues.

C. Order to Vacate Buildings or Structures.

1. If the Director finds that a building or structure is or exists in a condition in violation of subsection A. of section 8.24.330, the Director may order that a placard be posted on the building or structure ordering the building or structure vacated. The placard shall additionally contain the information required by subsection B of TMC Section 8.24.350.

2. Persons performing active work to abate a violation are exempt from a vacation order while working at a premises subject to a vacation order.

D. **Removal of Placard Prohibited.** The Director shall remove a placard whenever the conditions that resulted in the order to vacate the building or structure have been eliminated.

1. No person shall deface or remove a placard without the approval of the Director.

2. A violation of this subsection is a separate class A infraction each day that the violation exists or continues.

F. **Temporary Safeguards.** Notwithstanding any other provisions of this code, whenever, as determined by the Director, a building or structure poses an imminent hazard or incipient hazard, the Director may:

1. Order necessary work to be performed, including the boarding of openings or installation of security fencing, to render such building or structure temporarily safe and secure, whether or not proceedings to abate the hazard have been instituted; and,

2. Cause such other action to be taken that the Director deems necessary to meet such condition.

G. **Abatement of Derelict Structure by Remediation.** In addition to, and not in lieu of, the abatement remedies provided for in TMC 8.24.330 through 8.24.350 and receivership authority in TMC 8.24.410, the Director may file a notice with the City Recorder to set a public hearing before the City Council to seek an order for remediation of the conditions creating a derelict structure.

1. **Notice.** Upon receipt of such notice, the City Recorder shall:

a) set the matter for prompt public hearing before the Toledo City Council; and

b) not less than fifteen days prior to the hearing, cause notice thereof to be served via certified mail to the owner at the owner's address as reflected on the most recent tax rolls of the county assessor, and on the occupant; and,

c) cause notice to be posted on or near the derelict structure.

2. **Service.** Failure of the owner or occupant to receive such notice shall not render the notice void, and an unsuccessful attempt to deliver the notice shall be deemed sufficient service.

3. **Presentation at Hearing.** At the hearing, the Director shall present whatever information, evidence or testimony the City Council may deem relevant in support of the Director's determination, and the owner(s) and occupant(s) shall be afforded a like opportunity to rebut the determination.

a) Any information, opinion, testimony, or evidence may be received which the City Council deems material, relevant, and probative of the matters in issue.

b) The owner and occupants may represent themselves or be represented by counsel provided that such counsel is admitted to the practice of law in the state of Oregon.

4. **Order for Remediation.** If the Director demonstrates, by a preponderance of the evidence, that the building or structure is a derelict structure, the City Council shall order the conditions creating the derelict structure be remediated.

5. **Remediation Factors.** In determining whether the conditions are such that remediation is required, the City Council shall determine whether the building is:

a) In a condition unfit for human habitation; or,

b) In a condition that is an incipient hazard, based on the number and extent of the following factors:

(1) Dilapidation;

(2) Disrepair;

(3) Structural defects noted by the Building Official;

(4) Defects increasing the hazards of fire, accident or other calamity, including combustible or explosive material, rubbish, rags, waste, oils, gasoline or inflammable substance of any kind such as parts standing or attached in such manner as to be likely to fall and cause a fire damage or injury;

(5) Uncleanliness or infestations of pests;

(6) Condition of sanitary facilities;

(7) The presence of a public nuisance; and,

(8) The history of unlawful activity in or around the building or structure.

Section 35. Section § 8.24.340 of the Toledo Municipal Code is added to read as follows:

8.24.340 - Public Nuisance Prohibited.

A. **Declared Public Nuisances.** The following are specifically declared to be public nuisances: Any thing, condition, or act which is or may become a detriment or menace

to the public health, welfare, and safety, where such thing, condition, or act is or exists contrary to the provisions of this chapter.

- B. **Prohibition.** In addition to the provision of subsection A of TMC Section 8.24.330, no person shall cause, permit, or maintain a public nuisance on public or private property.
- C. **Joint Responsibility.** If more than one person is responsible for a public nuisance, they shall be jointly and severally liable for correcting the violation and for any costs incurred by the city in abating the nuisance.

Section 36. Section § 8.24.350 of the Toledo Municipal Code is added to read as follows:

8.24.350 - Notice to Person Responsible.

- A. **Notice.** Whenever the Director has reasonable grounds to believe that a violation of TMC Section 8.24.330 has occurred, a notice and order shall be served on the owner(s) and occupant(s).
- B. **Form of Notice.** Such notice prescribed in subsection A of this section and subsection C(1) of TMC Section 8.24.330 shall:
 - 1. Be in writing;
 - 2. Include a description of the premises sufficient for identification;
 - 3. Include a statement of the reason or reasons why the notice is being issued;
 - 4. Include a correction order allowing a reasonable time, as specified under subsection D. of TMC Section 8.24.320, for the repairs and improvements required to bring the premises into compliance with the provisions of this chapter;
 - 5. Include a notice that the city may abate the nuisance pursuant to this chapter and that the person responsible for correcting the public nuisance shall be responsible for the costs of such abatement;
 - 6. Include instructions for requesting an appeal.
- C. **Method of Service.**
 - 1. Notices issued under this section shall be deemed to be properly served if a copy thereof is:
 - a) Personally delivered to the owner(s) and occupant(s); or,
 - b) Sent by first class mail to the owner(s) and occupant(s) at their last known address; or,

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

2. Failure of the owner(s) or occupant(s) to receive such notice or an error in the name or address of the owner(s) or occupant(s) shall not render the notice void and in such case the service shall be deemed sufficient.

D. **Effective Date of Notice.** All notices served pursuant to this section shall be considered served on the date of personal service or as of the date of mailing, if not personally served.

Section 37. Section § 8.24.360 of the Toledo Municipal Code is added to read as follows:

8.24.360 - Action by Responsible Party.

Within the time specified for achieving compliance, as provided for under subsection D. of TMC Section 8.24.320, the responsible party or person in charge of the property on whom the notice has been served or posted shall remove the nuisance or shall request an appeal hearing in accordance with TMC Section 8.24.430.

Section 38. Section § 8.24.370 of the Toledo Municipal Code is added to read as follows:

8.24.370 - Recording a Violation.

- A. The city may record a notice of violation issued under this section with the County Recorder.
- B. Failure to record a notice of violation shall not affect the validity of the notice as to persons who receive the notice.
- C. When the property is brought into compliance, a satisfaction of notice of violation shall be recorded if a notice of violation had been recorded against the property.

Section 39. Section § 8.24.380 of the Toledo Municipal Code is added to read as follows:

8.24.380 - Abatement Procedures- by the City.

- A. If, within time prescribed under subsection D. of TMC Section 8.24.320, the violation has not been corrected the Director may cause the violation to be corrected.
- B. The Director shall keep an accurate record of the expense incurred while physically correcting the violation and shall therein add an administrative cost of twenty (20) percent for overhead.

- C. Any civil penalties awarded by the City Council or a Court pursuant to this chapter shall accrue interest at the rate of 9% per year until paid, pursuant to TMC Section 1.20.120(D), and may be recorded as a municipal assessment lien and foreclosed as provided in TMC Section 1.20.130.
- D. The Director or a person authorized by the Director may enter upon the subject property to abate the nuisance only upon obtaining consent of the person in possession or in charge of the property; or upon obtaining an administrative search warrant for abatement pursuant to TMC Chapter 1.16 or subsection A of TMC Section 8.24.100.

Section 40. Section § 8.24.390 of the Toledo Municipal Code is added to read as follows:

8.24.390 - Abatement Procedures - Assessment of Costs.

- A. After abatement by the city, the Finance Director, by first class mail, shall forward to the owner(s) and occupant(s) a notice stating:
 - 1. The total cost of correction, including the administrative overhead; and,
 - 2. That the costs and administrative overhead as indicated will be assessed to and become a lien against the property unless paid within thirty days from the date of the notice.
- B. If the costs and administrative overhead are not paid within thirty days of the billing date, the Director shall thereafter file with the Municipal Court Judge an itemized statement of costs and overhead, including an additional administrative fee in an amount of (20) twenty percent of the actual cost of correction to cover the additional expenses involved in collecting the unpaid balance.
- C. Upon filing of such statement of costs and overhead required under subsection B. of this section, the Municipal Court Judge shall set the matter for prompt public hearing before the Municipal Court Judge and cause notice thereof to be served via certified mail to the owner(s) and occupant(s), consistent with the procedures under subsection G(1) of TMC Section 8.24.330.
- D. After the hearing, the Municipal Court Judge shall declare the correctness of such statement and shall declare those as may be accordingly validated to be a lien upon the property.
- E. An error in the contents or service of any notice shall not void the assessment nor will a failure of the owner to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property.

Section 41. Section § 8.24.400 of the Toledo Municipal Code is added to read as follows:

8.24.400 - Abatement Procedures - Summary Abatement.

The Director may summarily abate a situation involving a health, safety, or other nuisance which unmistakably exists and from which there is imminent danger to human life or to property. In that instance, the Director, Chief of the Fire Department, the Fire Inspector, the Code Enforcement Officer, or the Chief of Police may proceed summarily to abate the building. The abatement procedure provided by this chapter is not exclusive but is in addition to procedures provided by other laws.

Section 42. Section § 8.24.410 of the Toledo Municipal Code is added to read as follows:

8.24.410 - Receivership Authority.

In addition to, and not in lieu of any other provision in this chapter, when the Director finds residential property in violation of this chapter, and believes that the violation is a threat to the public's health, welfare and safety, and that the owner has not acted in a timely manner to correct the violation, the Director may apply to a court of competent jurisdiction for the appointment of a receiver to perform an abatement pursuant to the Oregon Housing Receivership Act (ORS 105.420 to 105.455).

Section 43. Section § 8.24.420 of the Toledo Municipal Code is added to read as follows:

8.24.420 - Collections.

Collection of abatement costs, fees and penalties may be, in addition to any other remedy provided for by law, pursued through a contract collection agency or small claims court, or except as provided below, entered into the city's lien docket or County's Deed Recording System in the manner below as a lien for the entire amount placed against the real property.

- A. Any cost of abatement, fine, assessment or civil penalty imposed pursuant to this chapter, which remains unpaid 30 days after the penalty is imposed (or after the fine, assessment or civil penalty has been affirmed on appeal), shall be filed as a lien against the lot, lots or parcels of land involved, in the Municipal Lien Docket, or in the County's Deed Recording System, or both, as determined by the Director, except an owner of property shall not be subject to a lien against the owner's property for the actions of another person, unless the owner is also a person who is a responsible party. However, a lien may be recorded against different lot, lots or parcels of land owned by the responsible parties, even it is not recorded against the property that is the subject of the abatement.
- B. At the time of filing in the Municipal Lien Docket or County's Deed Recording System, notice shall be provided to the responsible parties. If no owner of the property shown in the electronic records of the Lincoln County Assessor on that date is a responsible party, then a lien shall not be recorded against the lot, lots or parcels of land involved. However, if one or more of the responsible parties are also an owner of the property shown in the electronic records of the Lincoln County Assessor on that date, then a lien may be recorded. Failure to provide notice shall not in any way effect the validity of the

lien. The notice shall state that the amounts imposed as penalties shall be payable and due, and as applicable, that the penalties shall be liens against the lots or parcels of land involved, respectively.

- C. All such liens remaining unpaid after 30 days from the date of recording on the municipal lien docket shall become delinquent and shall bear interest at the rate of nine (9) percent per annum from and after that date. The liens shall be enforced in the manner provided for municipal liens in ORS Chapter 223 and shall have priority over all such other liens and encumbrances of any character.
- D. Pursuant to this chapter, the City Council, as the legislative body of the city, elects to treat costs associated with the enforcement of property maintenance and livability standards, and any related fine, assessment or administrative civil penalties, as a routine obligation of property owners when a person, as defined in this chapter, is a responsible party. Therefore, any municipal costs incurred in the abatement of any derelict structure or public nuisance and/or any fine, assessment or administrative civil penalty not paid within 30 days shall be an assessment, and lien, as applicable, against the property where the building is located.
- E. The term “responsible party” means a person, as defined in this chapter, who is at least partially responsible for causing the need to abate as determined in the sole judgment of the city. “Responsible party” includes: a person who is an owner and has not leased the property that is the subject of an abatement to another person; a person who has actual or apparent control of the property; and a person who has a partial ownership interest in a corporation, a limited liability company, cooperative, association, partnership, or any other entity in law or fact, that has actual or apparent control of the property.

Section 44. Section § 8.24.430 of the Toledo Municipal Code is added to read as follows:

8.24.430 -Appeals.

- A. **Appeals Generally.** Any person served a notice, order, interpretation or decision under authority of this chapter has the right of appeal from the notice, order, interpretation or decision to the City Council.
- B. **Filing of Appeal.**
 - 1. **Appeal Period.** An appeal must be submitted to the Director within seven days, plus three days for mailing, from the date that the notice or order was issued.
 - 2. **Appeal Fee.** Any appeal submitted under this chapter shall include a \$75.00 filing fee.
- C. **Scope of Appeal.** Appeals may be filed regarding technical matters of notices or determinations, administrative orders, and interpretations and decisions made by the Director relative to this chapter.

D. **Form of Appeal.** An appeal must be in writing and include the following:

1. Name of person filing the appeal;
2. Copy of the subject notice or order;
3. Copy of the section of this chapter which is being appealed;
4. A complete explanation of the appeal;
5. An explanation of what is requested of the City Council.

E. **Appeal Procedure.**

1. The Director shall confirm that the appeal meets the filing criteria as prescribed under paragraphs A-D of TMC Section 8.24.430, and that the person filing the request for an appeal has standing.
2. If the filing criteria have not been met, or if the filing party does not have standing, the person filing the appeal will be so notified and hearing before the City Council will not be convened. The Director, at his/her discretion, may extend the filing deadline by an additional three (3) days to allow a prospective appellant with standing to resubmit a request for an appeal that has been deemed incomplete. Only one extension may be granted.
3. If the filing criteria are met, the Director shall, within 30 days of the filing of the appeal, contact the City Recorder to set the schedule for a hearing before the City Council. The hearing shall be held not later than 60 days after the filing of the appeal.
4. The appeal shall be conducted on the record.
5. Formal rules of evidence are not required.
6. The City Council shall have the authority to hear appeals of orders, decisions or determinations made under authority of this chapter to determine whether the substance of the order, decision or determination was arbitrary and capricious.
7. The City Council shall not be empowered to waive requirements of this chapter.
8. The City shall issue a written finding and conclusion on the appeal within fifteen (15) days of the hearing, and shall provide a copy to the person filing the appeal and to the Director.

Section 45. Section § 8.24.440 of the Toledo Municipal Code is added to read as follows:

8.24.440 - Violation Penalties.

Persons who violate a provision of this chapter or fail to comply with any of the requirements of this chapter or a directive of the Director authorized by this chapter shall be subject to the provisions of TMC Sections 8.24.450 through 8.24.560.

Section 46. Section § 8.24.450 of the Toledo Municipal Code is added to read as follows:

8.24.450 - Separate Violations.

- A. Each day's violation of a provision of this chapter constitutes a separate offense.
- B. The abatement of a nuisance or violation shall not constitute a penalty for violating this chapter but shall be an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate a nuisance or violation.

Section 47. Section § 8.24.460 of the Toledo Municipal Code is added to read as follows:

8.24.460 - Infractions.

- A. **Imposition of Penalty.** Any person who shall violate any of the provisions herein or fail to comply therewith or who shall violate or fail to comply with any order made hereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the City Council or by a court of competent jurisdiction within the time fixed herein shall severally for each and every such violation and noncompliance respectively be guilty of an infraction, as designated under TMC Section 1.20.070, unless otherwise provided for by the provisions of this chapter.
 - 1. All such persons shall be required to correct or remedy such violations or defects within a reasonable time, consistent with subsection D. of TMC Section 8.24.320, and, when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.
 - 2. Upon conviction of an infraction offense, any person shall be liable for the fines provided for under TMC Sections 8.24.440, 1.20.070 and 1.20.120.

Section 48. Section § 8.24.470 of the Toledo Municipal Code is added to read as follows:

8.24.470 - Classification of Offenses.

- A. Violation of the provisions of this chapter, with forfeiture amounts specified in TMC Section 1.20.070, shall be designated as follows:
 - 1. Violation of TMC Section 8.24.280, Solid Waste Removal, is a Class A Infraction.
 - 2. Violation of Subsection B of TMC Section 8.24.330, Public Nuisance Prohibited, is a Class A Infraction.

3. Violation of TMC Section 8.24.310, Fire Safety provisions; Subsection E of TMC Section 8.24.320, Failure to Obey; or subsection B of TMC Section 8.24.330, Prohibited Habitation, is a Class A Infraction.

4. Violations of any of the subsections in TMC Section 8.24.180, 8.24.190, 8.24.200, 8.24.210, 8.24.220, 8.24.230, 8.24.240, 8.24.250, 8.24.260, applicable to all structures occupied for residential use by tenants, is a Class A Infraction.

5. Violation of every provision of this chapter not otherwise designated herein is deemed a Class C infraction, except:

a) the 2nd offense for violation of same section of this chapter within a twenty-four (24) month period shall be a Class B infraction; and

b) the 3rd and subsequent offenses for violation of the same section of this chapter within a twenty-four (24) month period shall be a Class A infraction.

Section 49. Section § 8.24.480 of the Toledo Municipal Code is added to read as follows:

8.24.480 - Civil Penalties.

A. In addition to and not in lieu of any other means of enforcement or any other penalty provided by law, any person who shall violate a provision of this chapter or who shall fail to comply with any of the requirements thereof or an order of the Director may incur a civil penalty in an amount as specified in TMC Section 1.20.070, plus an administrative fee and any cost of service or recording.

B. All such persons incurring a civil penalty shall be required to correct or remedy such violations or defects within a reasonable time, consistent with subsection D. of TMC Section 8.24.320, and, when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

Section 50. Section § 8.24.490 of the Toledo Municipal Code is added to read as follows:

8.24.490 - Purpose.

The purpose of a civil penalty is to provide an efficient, convenient, and practical system to enforce a violation of this chapter.

Section 51. Section § 8.24.500 of the Toledo Municipal Code is added to read as follows:

8.24.500 - Civil Penalty against Agents.

Any person who acts as the agent of, or otherwise assists, a person who engages in an activity which would be subject to a civil penalty shall likewise be subject to a civil penalty.

Section 52. Section § 8.24.510 of the Toledo Municipal Code is added to read as follows:

8.24.510 – Procedure for Issuing Civil Penalty.

A civil penalty shall be imposed under this section by issuance of a notice of civil money penalty. A civil penalty may be imposed for each day the violation continues or remains. The notice of civil money penalty shall be issued and served in accordance with the procedures specified within this subsection.

Section 53. Section § 8.24.520 of the Toledo Municipal Code is added to read as follows:

8.24.520 - Notice of Civil Money Penalty.

- A. If a civil penalty is imposed, the Director shall issue a notice of civil money penalty to the person responsible for the code violation.
- B. **Notice.** The notice of civil money penalty shall include:
 - 1. reference to the applicable code provision(s);
 - 2. a statement of the basis of the finding of a violation;
 - 3. a statement of the amount of the civil money penalty;
 - 4. a statement of the party's right to protest the civil penalty to the City Council; and,
 - 5. a statement that a delinquent civil money penalty may become a lien against the property.
- C. **Service.** The notice of civil money penalty shall be served on the person responsible for the code violation by:
 - 1. Personal service; or,
 - 2. posted in a conspicuous place in, on or about the structure or premises affected by such notice; or,
 - 3. sent by US first class mail or US certified mail, return receipt requested, to the person's last known address;
 - a) failure of the recipient to sign for the certified mail shall not make the notice void;
 - b) notice served by mail shall be deemed received three days after the date mailed to an address within Oregon or seven days to an address outside of

Oregon;

c) notice served by mail shall be concurrently posted in a conspicuous place in, on or about the structure or premises affected by such notice.

Section 54. Section § 8.24.530 of the Toledo Municipal Code is added to read as follows:

8.24.530 -Courtesy Notice to Owner.

If the subject violation relates to real property and the person responsible for the violation is not the owner of the property, an informational copy of the notice of civil money penalty shall be sent to the owner of the property by first class mail, at the owner's address as reflected on the most recent tax rolls of the county assessor, at the same time as service on the person responsible.

Section 55. Section § 8.24.540 of the Toledo Municipal Code is added to read as follows:

8.24.540 - Protest of Civil Penalty.

- A. A person issued a notice of civil money penalty may protest the existence of a violation or the circumstances involved in the presence of a violation that resulted in imposition of a civil penalty to the City Council.
- B. An appeal request must be submitted to the Director within seven days, plus three days for mailing, from the date of service of the notice of civil money penalty.
 - 1. After a hearing in which the City Council determines that a violation did or does exist, the City Council may uphold or reduce the original penalty imposed after considering reasonable mitigating factors as determined by the City Council.
 - 2. The City Council may not reduce the civil money penalty by any amount if a violation has not been corrected by the responsible party and inspected by the city.
 - 3. The civil money penalty imposed by the City Council shall not be less than the minimum amount specified under TMC Section 8.24.560.

Section 56. Section § 8.24.550 of the Toledo Municipal Code is added to read as follows:

8.24.550 - Collection of Civil Penalty.

- A. The civil penalty shall become final upon expiration of the time for filing a protest or, if a protest is filed and the City Council affirms the civil penalty, the civil penalty shall become final upon issuance of the City Council's decision.
- B. The civil penalty shall be delinquent if not paid within 30 days from the date the civil penalty becomes final.

1. A late payment charge shall begin to accrue from the date of delinquency.
2. If the civil penalty is imposed on the owner of the property where the violation occurred, and is delinquent, the notice of civil money penalty and a late payment charge shall be entered in the docket of city liens in the manner provided under TMC Section 8.24.420.
 - a) Failure to pay may result in foreclosure in any manner provided by ORS 223.505 to 223.650, or TMC Section 1.20.130, or as otherwise provided by law or code.
 - b) An error in the name of the owner shall not void the lien, nor shall a failure of the owner to receive the notice render the lien void, but it shall remain a valid lien against the property.
3. Any civil penalties that become final pursuant to this chapter shall accrue interest at the rate of 9% per year until paid and may be recorded as a municipal assessment lien and foreclosed as provided in this section.

Section 57. Section § 8.24.560 of the Toledo Municipal Code is added to read as follows:

8.24.560 - Amount of Civil Penalty.

The Director is authorized to impose civil penalties in the amounts as follows, and the City Council may allow reductions consistent with subsection B(1) of TMC Section 8.24.540 and operational guidelines in the amounts as follows:

- A. Violation of a provision of this chapter may be subject to a civil penalty in an amount no less than \$50.00 and not exceeding \$1,000.00 per offense, or in the case of a continuing offense, not more than \$1,000.00 for each day of the offense, based on the classification of each offense, and the maximum forfeitures specified in TMC Section 1.20.070.
- B. **Considerations.** In imposing a penalty authorized by this section, the Director shall consider:
 1. The person's past history in taking all feasible steps or procedures necessary or appropriate to correct the violation;
 2. Any prior violations of statutes, rules, orders, and permits;
 3. The gravity and magnitude of the violation;
 4. Whether the violation was repeated or continuous;
 5. Whether the cause of the violation was an unavoidable accident, negligence, or an intentional act;

6. The violator's cooperativeness and efforts to correct the violation; and,
7. Any relevant rule of this or other city code.

**CITY OF TOLEDO
ORDINANCE NO.**

AN ORDINANCE OF THE TOLEDO CITY COUNCIL CREATING NEW TOLEDO MUNICIPAL CODE CHAPTER 8.24, THE TOLEDO LIVABILITY CODE, REGULATING THE EXTERIOR CONDITIONS OF ALL RESIDENTIAL AND NON-RESIDENTIAL STRUCTURES, INTERIOR CONDITIONS OF RESIDENTIAL TENANT OCCUPIED STRUCTURES, AND RECREATIONAL VEHICLES OCCUPIED FOR A TEMPORARY RESIDENTIAL USE; REPEALING TMC CHAPTER 15.12; AND DECLARING AN EMERGENCY

WHEREAS, the City Council has a duty to ensure and protect the public health, safety and welfare of all residents of Toledo; and

WHEREAS, all residents and property owners in the City of Toledo benefit from the prevention of urban blight and the preservation of community livability; and

WHEREAS, minimum property maintenance standards and minimum livability standards prevent urban blight and preserve community livability; and

WHEREAS, special considerations for rental housing habitability are necessary to ensure the health, safety and welfare of tenants and to preserve community livability.

NOW THEREFORE, THE CITY OF TOLEDO ORDAINS AS FOLLOWS:

Section 1. Toledo Municipal Code Chapter 8.24, Toledo Livability Code, is hereby created to read as set out in Sections 1-57 of Exhibit A of this Ordinance and incorporated by this reference as if fully set out herein.

Section 2. Toledo Municipal Code Chapter 15.12, Abatement of Dangerous Buildings, consisting of Sections § 1-9 of Ord. 1101 (1980), Section §10 of Ord. 1101 (1980), as amended by Ord. 1118 (1980), and as further amended by Section § 14 of Ord. 1244 (1996), are hereby repealed.

Section 3. This ordinance being necessary for the immediate preservation of the public welfare, health and safety, an emergency is declared to exist and this ordinance shall take effect upon its passage.

This Ordinance adopted by the Toledo City Council this ___ day of _____, 2023.

APPROVED:

ATTEST:

Mayor Rod Cross

City Recorder Lisa Figueroa

Ordinance No. _____ (2023) - Exhibit A

Section 1. Sections 2 through 57 of this Ordinance are added to and made a part of the Toledo Municipal Code to create Chapter 8.24, “Toledo Livability Code,” as indicated.

Section 2. Section § 8.24.010 of the Toledo Municipal Code is created to read as follows:

8.24.010 - Short Title.

This chapter shall be known and may be cited as the “Toledo Livability Code” and may be referred to herein as “this chapter.”

Section 3. Section § 8.24.020 of the Toledo Municipal Code is added to read as follows:

8.24.020 - Purpose.

The purpose of this chapter is to ensure and protect the public health, safety and welfare and to prevent or reduce urban blight by establishing minimum property maintenance and livability standards for all premises.

Section 4. Section § 8.24.030 of the Toledo Municipal Code is added to read as follows:

8.24.030 - Application of other Laws.

- A. Nothing in this chapter shall be construed to relieve a person from complying with any federal, state or local law, including any other provisions of the Toledo municipal code or the requirement to obtain all necessary permits and approvals.
- B. **Changes and Alterations.** Any repair, alteration, or addition to, or change of occupancy in an existing building, or any change of use of any property, shall be made in accordance with all applicable provisions of law, including, but not limited to the Toledo Municipal Code.
- C. No provisions in this chapter shall preclude the abatement of a nuisance as provided in the general nuisance ordinance of the city, TMC Chapter 8.04.
- D. **Conflicts.**
 - 1. Except as provided otherwise by federal, state or local law, if a provision of this chapter conflicts with a residential property maintenance law, rule or regulation promulgated by a state or federal authority having jurisdiction over residential property in the City of

Toledo, the provision of the state or federal law, rule or regulation shall apply to the exclusion of the conflicting provision of this chapter.

2. This chapter is intended to supplement rather than conflict with the habitability standards and the assignment of landlord and tenant responsibilities in the State of Oregon Residential Landlord and Tenant Act.
3. This chapter is intended to expand the regulation of the temporary residential use of recreational vehicles located within the city limits, beyond TMC Chapter 8.08, whether or not a temporary permit has been granted under TMC Chapter 8.08.040, including the regulation of the interior and exterior conditions in or near recreational vehicles.
4. If a provision of this chapter conflicts with a provision of the adopted building code, the provision of the building code shall apply to the exclusion of the conflicting provision of this chapter.

Section 5. Section § 8.24.040 of the Toledo Municipal Code is added to read as follows:

8.24.040 - Scope.

- A. This chapter establishes minimum requirements and standards for the protection of structures and premises from the elements, life safety and other hazards, and for their safe and sanitary maintenance; assigning the responsibility of owners and occupants; and, establishes the processes and standards for the administration of this chapter, its administration, enforcement, Appeals, and penalties.
- B. Provisions of this chapter that address the interior conditions of residential structures apply to tenant occupied residential structures and recreational vehicles only.
- C. Provisions of this chapter that address the exterior conditions of structures and the conditions of premises apply to all residential and nonresidential structures and all premises, with the exclusion of children's play structures which shall be exempt from the maintenance standards established by this chapter other than with respect to conditions that constitute imminent or incipient hazards, as those terms are defined in this chapter.
- D. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health, safety and maintenance, as required by the provisions of this chapter.

Section 6. Section § 8.24.050 of the Toledo Municipal Code is added to read as follows:

8.24.050 - Saving Clause.

Compliance with this chapter shall not affect violations of any other ordinance, code or regulation existing prior to the effective date hereof, and any such violation shall be governed

and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes or regulations in effect at the time the violation was committed.

Section 7. Section § 8.24.060 of the Toledo Municipal Code is added to read as follows:

8.24.060 - Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this chapter shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this chapter which shall continue in full force and effect, and to this end the provisions of this chapter are hereby declared to be severable.

Section 8. Section § 8.24.070 of the Toledo Municipal Code is added to read as follows:

8.24.070 - Administration.

- A. The City Manager is hereby authorized to administer and enforce all of the provisions of this chapter. The authority of the City Manager to enforce the provisions of this chapter is independent of and in addition to the authority of other city officials to enforce the provisions of other city codes.
- B. The City Manager may grant authority to enforce all or a portion of this chapter to the administrator of the City Planning Department, or the Chief of Police, or the Chief of the Fire Department, or Code Enforcement Officer, or any combination, and/or their respective designees.
- C. This chapter shall be liberally construed to the end that the City Manager shall not be required to personally perform the administrative or enforcement duties and functions that are the responsibilities of the City Manager under the terms and standards of this chapter.

Section 9. Section § 8.24.080 of the Toledo Municipal Code is added to read as follows:

8.24.080 - Appointments.

- A. The City Manager may retain the authority to administer and enforce all of the provisions of this chapter, as Director, or may appoint a Director and delegate authority to administer this chapter to the Director.
- B. The Director may appoint such number of officers, technical assistants, inspectors and other employees as shall be necessary for the administration and enforcement of this chapter.
- C. The Director is authorized to designate an employee as deputy who shall exercise all the powers of the Director during the temporary absence or disability of the Director.

- D. Any acts done by any employee who is under the direct supervision and control of the Director and done pursuant to a delegation of authority given by the Director to said employee shall be deemed to be done by the Director as required by the terms and standards of this chapter.

Section 10. Section § 8.24.090 of the Toledo Municipal Code is added to read as follows:

8.24.090 – Complaint Based Response.

- A. -Administrative and enforcement responses under this chapter are intended to be initiated on the basis of a complaint. Before initiating a complaint, the person making the complaint must take such actions that are a bonafide attempt to resolve the issue which at a minimum is a neighborly conversation. As part of the complaint process, the complaining party must provide an explanation of what actions were taken to resolve the issue, at a minimum, by talking to the subject of the complaint, before filing the complaint.
- B. Complaints may be filed by members of the public, by representatives of the city organization and by representatives of external agencies in a manner that shall be consistent with administrative operating guidelines.
- C. Notwithstanding the provisions above in subsections A and B, the Director may choose to not initiate or continue administrative or enforcement activities under this chapter when the Director has determined that the city has received a complaint based on untruthfulness, or this chapter is being used as a pretext to resolve a neighborhood dispute, property-line dispute, or other civil issue or ongoing dispute amongst the parties.
- D. Anonymous complaints will not be accepted.
- ~~E.~~ Notwithstanding the provisions above in subsection A., the Director may choose to initiate administrative or enforcement activities when conditions are known or suspected to be present on a property, premises or a structure that would constitute an imminent hazard or an incipient hazard, as those terms are defined herein.

Section 11. Section § 8.24.100 of the Toledo Municipal Code is added to read as follows:

8.24.100 – Relationship to Other Chapters.

- A. The Director is authorized to make all inspections, and seek administrative search warrants, pursuant to TMC Chapter 1.16, “Right of Entry for Inspections,” necessary for the purposes of enforcing this chapter. A right of entry exists, and the Director may enter all premises, including the interior of structures, at all reasonable times whenever an inspection is necessary to enforce any regulations of this code, or whenever the Director has reasonable cause to believe that there exists in any structure or upon any premises any condition which makes such premises substandard as defined in any regulations of this code.

- B. The Director is authorized to seek the imposition of civil penalties under TMC Chapter 1.20, "Civil Enforcement," for all violations of this chapter.

Section 12. Section § 8.24.110 of the Toledo Municipal Code is added to read as follows:

8.24.110 - Historic Structures.

The provisions of this chapter shall not be mandatory for an existing structure designated as a local or national historic resource when such structure is judged by the Director to be safe and its continued maintenance in historic condition to be in the public interest.

Section 13. Section § 8.24.120 of the Toledo Municipal Code is added to read as follows:

8.24.120 - Modifications.

Where there are extreme hardships involved in carrying out provisions of this chapter, the Director shall have the right to vary or modify such provisions upon application of an owner or occupant, provided that the spirit and intent of the law is observed and that the public health, safety and welfare is assured.

Section 14. Section § 8.24.130 of the Toledo Municipal Code is added to read as follows:

8.24.130 - Definitions.

- A. All words and terms assume their dictionary definitions unless they are specifically defined in this chapter.
- B. Words stated in the present tense in this chapter include the future; the singular number includes the plural, and the plural includes the singular.
- C. Whenever the words "dwelling unit," "dwelling," "premises," "structure," or "building" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof."
- D. Unless the context otherwise specifically requires, for purposes of this chapter, the following terms and phrases mean:
 - 1. **Abandoned Structure.** A vacant structure that is an attractive nuisance.
 - 2. **Abatement [e.g., of a Nuisance].** The act of removing, repairing, or taking other steps as may be necessary in order to remove a nuisance.
 - 3. **Accessible Means of Egress.** This term shall have the meaning provided under the Oregon Fire Code, Chapter 2, Section 202: A continuous and unobstructed way of egress travel from any accessible point in a building or facility to a public way.

4. **Accessory Structure.** Any structure not intended for human occupancy. Accessory structures may or may not be attached to a primary structure. Examples of accessory structures include, but are not limited to: garages, carports, sheds, playhouses, decks, awnings, heat pumps, fences, trellises, flag poles, tanks, towers, exterior stairs, driveways and walkways.

5. **Agent.** A person authorized by another to act in his/her behalf.

6. **Approved.** Meets the standards set forth by this chapter, or is approved by the Director.

7. **Attic.** The unfinished, non-habitable part of a structure between the roof and the ceiling immediately below.

8. **Attractive Nuisance.** Buildings, structures, or premises that are in an unsecured, derelict or dangerous condition so as potentially to constitute an attraction to minors, vagrants, criminals or other unauthorized persons, or so as to enable persons to resort thereto for the purpose of committing an unlawful act.

9. **Basement.** That portion of a building or structure which is partly or completely below grade.

10. **Bathroom.** A room containing plumbing fixtures including a bathtub or shower.

11. **Bedroom.** Any room or space used or intended to be used for sleeping purposes.

12. **Boarded.** The securing of an unoccupied building or structure against entry by the placement of material such as plywood, boards, or other similar material over openings, consistent with administrative operating guidelines, that are designed or intended for windows or doors, where the materials are visible off the premises and where the materials are not lawfully or customarily installed on a building or structure that would be occupied.

13. **Building.** Any structure designed for habitation, shelter, storage, trade, manufacture, business, education, or other similar purposes.

14. **Building Code.** The specialty codes adopted by the State of Oregon, which includes any enforcement performed by the Lincoln County Building Office through an IGA with the County.

15. **Building Official.** The Lincoln County Building Office, through an IGA the City has entered with Lincoln County.

16. **Bulk Solid Waste.** Discarded bedding, mattresses and furniture, junk, yard debris, uprooted tree stumps, demolition or construction debris, or other non-putrefactive and

nonhazardous materials not placed in a receptacle, or too large to be placed into a receptacle.

17. **City Council.** The Toledo City Council, interpreting its code, to serve and to decide matters stipulated for quasi-judicial review under this chapter.

18. **Civil infraction.** A “Civil infraction” means a violation of a city ordinance designated as a civil infraction.

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

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

- a) Is unoccupied and unsecured;
- b) Is partially constructed;
- c) Is an abandoned structure or attractive nuisance;
- d) Is in condition-of deterioration;
- e) Has an infestation of pests;
- f) Has doors or windows boarded over, or;
- g) Other condition that in the opinion of the Director is detrimental to public health, safety or welfare.

21. **Dilapidation.** Being in a state of partial ruin, decay or disrepair.

22. **Director.** The City Manager, the person appointed by the City Manager as the administrator of the City’s Planning Department for the City of Toledo, or the person charged by the City Manager with the implementation and enforcement of this chapter, or the appointed person’s designee.

23. **Dwelling.** Any structure containing one or more dwelling unit.

24. **Dwelling Unit.** A single unit within a dwelling providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

25. **Exit.** A continuous, unobstructed means of egress from a dwelling to the exterior of the building and to a public way.

26. **Exterior Property.** The areas of a property which are outside the exterior walls and roof of a building. All parts of property that are exposed to the weather including the exterior of structures built for human occupancy. This includes, but is not limited to, yards, gardens, vehicles parked on the property; open and accessible porches, carports, garages, and decks; accessory structures, and any outdoor storage structure.

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

28. **Forfeiture.** A “Forfeiture” means the penalty imposed for a civil infraction if a violation is found to be have been committed.

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

30. **Habitable.** Suitable for human habitation.

31. **Habitable Space.** A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

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

33. **Human Habitation.** The use of a structure, portion of the structure, or space, in which any person remains for a continuous period of two or more hours per day, or for periods which will accumulate to four or more hours in a day.

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

35. **Incipient Hazard.** Any condition that can become an imminent hazard if further deterioration is allowed to occur.

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

37. **Indoor Furnishing/Furniture.** Any item that is designed to be used indoors or otherwise protected from environmental elements including, but not limited to, upholstered furniture, indoor appliances and indoor carpet.

38. **Infestation.** The presence of pests in large numbers that is harmful or bothersome within or adjacent to a building or structure or upon premises.

39. **Junk.** Articles of personal property that have outlived their usefulness in their original form, or articles of personal property that have been discarded and are no longer used for their manufactured purpose, regardless of value. As used in this chapter the term "junk" includes, but is not limited to:

a) any derelict motor vehicle, RV, trailer, or boat, i.e., any used motor vehicle, RV, trailer, or boat without a vehicle license or with an expired license; or,

b) neglected motor vehicle, RV, trailer, or boat, i.e., a motor vehicle, RV, trailer, or boat, that is missing critical parts required for the normal and legal operation of the vehicle, but has all of its body parts intact, including fenders, hood, trunk, glass, and tires; or,

c) wrecked motor vehicle, recreational vehicle, trailer, or boat or part thereof, i.e., a motor vehicle, RV, trailer, or boat, that is dismantled or partially dismantled, or having a broken or missing window or windshield, or lacking a wheel or tire; or,

d) machinery or parts thereof that are inoperative, worn out, or in a state of disrepair; or,

e) any appliances or parts thereof that are inoperative, worn out, or in a state of disrepair; or,

f) any worn out or dilapidated indoor fixtures or furnishings, or parts thereof; or,

g) any bulk solid waste; ~~and~~ or,

h) solid waste items that are of a type or quantity inconsistent with normal and usual use such as wood, metal, scrap and other similar items; ~~and~~

i) Excluded from a), b) and c) of this definition are projects where a motor vehicle, RV, trailer, or boat are actively being repaired, and machinery or parts related to such projects, which are not considered junk-

40. **Landlord.** The owner or lessor of a dwelling unit, a building, or premises, including a person authorized by the owner or lessor to manage the premises or to enter into a rental agreement.

41. **Legally Occupied.** The use of premises for a purpose authorized by law, including the building code and the Toledo land development code. For the purposes of this chapter, a premises shall be considered legally occupied, even if presently vacant, as long as the premises is maintained in compliance with the provisions of this chapter, and in the case of a building or structure, conditions that would qualify the building or structure as derelict are not present.

42. **Let for Occupancy or Let.** To permit, to provide, or to offer possession or occupancy of a dwelling unit, building, structure or premises, pursuant to a lease, permit, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

43. **Maintained Compost.** A small portion of a property set aside for the purpose of methodically encouraging the rapid decomposition of yard debris and other vegetable matter into a suitable fertilizer or amendment for the soil on the property. Maintained compost shows clear indicators that the organic materials placed there are being actively managed to encourage its rapid decomposition. Possible signs of such active management may include evidence of regular turning, a mixture of yard debris types, any woody materials present having been chopped into small sizes, and the presence of internal heat in the composting mixture. A location where yard debris is placed primarily as a means to store it or dump it without reasonable expectation of rapid decomposition does not constitute maintained compost.

44. **Means of Egress/Doors.** A continuous and unobstructed path of vertical and horizontal egress travel from any occupied portion of a building or structure to a public way. Includes any doors that are present at the exit access, along the path of exit, and at the exit discharge.

45. **Multi-Family Dwelling.** A building containing two or more dwelling units.

46. **Must.** Mandatory.

47. **Naturescape.** Landscaping and gardening approaches that use predominately native plants for the purpose of creating improved outdoor habitat for native insects, birds, and mammals and reducing the need for pesticides, chemical fertilizers, and summer watering.

48. **Occupancy.** The purpose for which a building, structure or premises is used or intended to be used.

49. **Occupant.** Any person, including an owner, tenant or operator, using a building or any part of a building for its lawful, intended use or having possession of a space within a building or structure or possession of a premises.

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

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

52. **Person.** An individual, corporation, a limited liability company, cooperative, association, partnership, or any other entity in law or fact.

53. **Pests.** Animals detrimental to humans or human concerns including, but not limited to, insects, rodents, rats or vermin.

54. **Premises.** A lot or parcel of land, including any buildings or structures thereon.

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

56. **Receptacle.** With respect to solid waste containment, a trash can, cart, bin, container, drop box or other vessel used for the disposal of solid waste that has been approved by the City Manager and into which solid waste, compostable material, mixed compostables, recyclable material or mixed recycling may be placed for such disposal.

57. **Recreational vehicle (RV).** As defined in TMC 8.08.020, which can be a derelict structure, or junk, as defined, under this chapter.

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

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

60. **Repair.** The reconstruction or renewal of any part of an existing structure for the purpose of its maintenance.

61. **Residential Property.** Real property and all improvements thereon including edifices, structures, buildings, dwelling units or parts thereof used or intended to be used for residential purposes including single-family, duplex, multi-family structures and mixed-use structures including accessory dwellings which have one or more dwelling units. Hotels and other building types used exclusively for transient occupancy are included in this definition of residential property. Recreational vehicles are also included in this definition of residential property.

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

63. **Shall.** Mandatory.

64. **Solid Waste.** This term shall have the same meaning in TMC Section 8.16.030.

65. **Structure.** That which is built or constructed, an edifice or building of any kind, or any piece or work artificially built up or composed of parts joined together in some definite manner. A structure includes a recreational vehicle.

66. **Temporary.** Unless otherwise specified, a period up to 6 months in any 12 month period.

67. **Unfit for Human Habitation.** A building or structure that, as found by the Director, is unfit for human habitation due to unsanitary conditions, infestation, accumulation of filth or contamination, lack of required ventilation, illumination, sanitary or heating facilities, or is not connected to approved water or electricity, such that habitation would be injurious to the health, safety, or welfare of the occupants.

68. **Unoccupied.** Not legally occupied.

69. **Unsecured.** Any structure in which doors, windows, or apertures are open or able to be opened from the outside so as to allow access by unauthorized persons; unlocked or otherwise open to entry.

70. **Ventilation.** The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

71. **Watertight.** As secure as possible against the entry of rain, melt water and storm water.

72. **Waste Tire.** A tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.

73. **Weathertight.** As secure as possible against the entry of wind, rain, melt water, storm water and natural elements.

74. **Workmanlike.** Executed in a skilled manner, consistent with generally accepted standards of construction and maintenance, e.g., generally plumb, level, square, in line, undamaged, without marring adjacent work.

Section 15. Section § 8.24.140 of the Toledo Municipal Code is added to read as follows:

8.24.140 - General Maintenance Requirements.

No person shall maintain or permit to be maintained any structure or premises that does not comply with the requirements of this chapter. All systems, devices and safeguards required by this chapter or by a previous statute or code applicable to the building, structure or premises at the time the building, structure or premises were erected or altered shall be maintained in good working order, thus ensuring the health and safety of all inhabitants.

Section 16. Section § 8.24.150 of the Toledo Municipal Code is added to read as follows:

8.24.150 - Existing Structures.

An existing structure that does not comply with the provisions of this chapter shall be altered or repaired to provide a minimum level of public health, safety and maintenance as required herein.

Section 17. Section § 8.24.160 of the Toledo Municipal Code is added to read as follows:

8.24.160 - Applicable Building Code.

All structures shall be constructed, altered or repaired in accordance with the standards of the applicable building code in effect at the time of construction, alteration or repair.

Section 18. Section § 8.24.170 of the Toledo Municipal Code is added to read as follows:

8.24.170 - Skilled Work Required.

All repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this chapter shall be executed and installed in a workmanlike manner.

Section 19. Section § 8.24.180 of the Toledo Municipal Code is added to read as follows:

8.24.180 - Interior Conditions of Tenant Occupied Residential Structures and Recreational Vehicles.

The provisions of TMC Sections 8.24.190, 8.24.200, 8.24.210, 8.24.220, 8.24.230, 8.24.240, 8.24.250, 8.24.260, shall be exclusively applicable to all structures, including recreational vehicles, occupied for residential use by tenants, at all times, regardless of the terms of their

possession, and regardless of whether they are current on their rent or otherwise in violation of a written or unwritten agreement.

Section 20. Section § 8.24.190 of the Toledo Municipal Code is added to read as follows:

8.24.190 - Lighting of Accessible Means of Egress.

- A. Every landlord of any structure, building, or premises who rents, leases or lets a dwelling unit or sleeping unit within any such space, other than in 1-2 family dwellings, shall, at all times:
 - 1. provide illumination at floors, landings and stairs for all common areas and spaces in all residential occupancies, with responsibility to maintain functioning bulbs; and,
 - 2. for all other accessible means of egress within dwelling units, shall provide the means for illumination at floors, landings and stairs, or shall provide at least one operable fixture capable of illuminating a 60-watt standard incandescent bulb, or equivalent, for each 200 square feet of floor area, not spaced greater than 30 feet apart.
- B. Every landlord who rents, leases or lets one or more dwelling unit or sleeping unit of any 1-2 family structure shall provide the means for minimum illumination of either:
 - 1. at floors, landings and stairs; or,
 - 2. shall provide at least one operable fixture capable of illuminating a 60-watt standard incandescent bulb, or equivalent, for each 200 square feet of floor area, not spaced greater than 30 feet apart, for all accessible means of egress.

Section 21. Section § 8.24.200 of the Toledo Municipal Code is added to read as follows:

8.24.200 - Ventilation.

- A. Every dwelling, including basements, and attics shall be maintained reasonably free from dampness to prevent conditions conducive to decay, mold growth, or deterioration of the structure.
- B. Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space shall be responsible to maintain an openable window area in every bathroom and toilet room or compartment or approved mechanical ventilation system to provide ventilation.
 - 1. In kitchens, a local exhaust ventilation system shall be maintained to remove the contaminating agent at the source.

2. Clothes dryer exhaust systems shall be independent of all other systems, shall be exhausted outside the structure and shall be installed in accordance with manufacturer's instructions.

3. Mechanical clothes drying appliances and exhaust systems shall be properly installed, connected, and maintained in a safe condition and good working order. Exhaust hoses must be free from leaks and obstructions and kept functioning properly so as to be free from fire, health, and accident hazards.

Section 22. Section § 8.24.210 of the Toledo Municipal Code is added to read as follows:

8.24.210 – Recreational Vehicles.

A. All recreational vehicles, whether located on public or private property, used for a temporary residential use, as allowed under TMC Chapter 8.08, are hereby regulated, and must comply with all the provisions of this chapter, regardless of whether or not a temporary permit has been issued under TMC Chapter 8.08.040.

B. If a recreational vehicle does not meet the criteria for which a permit may be issued under TMC Section 8.08.060, or does meet the conditions for which the revocation of a permit is permitted under TMC Section 8.08.080, all of the provisions of this chapter may be used to ensure compliance, regardless of whether or not rent, or any other form of compensation is provided by the person occupying the recreational vehicle, or whether or not the occupants of the recreational vehicle are otherwise in violation of a written or unwritten agreement.

Section 23. Section § 8.24.220 of the Toledo Municipal Code is added to read as follows:

8.24.220 - Circuit Protection and Equipment Exposed to Water.

A. Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space shall be responsible to provide and maintain each building and dwelling unit in accordance with these standards:

1. Every kitchen and other interior location with a water containment or water supply fixture in its area shall contain at least one grounded type receptacle or a receptacle with a ground fault circuit interrupter.

2. Every bathroom shall contain at least one receptacle. Any new or replacement bathroom receptacle outlet shall have ground fault circuit interrupter protection.

3. All receptacle outlets shall have the appropriate faceplate cover for the location.

B. Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space shall replace electrical equipment or portions of electrical systems that have been exposed to water.

- C. For purposes of this subsection, "exposed to water" shall include but is not limited to: submersion due to flooding; inundation due to firefighting activities; drenching by stormwater; intrusion of moisture; or plumbing system failures.
- D. Exception: Electrical equipment or portions of electrical systems that are exposed to water shall be allowed to be repaired where an inspection and testing report from the equipment manufacturer, approved manufacturer's representative, or a state of Oregon Licensed Supervising Electrician indicates that the electrical equipment or electrical system has not sustained damage that requires replacement and may be repaired, safely reenergized, and placed back into service.

Section 24. Section § 8.24.230 of the Toledo Municipal Code is added to read as follows:

8.24.230 - Plumbing System - hot water.

Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space shall be responsible to provide and maintain each dwelling unit in accordance with these standards:

- A. Plumbing systems shall be installed and maintained in a safe and sanitary condition and shall be free of defects, leaks and obstructions. Plumbing components shall be of materials allowed or approved by the Plumbing Code.
- B. All sinks, lavatory basins, bathtubs and showers within a dwelling unit shall be supplied with both hot and cold running water facilities which are installed in an approved manner, properly maintained, properly connected and have a reasonably objective appropriate water pressure for the intended use.
- C. Water heating facilities shall be supplied for each dwelling unit. Water heating facilities within a dwelling unit shall be capable of heating an adequate amount of water to provide hot water at each hot water outlet.

Section 25. Section § 8.24.240 of the Toledo Municipal Code is added to read as follows:

8.24.240 - Heat in Bathrooms and Habitable Rooms.

Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space shall be responsible to provide and maintain every dwelling unit with permanent heating facilities in all habitable rooms and all bathrooms as described herein:

- A. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.
- B. The use of portable open flame and/or unvented fuel burning devices in occupancies or situations where such use or operation would present an undue danger to life or property

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is prohibited. No portable, unvented or open flame fuel burning devices may be used to meet the heat requirements of this section.

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- C. All heating devices or appliances shall be of an approved type.
- D. Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat to all habitable rooms and all bathrooms.

Section 26. Section § 8.24.250 of the Toledo Municipal Code is added to read as follows:

8.24.250 - Interior Sanitation.

- A. The interior of every structure that is rented, leased or let for residential occupancy shall be maintained in good repair, in a clean and sanitary condition, free from any accumulation of rubbish, garbage or solid wastes. For purposes of this subsection, the term "clean and sanitary" shall mean free from any material or condition that:
 - 1. Provides a breeding place for insects, rodents or vermin; or,
 - 2. Produces dangerous or offensive gases or odors; or,
 - 3. Blocks exits, hallways, corridors or accessible means of egress; or,
 - 4. Provides a surface, exposed or concealed, which is conducive for the growth of mold or mildew.
- B. **Occupant Responsibilities.** Occupants shall keep that part of the dwelling unit which they occupy or control in a clean and sanitary condition.
- C. **Landlord Responsibilities.** Every landlord of any dwelling who rents, leases or lets a dwelling unit within any such space shall:
 - 1. Maintain the common halls, stairways, utility rooms and areas, and similar public areas of the dwelling in a clean and sanitary condition; and,
 - 2. Pursuant to this subsection A. but notwithstanding the requirement under this subsection B. that the occupants shall keep such spaces in a clean and sanitary condition, provide and maintain all interior surfaces in good repair, including windows and doors, as follows: Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered; cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected; walls, floors, ceilings, cabinets and interior doors shall be free of holes larger than four inches in diameter and cracks wider than one-half inch; and,
 - 3. Pursuant to this subsection A. but notwithstanding the requirement under this subsection B. that the occupants shall keep such spaces in a clean and sanitary

condition, be responsible to ensure that every toilet compartment, bathroom, and kitchen floor surface of every dwelling unit is constructed and maintained to be substantially impervious to water and to permit the floor to be kept in a clean and sanitary condition.

Section 27. Section § 8.24.260 of the Toledo Municipal Code is added to read as follows:

8.24.260 – Window and Door Security.

- A. Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space shall be responsible to provide and maintain all exterior doors, windows or hatchways for every dwelling unit with devices designed to provide security for the occupants and property within.
- B. **Entrance Doors.** Every entrance door to a dwelling unit shall be provided with a door knob and a dead bolt lock, and keys for same, designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort.
 - 1. Dead bolt locks shall be installed according to the manufacturer's specifications.
 - 2. All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door to discourage unwanted entry.
 - 3. For the purpose of this subsection, a sliding bolt shall not be considered an acceptable deadbolt lock.
- C. **Operable Windows.** Operable windows located in whole or in part within 10 feet above ground level or a walking surface below that provide access to a dwelling unit shall be equipped with a window sash locking device.
- D. **Basement Hatchways.** Basement hatchways that provide access to a dwelling unit shall be equipped with devices that secure the unit from unauthorized entry.

Section 28. Section § 8.24.270 of the Toledo Municipal Code is added to read as follows:

8.24.270 - Exterior Structure and Premises Conditions.

The provisions of this section shall be applicable to all structures, properties and premises and for all occupancy and use types, including but not limited to structures occupied for residential use by tenants, with the exception that children's play structures shall be exempt from the maintenance standards herein established other than with respect to conditions that constitute imminent or incipient hazards, as those terms are herein defined. The assignment of responsibilities for owner, landlord and tenant occupants shall be as set forth within the following standards.

Weatherproofing and Waterproofing. It is the responsibility of the owner of every property to maintain every building and structure on the property in a manner that complies with the following requirements:

- A. **Roofs and Drainage.** All roofs, flashing, vent stacks and boots, and chimneys shall have no defects which might admit rain or melt water.
 - 1. Roof drainage shall be adequate to prevent rain or melt water from causing dampness in the walls, attic or interior portion of the building and shall channel rain or melt water in an approved manner to an approved point of disposal.
 - 2. Any building or structure having originally been designed for and fitted with gutters and downspouts shall continuously be maintained with such devices, in sound condition and good repair.
 - 3. Roof drains, gutters and downspouts of a building or structure shall be free from obstructions and maintained in good repair, so as not to be plugged, overflowing, or in a state of deterioration.

- B. **Exterior Walls and Exposed Surfaces.** Every exterior wall and weather-exposed exterior surface or attachment of a building or structure shall be free of holes, breaks, loose or rotting boards, or timbers, and any other conditions which might admit rain or melt water or dampness to the interior portions of the walls or the occupied spaces of the building or structure.
 - 1. All exterior wood surfaces shall be made substantially impervious to the adverse effects of weather by periodic application of an approved protective coating of weather-resistant preservative, and be maintained in good condition.
 - 2. Every landlord of a structure, building or premises who rents, leases or lets a dwelling or dwelling unit for residential occupancy within any such space shall maintain in a weathertight condition all siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights.
 - 3. Every owner of any structure, building or premises that is not for rent, lease or to be let for residential occupancy, shall maintain in a watertight condition all siding and masonry and joints, including those between the building envelope and the perimeter of windows, doors and skylights.
 - 4. Exterior metal surfaces shall be protected from rust and corrosion. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion.

- C. **Windows and Doors.** Every window, sash, door and door frame of a building shall be kept in sound condition and in good repair. Every exterior door, skylight, and window shall comply with the following:
1. Every exterior door, door hinge, door knob, door lock, and strike plate shall be maintained in good condition;
 2. Every exterior door, when closed, shall fit reasonably well within its frame;
 3. Every exterior door frame shall be constructed and maintained in relation to the adjacent wall construction so as to exclude rain or melt water as completely as possible; and, with respect to all dwellings and dwelling units that are for rent, lease or to be let for residential occupancy, to also substantially exclude wind from entering a building;
 4. Every window sash shall be maintained in sound condition and good repair; and, with respect to all dwellings and dwelling units that are for rent, lease or to be let for residential occupancy, shall also substantially exclude wind from entering a building when the window components are placed in a closed position within the frame and jamb;
 5. Every window frame and casing shall be constructed and maintained in relation to the adjacent wall construction so as to substantially exclude rain or melt water as completely as possible; and, with respect to all dwellings and dwelling units that are for rent, lease or to be let for residential occupancy, shall also substantially exclude wind from entering a building.
- D. **Glazing.** Every window sash of a building exterior envelope shall be fully supplied with glass window panes or an approved substitute without open cracks and holes.
1. All glazing materials shall be maintained free from cracks and holes.
 2. Glazing with holes, cracks, or that is partially or wholly missing shall be replaced within thirty (30) calendar days of the incident that caused the defect.
- E. **Basement Hatchways.** Every basement hatchway shall be maintained to prevent as completely as possible the entrance of rodents, rain or melt water and surface drainage water.
- F. **Temporary Measures.** The use of tarps or similar material for emergency repair, or in place of a customary building component such as siding or roofing, shall not exceed a continuous period of more than 30 days, and shall not exceed 90 days total in any 12 month period, except when weather conditions necessitate using longer to keep keeping the building, home, or structure dry until a dry time when the siding or roof can be repaired, or except _____ for use during construction in association with a building —permit, or as a _____ requirement included in a lawfully served Public Nuisance notice.

Commented [MA1]: cConsistent with 30 days in TMC 8.04.050 - Buildings and structures.
A. An improperly maintained building or structure is a nuisance. An improperly maintained building is one that is in an obviously dilapidated state, such as a building or structure that has:

1. A substantial amount of missing siding, roofing or other component. A building with a temporary cover such as a tarp or plywood for more than thirty (30) days is considered to have missing siding or roofing or other components.
2. Has missing windows or doors, or windows, doors or screens that are not properly attached or that do not properly close.
3. Has substantial visible damage or deterioration of any type, including smoke damage or peeling or flaking paint.
4. Has any component or attachment that is visibly broken or damaged.

(Ord. No. 1347, § 3, 11-21-2012)

Section 29. Section § 8.24.280 of the Toledo Municipal Code is added to read as follows:

8.24.280 - Exterior Sanitation.

All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The exterior property and premises and the adjacent rights of way shall be maintained in a manner that complies with the following requirements:

- A. **Responsibilities.** The owner of every property shall maintain the structures, premises and all common areas of the exterior property in compliance with these requirements. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.
- B. **Holes, Tanks, and Child Traps.** Remove, or fill where filling will abate the nuisance, all holes, cisterns, open cesspools, open or unsanitary septic tanks, excavations, open foundations, refrigerators, freezers, or iceboxes with unlocked attached doors and any other similar substance, material or condition which may endanger neighboring property or the health or safety of the public or the occupants of the property.
- C. **Unsecured Structures.** Board over or otherwise secure, and keep boarded over or otherwise secured, all open or broken exterior doors, windows, or apertures of any unsecured structure so as to prevent access by unauthorized persons through such openings. No requirement imposed under this section shall constitute relief from or an exemption to compliance with the provisions in subsection C. and D. of TMC Section 8.24.270 for weathertight and watertight standards.
- D. **Rat Harborage.** Remove or repair, and keep removed or repaired, any condition that provides a place where rats gain shelter, feed, or breed.
- E. **Emergency Access Routes.** All brush, vines, overgrowth and other entangling or rank vegetation located within 10 feet of a structure or within 10 feet of a property line, which is likely to obstruct or impede the necessary passage of fire or other emergency personnel, shall be removed and kept clear.
- F. **Thickets that Conceal Hazards.** ~~Not all thickets are required to be addressed, but keeping adequate defensible space is a necessity, requiring an owner, occupant of agent to cut and remove and keep cut and removed those blackberry vines and other thickets, in close proximity to buildings, structures and fences, to protect life and property. To mitigate the risk to life, structures, and other values, from fire or nuisances, such growth shall be cut when it is found to be: Cut and remove and keep cut and removed all blackberry vines and other thickets when such growth is found to be:~~

- 1. Concealing trash and debris; or,
- 2. Creating rat harborage; or,

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3. Creating harborage for people involved in criminal or prohibited activity or for products used for criminal activity.

G. **Trash and Debris.** Remove, and keep removed, even if located behind a private fence where not readily visible from the right-of-way or a neighboring lot or parcel, unless specifically authorized by ordinance to do otherwise:

1. All garbage, offal, dead animals, animal and human waste, and waste materials;

2. Accumulations of litter, glass, scrap materials (such as wood, metal, paper, and plastics), junk, combustible materials, stagnant water, or trash;

3. All dead bushes, dead trees, and stumps with the exception of such material which:

a) Is being maintained as part of a naturescaped property, or chipping area and wood piles for use as firewood; and,

b) Does not result in a nuisance as otherwise defined in this chapter; and,

c) Is located on a property which is otherwise substantially in compliance with this chapter;

4. All trees which are dead, dying or dangerous and are determined by the Director or a private certified arborist to require removal in order to safeguard people or property;

5. Accumulations of dead organic matter and yard debris, but only if it results in a nuisance, but excluding an accumulation of such material in a maintained compost area if such material does with the exception of small and only if such material does not result in a nuisance, such as creating rat harborage, as otherwise defined in this chapter; and,

6. Accumulations of clothing and any other items not designed for outdoor storage.

H. **Storage of non-Trash Items.** Remove, and keep removed, unless specifically authorized by ordinance to do otherwise:

1. Accumulations of wood pallets;

2. Any woody debris from Elm trees and all firewood that is not stacked and useable. "Useable" firewood has more wood than rot and is cut to lengths that will fit an approved fireplace or wood stove on the property. Elmwood which is infected with Dutch Elm Disease must be properly disposed of at the direction of the Director;

Commented [MA2]: Offal - defined as "the entrails and internal organs of an animal used as food." - or "decomposing animal flesh."

Commented [MA3]:

Commented [MA4]: Dutch elm disease is a destructive plant pathogen. It is caused by a parasitic fungus which affects elms trees.

3. Accumulations of vehicle parts or waste tires except for storage of nonwaste, serviceable parts or tires that are reasonably expected to be used on a vehicle and are stored in a manner to protect their utility and prevent deterioration;
4. All construction materials except those that are stored in a manner to protect their utility and prevent deterioration and are reasonably expected to be used at the site;
5. All appliances or appliance parts except for storage of appliances that are reasonably expected to be used at the site and are stored in a manner to protect their utility and prevent deterioration;
6. All indoor furniture except that which is stored in a manner to protect its utility and prevent deterioration and is reasonably expected to be used at the property;
7. All recycling materials except for reasonable accumulations that are stored in a well-maintained manner;
8. All other non-trash items which:
 - a) Are of a type or quantity inconsistent with normal and usual use; or,
 - b) Are likely to obstruct or impede the necessary passage of fire or other emergency personnel.

Section 30. Section § 8.24.290 of the Toledo Municipal Code is added to read as follows:

8.24.290 – Solid Waste Removal.

- A. **General.** All exterior property and premises, and the interior of every structure, shall be kept free from any accumulation of solid waste as defined in TMC Section 8.16.030.
 1. Approved receptacles for solid waste shall be provided and utilized for the containment and disposal of solid waste;
 2. Bulk solid waste shall be disposed of within a week of discard, or in accordance with franchise utility services, or approved alternative.
- B. **Occupant Responsibilities.** Every occupant of a structure or premises shall dispose of solid waste by placing all such material in an approved solid waste disposal facility or approved receptacles.
- C. **Landlord Responsibilities.**

The landlord of any multi-family dwelling shall:

1. Provide, in a location accessible to all dwelling units, adequate solid waste receptacle capacity for the containment of solid waste generated or discarded on the property or premises, whether that containment capacity is provided individually for each dwelling unit or cumulatively for more than individual dwelling units, into which all solid waste from the dwellings unit may be emptied for storage between days of collection. Receptacles must be of sufficient capacity to prevent the overflow of solid waste from occurring; and,

2. Subscribe to and pay for weekly solid waste management services, including recycling and yard waste service, by a person holding a valid franchise from the City of Toledo. Notwithstanding the minimum of solid waste management services herein established, the period and frequency of collection must be sufficient to prevent the overflow of solid waste from occurring.

The landlord of any 1 and 2 family dwelling, except as otherwise provided by written agreement between the landlord and the tenant, shall:

1. Provide, in a location accessible to each dwelling unit, adequate solid waste receptacle capacity for the containment of solid waste generated or discarded on the property or premises, whether that containment capacity is provided individually for each dwelling unit or cumulatively for more than individual dwelling units, into which solid waste from the dwelling unit(s) may be emptied for storage between days of collection. Receptacles must be of sufficient capacity to prevent the overflow of solid from occurring; and,

2. Subscribe to and pay for weekly solid waste management services, including recycling and yard waste service, by a person holding a valid franchise from the City of Toledo. Notwithstanding the minimum of solid waste management services herein established, the period and frequency of collection must be sufficient to prevent the overflow of solid waste from occurring.

Section 31. Section § 8.24.300 of the Toledo Municipal Code is added to read as follows:

8.24.300 - Building and Accessory Structures.

It is the responsibility of the owner of any property, improved or unimproved, to maintain the exterior property, premises, buildings and structures of the property and the adjacent right of way in a manner that complies with the following requirements:

A. **General Maintenance.** The exterior of a building or structure and any attached decorative features shall be maintained in good repair, with proper anchorage, and structurally sound in a safe condition so as not to be in a state of deterioration, and in a sanitary condition so as not to pose a threat to the public health, safety or welfare.

B. **Foundations and Structural Members.** Foundation elements shall adequately support the building and shall be free of rot, crumbling elements, or similar deterioration.

1. All foundation walls shall be maintained free from large open cracks and breaks and shall be kept in such condition so as to prevent the entry of insects, rodents or pests.

2. All supporting structural members in every building and structure shall be maintained structurally sound, showing no evidence of deterioration or decay which would substantially impair their ability to carry imposed loads.

C. **Exterior Walls and Exposed Surfaces.** Every exterior wall of a building and all weather-exposed exterior surface or attachment of a building shall be free of holes, breaks, loose or rotting boards, or timbers.

D. **Brick and Veneers.** Every section of exterior brick, stone, masonry or other veneer applied to a building shall be maintained structurally sound and be adequately supported and tied back to its supporting structure.

E. **Chimneys.** Every masonry, metal, or other chimney shall remain adequately supported and free from obstructions and shall be maintained in a condition which ensures there will be no leakage or backup of noxious gases. Every chimney shall be reasonably plumb. Loose bricks or blocks shall be rebonded. Loose or missing mortar shall be replaced. Unused openings into the interior of a structure shall be permanently sealed using approved materials.

F. **Roofs.** All building roofs shall be structurally sound.

~~G. **Decorative Features.** All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features on a building or structure shall be maintained in good repair with proper anchorage and in a safe condition, so as not to be in a state of deterioration.~~

Commented [DW5]: I think we still need something like this but maybe stating it should be kept in a safe manner or as a non hazard... i.e. not dangling ready for next wind to fall down on someone or thing.

~~H.G.~~ **Accessory Structures.** Every accessory structure, including sheds, trellises, awnings, fences, and other similar features, shall be maintained structurally safe and sound, and in good repair. Exterior steps and walkways shall be maintained free of unsafe obstructions or hazardous conditions.

~~H.H.~~ **Retaining walls.** All retaining walls stabilize slopes by retaining the soil behind them, and the city has topography that requires retaining walls to be built and remain in good repair to avoid unsafe or hazardous conditions, consistent with the standards in TMC Chapter 15.20. Retaining walls can be made from a variety of materials such as sheet pile, timbers, stacked rock, poured concrete or gabions. Regardless of construction material or method, every retaining wall must continue to retain the soil and must not be missing materials to accomplish this purpose, or leaning, tipping, or bulging, to create a potential safety hazard, or otherwise impede normal and expected movement on an exterior stairway or sidewalk. Retaining walls that do not meet these standards and the standards in TMC Chapter 15.20 are a nuisance, may be declared dangerous, and must be abated due to being in violation this code.

~~J~~. **Vacant Structures and Land.** All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

~~K~~. **Decks, Stairs and Handrails; Maintenance.** It is the responsibility of the owner of every property to maintain the building and structures on the property in a manner that complies with the following requirements:

1. Every exterior stairway, deck, porch and balcony and attachment to stairways, decks, porches and balconies shall be:

a) Maintained so as to be safe to use and capable of supporting the loads to which it is subjected;

b) Kept in sound condition and good repair, including replacement as necessary of flooring, treads, risers, and stringers that evidence excessive wear and are broken, warped, rotten, deteriorated or loose;

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

3. Handrails and guardrails required by building codes at the time of construction shall be maintained or, if removed, shall be replaced.

~~L~~. **Exterior Lighting.** Exterior site lighting required by the Toledo land development code or the building code at the time of development shall be maintained or, if removed, shall be replaced.

Section 32. Section § 8.24.310 of the Toledo Municipal Code is added to read as follows:

8.24.310 - Fire Safety.

In addition to, and unless in conflict with, the Oregon Fire Code (OFC), referenced in TMC Section 8.20.010, the further emphasis of life, fire, and safety is required for all structures, properties and premises and for all occupancy and use types, including but not limited to structures occupied for residential use by tenants, by this section.

A. **Means of Egress Door Locks.** All means of egress doors shall be readily openable from the side from which egress is to be made without the use of a key or any special knowledge or effort.

B. **Unobstructed Path of Travel.**

1. Every accessible means of egress, fire escape or stairway, stair platform, corridor or passageway which may be one of the regular accessible means of egress or means of

emergency exit from a residential structure shall be kept free of encumbrances or obstructions of any kind.

2. Any installed storm windows on windows required for emergency escape must be easily openable from the inside without the use of a key or special knowledge or effort.

C. Fire-Resistive Assembly; Maintenance.

1. Where required by the code in effect at the time of construction, the fire resistance rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained.

2. The surfaces of all other non-rated interior walls, floors and ceilings shall be free of holes larger than four inches in diameter.

D. Smoke Detectors.

1. 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 Department of the State Fire Marshal.

2. No person shall remove or tamper with a properly functioning smoke alarm or smoke detector. This prohibition included removal of working batteries.

3. A violation of this subsection is a separate Class A infraction each day that the violation exists or continues.

Section 33. Section § 8.24.320 of the Toledo Municipal Code is added to read as follows:

8.24.320 - Enforcement.

A. Enforcing compliance. To enforce any of the requirements of this chapter, the Director may gain compliance by:

1. Instituting an action before the Toledo Municipal Court; or,
2. Causing appropriate action to be instituted in any other court of competent jurisdiction; or,
3. If denied access, seeking an administrative search warrant, pursuant to TMC Chapter 1.16, "Right of Entry for Inspections; or
4. Imposing civil penalties; or,

5. Taking other action as the Director in the exercise of the Director's discretion deems appropriate.

B. Initial Contacts.

1. The Director receives complaint or information of possible violation of this chapter.
2. One contact is made with responsible party, when possible, and the property is inspected.
3. If no violation exists or violation conditions are immediately corrected, file is closed.
4. If violation exists and cannot be immediately corrected, the Director may issue to the responsible party a correction notice that identifies code violation, specifies required abatement action, and assigns a deadline for completion of abatement, consistent with the provision of this chapter. Service of the correction notice may be made:
 - a) in person when contact can be promptly made at the premises; or,
 - b) for occupant responsibility circumstances at 1-2 Family dwellings, the correction notice may be posted conspicuously on the dwelling if in person contact is not made; or,
 - c) via US First Class mail.
 - d) Failure for service to be made in the manner provided for within this paragraph shall not render the correction notice void.

C. Notice of Violations. If violation exists and remains uncorrected after issuance of correction notice, the Director may issue a notice of violation to the responsible party.

1. Notice of violation will identify code violation, will specify required abatement action, and will assign a deadline for completion of abatement, consistent with the provision of this chapter.
2. A copy of a notice of violation issued shall be forwarded to the landlord and the occupant if either is not the responsible party identified as recipient of the notice;
 - a) copy will be mailed to the owner of the property at the address on record with the county assessor's office;
 - b) copy will be mailed to the occupant(s) of the affected premises by situs address(es); and
 - c) Additionally, a link to an electronically accessible copy will be emailed to the landlord if that person has provided an email address.

3. Person receiving a notice of violation may request an extension of period of time to correct the violation.

D. Compliance Period for Required Abatement Response.

1. Other than as specifically provided for under paragraph 2 of this subsection, the landlord or occupant responsible for any violation of the standards in the sections specified under TMC Section 8.24.180 shall be ordered to complete required repairs or abatement within 7 days, plus three days if the notice and order are mailed rather than served on the person.

2. When the finding of violation of a standard of this chapter is due to any of the following conditions the landlord or occupant, as applicable, shall be ordered to complete the required repair or abatement within 48 hours:

- A) lack of heat, per TMC Section 8.24.240;
- b) lack of water, or any properly functioning toilets or sinks, per TMC Section 8.24.230;
- c) lack of hot water, per TMC Section 8.24.230;
- d) lack of a properly functioning or tampering or removal of a smoke detector, per TMC Section 8.24.310;
- e) uncontained solid waste, other than bulk solid wastes, per TMC Section 8.24.290; or
- f) is otherwise unfit for human habitation, as defined in TMC Section 8.24.130(66).

E. Failure to Obey Order of Director.

1. It shall be unlawful for any person acting intentionally to refuse to obey an order by the Director acting in the discharge or apparent discharge of official duty administering this chapter.

2. It is no defense to a prosecution for a violation of this section that the Director lacked legal authority to issue the order, provided the Director was acting under color of official authority.

Section 34. Section § 8.24.330 of the Toledo Municipal Code is added to read as follows:

8.24.330 - Derelict Structures.

- A. **Derelict Structures Prohibited.** Derelict structures on any premises are hereby declared to be a public nuisance and their presence prohibited.
- B. **Prohibited Habitation.**
1. No person shall inhabit a derelict structure, and no owner shall allow any person to inhabit a derelict structure, or a building or structure ordered vacated by the Director.
 2. A violation of this subsection is a separate Class A infraction each day that the violation exists or continues.
- C. **Order to Vacate Buildings or Structures.**
1. If the Director finds that a building or structure is or exists in a condition in violation of subsection A. of section 8.24.330, the Director may order that a placard be posted on the building or structure ordering the building or structure vacated. The placard shall additionally contain the information required by subsection B of TMC Section 8.24.350.
 2. Persons performing active work to abate a violation are exempt from a vacation order while working at a premises subject to a vacation order.
- D. **Removal of Placard Prohibited.** The Director shall remove a placard whenever the conditions that resulted in the order to vacate the building or structure have been eliminated.
1. No person shall deface or remove a placard without the approval of the Director.
 2. A violation of this subsection is a separate class A infraction each day that the violation exists or continues.
- F. **Temporary Safeguards.** Notwithstanding any other provisions of this code, whenever, as determined by the Director, a building or structure poses an imminent hazard or incipient hazard, the Director may:
1. Order necessary work to be performed, including the boarding of openings or installation of security fencing, to render such building or structure temporarily safe and secure, whether or not proceedings to abate the hazard have been instituted; and,
 2. Cause such other action to be taken that the Director deems necessary to meet such condition.
- G. **Abatement of Derelict Structure by Remediation.** In addition to, and not in lieu of, the abatement remedies provided for in TMC 8.24.330 through 8.24.350 and receivership authority in TMC 8.24.410, the Director may file a notice with the City Recorder to set a

public hearing before the City Council to seek an order for remediation of the conditions creating a derelict structure.

1. **Notice.** Upon receipt of such notice, the City Recorder shall:

- a) set the matter for prompt public hearing before the Toledo City Council; and
- b) not less than fifteen days prior to the hearing, cause notice thereof to be served via certified mail to the owner at the owner's address as reflected on the most recent tax rolls of the county assessor, and on the occupant; and,
- c) cause notice to be posted on or near the derelict structure.

2. **Service.** Failure of the owner or occupant to receive such notice shall not render the notice void, and an unsuccessful attempt to deliver the notice shall be deemed sufficient service.

3. **Presentation at Hearing.** At the hearing, the Director shall present whatever information, evidence or testimony the City Council may deem relevant in support of the Director's determination, and the owner(s) and occupant(s) shall be afforded a like opportunity to rebut the determination.

- a) Any information, opinion, testimony, or evidence may be received which the City Council deems material, relevant, and probative of the matters in issue.
- b) The owner and occupants may represent themselves or be represented by counsel provided that such counsel is admitted to the practice of law in the state of Oregon.

4. **Order for Remediation.** If the Director demonstrates, by a preponderance of the evidence, that the building or structure is a derelict structure, the City Council shall order the conditions creating the derelict structure be remediated.

5. **Remediation Factors.** In determining whether the conditions are such that remediation is required, the City Council shall determine whether the building is:

- a) In a condition unfit for human habitation; or,
- b) In a condition that is an incipient hazard, based on the number and extent of the following factors:
 - (1) Dilapidation;
 - (2) Disrepair;
 - (3) Structural defects noted by the Building Official;

(4) Defects increasing the hazards of fire, accident or other calamity, including combustible or explosive material, rubbish, rags, waste, oils, gasoline or inflammable substance of any kind such as parts standing or attached in such manner as to be likely to fall and cause a fire damage or injury;

(5) Uncleanliness or infestations of pests;

(6) Condition of sanitary facilities;

(7) The presence of a public nuisance; and,

(8) The history of unlawful activity in or around the building or structure.

Section 35. Section § 8.24.340 of the Toledo Municipal Code is added to read as follows:

8.24.340 - Public Nuisance Prohibited.

- A. **Declared Public Nuisances.** The following are specifically declared to be public nuisances: Any thing, condition, or act which is or may become a detriment or menace to the public health, welfare, and safety, where such thing, condition, or act is or exists contrary to the provisions of this chapter.
- B. **Prohibition.** In addition to the provision of subsection A of TMC Section 8.24.330, no person shall cause, permit, or maintain a public nuisance on public or private property.
- C. **Joint Responsibility.** If more than one person is responsible for a public nuisance, they shall be jointly and severally liable for correcting the violation and for any costs incurred by the city in abating the nuisance.

Section 36. Section § 8.24.350 of the Toledo Municipal Code is added to read as follows:

8.24.350 - Notice to Person Responsible.

- A. **Notice.** Whenever the Director has reasonable grounds to believe that a violation of TMC Section 8.24.330 has occurred, a notice and order shall be served on the owner(s) and occupant(s).
- B. **Form of Notice.** Such notice prescribed in subsection A of this section and subsection C(1) of TMC Section 8.24.330 shall:
 - 1. Be in writing;
 - 2. Include a description of the premises sufficient for identification;

3. Include a statement of the reason or reasons why the notice is being issued;
4. Include a correction order allowing a reasonable time, as specified under subsection D. of TMC Section 8.24.320, for the repairs and improvements required to bring the premises into compliance with the provisions of this chapter;
5. Include a notice that the city may abate the nuisance pursuant to this chapter and that the person responsible for correcting the public nuisance shall be responsible for the costs of such abatement;
6. Include instructions for requesting an appeal.

C. **Method of Service.**

1. Notices issued under this section shall be deemed to be properly served if a copy thereof is:

- a) Personally delivered to the owner(s) and occupant(s); or,
- b) Sent by first class mail to the owner(s) and occupant(s) at their last known address; or,
- c) Posted at the premises and also sent first class mail to the owner(s) and occupant(s) at their last known address, if they cannot be located.

2. Failure of the owner(s) or occupant(s) to receive such notice or an error in the name or address of the owner(s) or occupant(s) shall not render the notice void and in such case the service shall be deemed sufficient.

D. **Effective Date of Notice.** All notices served pursuant to this section shall be considered served on the date of personal service or as of the date of mailing, if not personally served.

Section 37. Section § 8.24.360 of the Toledo Municipal Code is added to read as follows:

8.24.360 - Action by Responsible Party.

Within the time specified for achieving compliance, as provided for under subsection D. of TMC Section 8.24.320, the responsible party or person in charge of the property on whom the notice has been served or posted shall remove the nuisance or shall request an appeal hearing in accordance with TMC Section 8.24.430.

Section 38. Section § 8.24.370 of the Toledo Municipal Code is added to read as follows:

8.24.370 - Recording a Violation.

- A. The city may record a notice of violation issued under this section with the County Recorder.
- B. Failure to record a notice of violation shall not affect the validity of the notice as to persons who receive the notice.
- C. When the property is brought into compliance, a satisfaction of notice of violation shall be recorded if a notice of violation had been recorded against the property.

Section 39. Section § 8.24.380 of the Toledo Municipal Code is added to read as follows:

8.24.380 - Abatement Procedures- by the City.

- A. If, within time prescribed under subsection D. of TMC Section 8.24.320, the violation has not been corrected the Director may cause the violation to be corrected.
- B. The Director shall keep an accurate record of the expense incurred while physically correcting the violation and shall therein add an administrative cost of twenty (20) percent for overhead.
- C. Any civil penalties awarded by the City Council or a Court pursuant to this chapter shall accrue interest at the rate of 9% per year until paid, pursuant to TMC Section 1.20.120(D), and may be recorded as a municipal assessment lien and foreclosed as provided in TMC Section 1.20.130.
- D. The Director or a person authorized by the Director may enter upon the subject property to abate the nuisance only upon obtaining consent of the person in possession or in charge of the property; or upon obtaining an administrative search warrant for abatement pursuant to TMC Chapter 1.16 or subsection A of TMC Section 8.24.100.

Section 40. Section § 8.24.390 of the Toledo Municipal Code is added to read as follows:

8.24.390 - Abatement Procedures - Assessment of Costs.

- A. After abatement by the city, the Finance Director, by first class mail, shall forward to the owner(s) and occupant(s) a notice stating:
 - 1. The total cost of correction, including the administrative overhead; and,
 - 2. That the costs and administrative overhead as indicated will be assessed to and become a lien against the property unless paid within thirty days from the date of the notice.
- B. If the costs and administrative overhead are not paid within thirty days of the billing date, the Director shall thereafter file with the Municipal Court Judge an itemized statement of costs and overhead, including an additional administrative fee in an amount

of (20) twenty percent of the actual cost of correction to cover the additional expenses involved in collecting the unpaid balance.

- C. Upon filing of such statement of costs and overhead required under subsection B. of this section, the Municipal Court Judge shall set the matter for prompt public hearing before the Municipal Court Judge and cause notice thereof to be served via certified mail to the owner(s) and occupant(s), consistent with the procedures under subsection G(1) of TMC Section 8.24.330.
- D. After the hearing, the Municipal Court Judge shall declare the correctness of such statement and shall declare those as may be accordingly validated to be a lien upon the property.
- E. An error in the contents or service of any notice shall not void the assessment nor will a failure of the owner to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property.

Section 41. Section § 8.24.400 of the Toledo Municipal Code is added to read as follows:

8.24.400 - Abatement Procedures - Summary Abatement.

The Director may summarily abate a situation involving a health, safety, or other nuisance which unmistakably exists and from which there is imminent danger to human life or to property. In that instance, the Director, Chief of the Fire Department, the Fire Marshal/Inspector, the Code Enforcement Officer, or the Chief of Police may proceed summarily to abate the building. The abatement procedure provided by this chapter is not exclusive but is in addition to procedures provided by other laws.

Section 42. Section § 8.24.410 of the Toledo Municipal Code is added to read as follows:

8.24.410 - Receivership Authority.

In addition to, and not in lieu of any other provision in this chapter, when the Director finds residential property in violation of this chapter, and believes that the violation is a threat to the public's health, welfare and safety, and that the owner has not acted in a timely manner to correct the violation, the Director may apply to a court of competent jurisdiction for the appointment of a receiver to perform an abatement pursuant to the Oregon Housing Receivership Act (ORS 105.420 to 105.455).

Section 43. Section § 8.24.420 of the Toledo Municipal Code is added to read as follows:

8.24.420 - Collections.

Collection of abatement costs, fees and penalties may be, in addition to any other remedy provided for by law, pursued through a contract collection agency or small claims court, or

except as provided below, entered into the city's lien docket or -County's Deed Recording System in the manner below as a lien for the entire amount placed against the real property.

A. Any cost of abatement, fine, assessment or civil penalty imposed pursuant to this chapter, which remains unpaid 30 days after the penalty is imposed (or after the fine, assessment or civil penalty has been affirmed on appeal), shall be filed as a lien against the lot, lots or parcels of land involved, the in the Municipal Lien Docket, or in the County's Deed Recording System, or both, as determined by the Director, except an owner of property shall not be subject to a lien against the owner's property for the actions of another person, unless the owner is also a person who is a responsible party. However, a lien may be recorded against different lot, lots or parcels of land owned by the responsible parties, even it is not recorded against the property that is the subject of the abatement.

B. At the time of filing in the Municipal Lien Docket or County's Deed Recording System, notice shall be provided to the responsible person parties. If the responsible person no is not the owner of the property shown in the electronic records of the Lincoln County Assessor on that date is a responsible party, then a lien shall not be recorded against the lot, lots or parcels of land involved. notice shall also be sent to the owner of the property. However, if one or more of the responsible parties are also an owner of the property shown in the electronic records of the Lincoln County Assessor on that date, then a lien may be recorded. Failure to provide notice shall not in any way effect the validity of the lien. The notice shall state that the amounts imposed as penalties shall be payable and due, and as applicable, that the penalties shall be liens against the lots or parcels of land involved, respectively.

C. All such liens remaining unpaid after 30 days from the date of recording on the municipal lien docket shall become delinquent and shall bear interest at the rate of nine (9) percent per annum from and after that date. The liens shall be enforced in the manner provided for municipal liens in ORS Chapter 223 and shall have priority over all such other liens and encumbrances of any character.

D. Pursuant to this chapter, the City Council, as the legislative body of the city, elects to treat costs associated with the enforcement of property maintenance and livability standards, and any related fine, assessment or administrative civil penalties, as a routine obligation of property owners when a person, as defined in this chapter, is a responsible party. Therefore, any municipal costs incurred in the abatement of any derelict structure or public nuisance and/or any fine, assessment or administrative civil penalty not paid within 30 days shall be an assessment, and lien, as applicable, against the property where the building is located.

E. The term "responsible party" means a person, as defined in this chapter, who is at least partially responsible for causing the need to abate as determined in the sole judgment of the city. "Responsible party" includes: a person who is an owner and has not leased the property that is the subject of an abatement to another person; a person who has actual or apparent control of the property; and a person who has a partial ownership interest in a

Commented [DW6]: Explain... I do not think I am comprehending what is said here. Owner is responsible, but not imposing lien as tenants actions created the responsibility of the owner? A bit confusing...

Commented [DW7]: Devil's Advocate: Just to be clear if I own a corporation or LLC and lease the building from my own LLC or corp, I am not subject to lien given by technicality I am a tenant??

corporation, a limited liability company, cooperative, association, partnership, or any other entity in law or fact, that has actual or apparent control of the property.

Section 44. Section § 8.24.430 of the Toledo Municipal Code is added to read as follows:

8.24.430 -Appeals.

- A. Appeals Generally.** Any person served a notice, order, interpretation or decision under authority of this chapter has the right of appeal from the notice, order, interpretation or decision to the City Council.
- B. Filing of Appeal.**
1. **Appeal Period.** An appeal must be submitted to the Director within seven days, plus three days for mailing, from the date that the notice or order was issued.
 2. **Appeal Fee.** Any appeal submitted under this chapter shall include a \$75.00 filing fee.
- C. Scope of Appeal.** Appeals may be filed regarding technical matters of notices or determinations, administrative orders, and interpretations and decisions made by the Director relative to this chapter.
- D. Form of Appeal.** An appeal must be in writing and include the following:
1. Name of person filing the appeal;
 2. Copy of the subject notice or order;
 3. Copy of the section of this chapter which is being appealed;
 4. A complete explanation of the appeal;
 5. An explanation of what is requested of the City Council.
- E. Appeal Procedure.**
1. The Director shall confirm that the appeal meets the filing criteria as prescribed under paragraphs A-D of TMC Section 8.24.430, and that the person filing the request for an appeal has standing.
 2. If the filing criteria have not been met, or if the filing party does not have standing, the person filing the appeal will be so notified and hearing before the City Council will not be convened. The Director, at his/her discretion, may extend the filing deadline by an additional three (3) days to allow a prospective appellant with standing to resubmit a

request for an appeal that has been deemed incomplete. Only one extension may be granted.

3. If the filing criteria are met, the Director shall, within 30 days of the filing of the appeal, contact the City Recorder to set the schedule for a hearing before the City Council. The hearing shall be held not later than 60 days after the filing of the appeal.

4. The appeal shall be conducted on the record.

5. Formal rules of evidence are not required.

6. The City Council shall have the authority to hear appeals of orders, decisions or determinations made under authority of this chapter to determine whether the substance of the order, decision or determination was arbitrary and capricious.

7. The City Council shall not be empowered to waive requirements of this chapter.

8. The City shall issue a written finding and conclusion on the appeal within fifteen (15) days of the hearing, and shall provide a copy to the person filing the appeal and to the Director.

Section 45. Section § 8.24.440 of the Toledo Municipal Code is added to read as follows:

8.24.440 - Violation Penalties.

Persons who violate a provision of this chapter or fail to comply with any of the requirements of this chapter or a directive of the Director authorized by this chapter shall be subject to the provisions of TMC Sections 8.24.450 through 8.24.560.

Section 46. Section § 8.24.450 of the Toledo Municipal Code is added to read as follows:

8.24.450 - Separate Violations.

- A. Each day's violation of a provision of this chapter constitutes a separate offense.
- B. The abatement of a nuisance or violation shall not constitute a penalty for violating this chapter but shall be an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate a nuisance or violation.

Section 47. Section § 8.24.460 of the Toledo Municipal Code is added to read as follows:

8.24.460 - Infractions.

- A. **Imposition of Penalty.** Any person who shall violate any of the provisions herein or fail to comply therewith or who shall violate or fail to comply with any order made hereunder, and from which no appeal has been taken, or who shall fail to comply with

such an order as affirmed or modified by the City Council or by a court of competent jurisdiction within the time fixed herein shall severally for each and every such violation and noncompliance respectively be guilty of an infraction, as designated under TMC Section 1.20.070, unless otherwise provided for by the provisions of this chapter.

1. All such persons shall be required to correct or remedy such violations or defects within a reasonable time, consistent with subsection D. of TMC Section 8.24.320, and, when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

2. Upon conviction of an infraction offense, any person shall be liable for the fines provided for under TMC Sections 8.24.440, 1.20.070 and 1.20.120.

Section 48. Section § 8.24.470 of the Toledo Municipal Code is added to read as follows:

8.24.470 - Classification of Offenses.

- A. Violation of the provisions of this chapter, with forfeiture amounts specified in TMC Section 1.20.070, shall be designated as follows:
1. Violation of TMC Section 8.24.280, Solid Waste Removal, is a Class A Infraction.
 2. Violation of Subsection B of TMC Section 8.24.330, Public Nuisance Prohibited, is a Class A Infraction.
 3. Violation of TMC Section 8.24.310, Fire Safety provisions; Subsection E of TMC Section 8.24.320, Failure to Obey; or subsection B of TMC Section 8.24.330, Prohibited Habitation, is a Class A Infraction.
 4. Violations of any of the subsections in TMC Section 8.24.180, 8.24.190, 8.24.200, 8.24.210, 8.24.220, 8.24.230, 8.24.240, 8.24.250, 8.24.260, applicable to all structures occupied for residential use by tenants, is a Class A Infraction.
 5. Violation of every provision of this chapter not otherwise designated herein is deemed a Class C infraction, except:
 - a) the 2nd offense for violation of same section of this chapter within a twenty-four (24) month period shall be a Class B infraction; and
 - b) the 3rd and subsequent offenses for violation of the same section of this chapter within a twenty-four (24) month period shall be a Class A infraction.

Section 49. Section § 8.24.480 of the Toledo Municipal Code is added to read as follows:

8.24.480 - Civil Penalties.

- A. In addition to and not in lieu of any other means of enforcement or any other penalty provided by law, any person who shall violate a provision of this chapter or who shall fail to comply with any of the requirements thereof or an order of the Director may incur a civil penalty in an amount as specified in TMC Section 1.20.070, plus an administrative fee and any cost of service or recording.
- B. All such persons incurring a civil penalty shall be required to correct or remedy such violations or defects within a reasonable time, consistent with subsection D. of TMC Section 8.24.320, and, when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

Section 50. Section § 8.24.490 of the Toledo Municipal Code is added to read as follows:

8.24.490 - Purpose.

The purpose of a civil penalty is to provide an efficient, convenient, and practical system to enforce a violation of this chapter.

Section 51. Section § 8.24.500 of the Toledo Municipal Code is added to read as follows:

8.24.500 - Civil Penalty against Agents.

Any person who acts as the agent of, or otherwise assists, a person who engages in an activity which would be subject to a civil penalty shall likewise be subject to a civil penalty.

Section 52. Section § 8.24.510 of the Toledo Municipal Code is added to read as follows:

8.24.510 – Procedure for Issuing Civil Penalty.

A civil penalty shall be imposed under this section by issuance of a notice of civil money penalty. A civil penalty may be imposed for each day the violation continues or remains. The notice of civil money penalty shall be issued and served in accordance with the procedures specified within this subsection.

Section 53. Section § 8.24.520 of the Toledo Municipal Code is added to read as follows:

8.24.520 - Notice of Civil Money Penalty.

- A. If a civil penalty is imposed, the Director shall issue a notice of civil money penalty to the person responsible for the code violation.
- B. **Notice.** The notice of civil money penalty shall include:
 - 1. reference to the applicable code provision(s);
 - 2. a statement of the basis of the finding of a violation;

3. a statement of the amount of the civil money penalty;
4. a statement of the party's right to protest the civil penalty to the City Council; and,
5. a statement that a delinquent civil money penalty may become a lien against the property.

C. **Service.** The notice of civil money penalty shall be served on the person responsible for the code violation by:

1. Personal service; or,
2. posted in a conspicuous place in, on or about the structure or premises affected by such notice; or,
3. sent by US first class mail or US certified mail, return receipt requested, to the person's last known address;
 - a) failure of the recipient to sign for the certified mail shall not make the notice void;
 - b) notice served by mail shall be deemed received three days after the date mailed to an address within Oregon or seven days to an address outside of Oregon;
 - c) notice served by mail shall be concurrently posted in a conspicuous place in, on or about the structure or premises affected by such notice.

Section 54. Section § 8.24.530 of the Toledo Municipal Code is added to read as follows:

8.24.530 -Courtesy Notice to Owner.

If the subject violation relates to real property and the person responsible for the violation is not the owner of the property, an informational copy of the notice of civil money penalty shall be sent to the owner of the property by first class mail, at the owner's address as reflected on the most recent tax rolls of the county assessor, at the same time as service on the person responsible.

Section 55. Section § 8.24.540 of the Toledo Municipal Code is added to read as follows:

8.24.540 - Protest of Civil Penalty.

- A. A person issued a notice of civil money penalty may protest the existence of a violation or the circumstances involved in the presence of a violation that resulted in imposition of a civil penalty to the City Council.

- B. An appeal request must be submitted to the Director within seven days, plus three days for mailing, from the date of service of the notice of civil money penalty.
 - 1. After a hearing in which the City Council determines that a violation did or does exist, the City Council may uphold or reduce the original penalty imposed after considering reasonable mitigating factors as determined by the City Council.
 - 2. The City Council may not reduce the civil money penalty by any amount if a violation has not been corrected by the responsible party and inspected by the city.
 - 3. The civil money penalty imposed by the City Council shall not be less than the minimum amount specified under TMC Section 8.24.560.

Section 56. Section § 8.24.550 of the Toledo Municipal Code is added to read as follows:

8.24.550 - Collection of Civil Penalty.

- A. The civil penalty shall become final upon expiration of the time for filing a protest or, if a protest is filed and the City Council affirms the civil penalty, the civil penalty shall become final upon issuance of the City Council's decision.
- B. The civil penalty shall be delinquent if not paid within 30 days from the date the civil penalty becomes final.
 - 1. A late payment charge shall begin to accrue from the date of delinquency.
 - 2. If the civil penalty is imposed on the owner of the property where the violation occurred, and is delinquent, the notice of civil money penalty and a late payment charge shall be entered in the docket of city liens in the manner provided under TMC Section 8.24.420.
 - a) Failure to pay may result in foreclosure in any manner provided by ORS 223.505 to 223.650, or TMC Section 1.20.130, or as otherwise provided by law or code.
 - b) An error in the name of the owner shall not void the lien, nor shall a failure of the owner to receive the notice render the lien void, but it shall remain a valid lien against the property.
 - 3. Any civil penalties that become final pursuant to this chapter shall accrue interest at the rate of 9% per year until paid and may be recorded as a municipal assessment lien and foreclosed as provided in this section.

Section 57. Section § 8.24.560 of the Toledo Municipal Code is added to read as follows:

8.24.560 - Amount of Civil Penalty.

The Director is authorized to impose civil penalties in the amounts as follows, and the City Council may allow reductions consistent with subsection B(1) of TMC Section 8.24.540 and operational guidelines in the amounts as follows:

- A. Violation of a provision of this chapter may be subject to a civil penalty in an amount no less than \$50.00 and not exceeding \$1,000.00 per offense, or in the case of a continuing offense, not more than \$1,000.00 for each day of the offense, based on the classification of each offense, and the maximum forfeitures specified in TMC Section 1.20.070.

- B. **Considerations.** In imposing a penalty authorized by this section, the Director shall consider:
 - 1. The person's past history in taking all feasible steps or procedures necessary or appropriate to correct the violation;
 - 2. Any prior violations of statutes, rules, orders, and permits;
 - 3. The gravity and magnitude of the violation;
 - 4. Whether the violation was repeated or continuous;
 - 5. Whether the cause of the violation was an unavoidable accident, negligence, or an intentional act;
 - 6. The violator's cooperativeness and efforts to correct the violation; and,
 - 7. Any relevant rule of this or other city code.



Toledo City Council Dashboard – Month 2023

Police

Traffic

Citations	
Driving Uninsured	1
Driving W/O Privileges	1
DWS-Violation	2
Fail Carry Proof Insurance	2
Failure to Display/Switch Plate	1
Failure to Drive w/in Lane	1
Failure to Renew Vehicle Registration	1
Improper Display of Sticker	1
Violation of Posted Speed	1
Violation of Posted Truck Route	1
Total	12

	Citations	Warnings	Total	Average Warning	DUII
Total	12	30	42	71%	1

Overtime

Chief	32	Non-compensated
Dispatch	149.5	
Patrol	122	
Total	303.5	
	271.5	Compensated

Crimes

Person

Menacing	1
Sex Offense	1
Total	2

Property

Burglary	4
Criminal Mischief	1
Hit and Run - Property	1

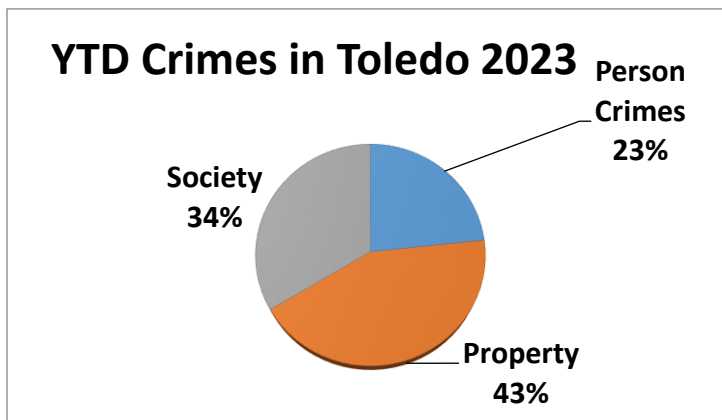


Theft	2
Total	8

Society

Criminal Conspiracy	2
DUII	1
Parole/Probation Detainer	1
Warrant	2
Total	6

Total Crimes	16
Total Cleared Crimes	9
Cleared by Arrest	56%



Library

	October
Circulation of all items	3129
Hotspots	15
Laptops	8
In person visits	1232
Programs	
Childrens Programs	104
Podcast	47
Computers sessions	189
Reference	102



Facebook Viewings	
Post reach	4,017
Post Engagement	549
New Page Likes	9
Volunteer Hours	34
Community Room Use	37
Upstairs conference room	4

Fire

No report.

Municipal Court

Court revenue \$ 2415.00
 Citations 5 Violations 9

Administration – RARE

Utility Information:
 Water Accounts 1400, Billing totals \$11,2832.23
 Sewer Accounts 1270, Billing total \$10,2472.73

Website contacts:

Page path and screen class		↓ Views	Users	Views per user	Average engagement time	Event count All events
		6,791 100% of total	1,909 100% of total	3.56 Avg 0%	1m 15s Avg 0%	20,641 100% of total
1	/	1,419	790	1.80	16s	4,962
2	/meetings	438	120	3.65	1m 28s	1,182
3	/jobs	358	218	1.64	25s	1,211
4	/library	235	140	1.68	52s	847
5	/calendar	219	122	1.80	36s	512
6	/fire/webform/burn-permit-application	193	100	1.93	1m 37s	557
7	/fire	188	136	1.38	39s	730
8	/police	177	127	1.39	53s	761
9	/rfps	163	67	2.43	15s	460
10	/community/page/history-toledo	145	119	1.22	1m 38s	554



Public Works

New Construction Applications:

Generator pad at 860 NE Reservoir Road

Commercial roof at 388 NE 2nd Street

Commercial roof at 144 E Graham Street

Work in the Right-of-Way permit to install overhead line and underground bore at N Main/NW 6th/NW Hwy 20

Work in the Right-of-Way permit to cut service line at 600 NE Beech Street

Land Use Applications:

1. Floodplain Development Permit to install signs at 305 NW 1st Street

2. Lot Line Adjustment for property boundary at 255 NE Magnolia Street and 2150 NE Arcadia Drive

Annual Department Statistics				
Type of Permit	October	2023	2022	2021
Building Permit	3	27	21	27
Other Permits*	2	32	38	20
Land Use Application	2	18	23	29
Truck Permit	0	14	14	13
Value of Construction Improvements	\$119,200	\$2,005,289	\$2,267,667	\$4,167,776

*includes permits for excavation, work in the right-of-way, demolition, and water/sewer connections.

Treatment Plant Operations

Gallons produced by Water Treatment Plant	13,579,417
Billable	8,726,480
Non-billable	1,768,000
Fire Department usage	11,500
Public Works usage	388,220
Total gallons accounted for	10,894,200
Difference	2,685,217
Percent of Loss	19.77%

Wastewater Treatment Plant Gallons treated 15,442,000



Public Works Report:

- Routine checks, mowing, trimming and cleaning of parks and green spaces
- Roof cleaning @ library
- Library door repair
- Library security review
- Flower basket removal, Main St., Port of Toledo
- On-call cleanup of car wreck @ chamber of commerce
- Mill Creek Phase II
- Work orders/ Chlorine residual testing/ blow-offs
- Locates
- Recreational Vehicle dump check/coin collection
- New crosswalk sign installed @ Business 20/ NE 1st St.
- Route maintenance, storm grate clearing
- SE 18th & SE Kauri St. brace added to sewer drop
- Repaired ballasts at Fire Department
- Moved furniture from City Hall to New PD
- Pump station weekly logging of hours and monthly maintenance
- Weekly street sweeping
- Safety data sheet updating for chemicals used at PD
- Asphalt patching SE 18th St.
- Water Distribution repair on SE Fir St. & SE 9th St.
- Asphalt work SE Fir ST that was creating ramp
- Street Sweeping Butler Bridge Road to East Slope Rd.
- Fire Department gutter cleaning
- Arcadia Park bathroom work
- Planning with WTP for Siletz water line usage to GP's Olalla dam
- Water Distribution repair @ SE 6th St/SE Fir St.
- Sewer line repair on SE 3rd/ Douglas st.
- Response to fuel spill on Business 20 by Dairy Queen
- Debris removal from SE Fir St.
- Fixed solar-powered speed sign on East Slope road.
- NW 15 st. water main break/repair
- Blower maintenance around Main St. & associated parking lots
- Sanitary sewer maintenance NW Dundon & NW Sunset
- Meter reading