



**Eugene City Council**

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# EUGENE CITY COUNCIL AGENDA

November 28, 2018

**12:00 p.m. CITY COUNCIL WORK SESSION**  
**Harris Hall, 125 East 8<sup>th</sup> Avenue**  
**Eugene, Oregon 97401**

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**Meeting of November 28, 2018;**  
**Her Honor Mayor Lucy Vinis Presiding**

**Councilors**

Mike Clark, President  
Greg Evans  
Emily Semple  
Jennifer Yeh

Betty Taylor, Vice President  
Chris Pryor  
Claire Syrett  
Alan Zelenka

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**12:00 p.m. EUGENE CITY COUNCIL WORK SESSION**  
**Harris Hall, 125 East 8<sup>th</sup> Avenue**  
**Eugene, Oregon 97401**

- 1. WORK SESSION: Nuisance Codes**
- 2. WORK SESSION: Eugene Recycling Program**

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El consejo de la Ciudad de Eugene agradece su interés en estos asuntos de la agenda. El lugar de la reunión tiene acceso para sillas de ruedas. Se puede proveer a un intérprete para las personas con discapacidad auditiva si avisa con 48 horas de anticipación. También se puede proveer interpretación para español si avisa con 48 horas de anticipación. Para reservar estos servicios llame al 541-682-5010. Las reuniones del consejo de la ciudad se transmiten en vivo por Metro Television, Canal 21 de Comcast y son retransmitidas durante la semana.

For more information, contact the Council Coordinator at 541-682-5010  
or visit us online at [www.eugene-or.gov](http://www.eugene-or.gov).

# EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



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## Work Session: Nuisance Codes

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Meeting Date: November 28, 2018  
Department: Planning and Development  
[www.eugene-or.gov](http://www.eugene-or.gov)

Agenda Item Number: 1  
Staff Contact: Mark Whitmill  
Contact Telephone Number: 541-682-5128

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### **ISSUE STATEMENT**

This work session provides an opportunity for City Council to discuss and provide feedback on proposed code amendment language that would address the impacts to neighborhoods caused by abandoned and derelict properties as well as nuisance odors related to the growing and processing of marijuana, especially in residential neighborhoods.

### **BACKGROUND**

The purpose of the City's code compliance program is to ensure the public's safety, health, welfare and environment by enforcing regulations that preserve, protect and improve neighborhoods.

At the July 23, 2018, work session staff provided an overview of the code compliance program that included:

- An overview of the City's nuisance, zoning and building codes already in place.
- Tools used to achieve code compliance.
- Impacts of vacant, abandoned, and dangerous buildings.
- Impacts related to odor as a result of marijuana processing.

### ***Marijuana Odor***

Since the legalization of commercial, medical and recreational marijuana, the City has seen an increase in the number of odor complaints. The complaints are typically in regards to the intense odor that occurs during the processing of the plant. State law allows for persons to grow and process up to 12 mature plants and 24 immature plants per residence. Commercial and mixed use zones may allow for higher numbers of plant propagation and processing.

The existing code used to enforce odor was adopted several decades ago. Prior to legalization, staff enforced using the existing odor language without challenge. More recently, however, the City has received several requests for appeal to a hearings official, leading to a current hold on enforcement action. The code as written is not adequate to address these types of complaints.

### ***Vacant Buildings***

City staff respond every year to a significant number of complaints related to vacant and abandoned properties. A number of reasons can cause a home or building to remain vacant,

including an owner defaulting on their mortgage, lengthy bank foreclosure processes, or even cost prohibitive home repairs. There are other situations where the owner may choose to secure the building and leave it vacant rather than make any corrections to reoccupy.

Vacant buildings may become an ongoing nuisance for the neighborhood and have an impact on City resources. Without an owner, tenant or property manager actively managing and monitoring the upkeep and activity of a property, a building may deteriorate into a state of disrepair. Abandoned, distressed or derelict properties can result in general safety and health concerns, creating an attractant for squatters, trash, debris, rodents and criminal activity. There are times when banks are unwilling to assume full responsibility for a property until it has regained legal possession.

If left unresolved, these issues may have serious detrimental effects on neighborhoods. Under the City's existing codes, as long as a vacant building remains secure and in compliance with other City codes no further enforcement action can be taken.

### ***Hoarding***

In addition to seeing an increase in the number of vacant buildings, staff has seen a steady increase in the number of dangerous buildings as a result of hoarding. The City has an existing dangerous building code used to address this serious habitability concern. However, hoarding presents some unique challenges and updating the code language would provide the City with an opportunity to include language that may provide clarification around this specific issue.

### ***Direction***

The City's nuisance codes have not been updated since the 1980's. The City's existing codes may be deficient, in some areas, to address the livability issues that have emerged in the last 20 years. Eugene's population continues to grow; this has resulted in an increase in density and a change in the character of properties, many of which have become mixed use.

Based on this information City Council directed the City Manager to (1) bring back ordinance code amendment language similar to the cities of Corvallis, Portland, Gresham and Salem to address negative effects on neighborhoods cause by vacant buildings, dangerous conditions caused by hoarding, and nuisance odors related to the processing of marijuana in residential zones; and (2) conduct a comprehensive review of the existing nuisance code for additional revisions that may address other modern livability issues, which may include adding a property maintenance code similar to the cities of Corvallis, Portland, Gresham and Salem.

In response to council's direction staff has prepared draft code changes to address abandoned and vacant buildings, hoarding and nuisance odors (Attachment A). The changes were made to the City's nuisance code section found in Chapter 6, Environment and Health. These changes include adding the following definitions: abandoned and derelict structures; attractive nuisances; unoccupied; unsecured; building interiors; and unfit for human habitation. In addition, code language was added to include receivership authority. Receivership is tool used when a property is abandoned, a jurisdiction is unable to achieve voluntary compliance, and the property has

reached a state that creates conditions that contribute to spread of disease, criminal activity, urban blight, and community deterioration.

In response to the increased number of odor complaints related to marijuana, the attached draft code language expands on the definition of odor to include an offensive odor of which impacts the enjoyment and use of property. The draft code provides a number of factors to consider in determining whether an odor is offensive to individuals of normal sensitivity.

The proposed changes are intended to address conditions that threaten the health and safety of occupants and the community and have a negative impact to neighborhood livability.

The Agenda Item Summary from the [July 23, 2018, work session on nuisance code](#), including examples of code from other jurisdictions can be reviewed online.

## **RELATED CITY POLICIES**

### *City Council Goals*

- Safe Community: A community where all people are safe, valued and welcome.
- Sustainable Development: A community that meets its present environmental, economic and social needs without compromising the ability of future generations to meet their own needs.

### *Envision Eugene Pillars*

- Provide affordable housing for all income levels
- Promote compact urban development and efficient transportation options
- Protect, repair, and enhance neighborhood livability

## **COUNCIL OPTIONS**

1. Direct the City Manager to schedule a public hearing on draft code amendments as proposed in Attachment A.
2. Take no action at this time.

## **CITY MANAGER'S RECOMMENDATION**

City Manager recommends scheduling a public hearing on draft code amendments as proposed in Attachment A.

## **SUGGESTED MOTION**

Move to direct the City Manager to schedule a public hearing on the draft code amendments set forth in Attachment A.

## **ATTACHMENT**

- A. Proposed Nuisance Code

**FOR MORE INFORMATION**

Staff Contact: Rachelle Nicholas  
Telephone: 541-682-5495  
Staff E-Mail: [rnicholas@eugene-or.gov](mailto:rnicholas@eugene-or.gov)

**6.005** **Definitions.** For purposes of sections 6.005 to 6.845, the following words and phrases mean:

***Abandoned structure.*** *A vacant structure that is an attractive nuisance.*

***Attractive nuisance.*** *Buildings, structures, or premises that are in an unsecured, derelict or dangerous condition, including but not limited to:*

- 1. Unguarded machinery, equipment, or other devices which are attractive, dangerous, and accessible to children.***
- 2. Lumber, logs, or pilings placed or stored in a manner so as to be attractive, dangerous, and accessible to children.***
- 3. An open pit, quarry, cistern, or other excavation without safeguards or barriers to prevent such places from being used by children.***
- 4. An open, vacant structure which is attractive, dangerous and accessible to children or which is used for habitation by trespassers.***

***Attractive nuisance does not mean authorized construction projects with reasonable safeguards to prevent injury or death to playing children.***

***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:*

- (1) Is unoccupied and unsecured;***
- (2) Is partially constructed;***
- (3) Is an abandoned structure or attractive nuisance;***
- (4) Is in condition of deterioration;***
- (5) Has an infestation of pests;***
- (6) Has doors or windows boarded over; or***
- (7) Other condition that in the opinion of the Health Officer is detrimental to public health, safety or welfare.***

**Developed property.** A tract of land occupied preponderantly by a structure used or designed for use as a residence or a place of economic enterprise, by landscaping, by other improvement accessory to the structure, or by a combination of such land development.

**Enforcing officer.** Any city employee authorized by the city manager to enforce the nuisance abatement provisions of this chapter.

## Nuisance Code

**Feed.** To place, deposit, distribute, store or scatter food, garbage or any other attractant so as to constitute a lure, attraction, or enticement for wildlife.

**Graffiti.** Any inscriptions, words, figures or designs, other than handbills, that are marked, etched, scratched, drawn, painted, pasted, or otherwise affixed to the exterior surface of public or private property, without the knowledge and prior consent of the owner or person in charge of the property.

**Person in charge of property.** An agent, occupant, lessee, tenant, contract purchaser, or other person having possession or control of property or the supervision of a construction project on the property.

**Person responsible.** Any or all of the following:

- (a) The owner of the property on which the nuisance exists or the owner of property which abuts a public way where a nuisance exists.
- (b) The person in charge of the property or of property which abuts a public way where a nuisance exists.
- (c) The person who causes the nuisance to come into or continue in existence.

**Public way.** Any street, road, alley, right-of-way, pedestrian or bicycle easement for public use.

**Rodent-proof.** Any building, structure or part thereof is "rodent-proof" when it is constructed of concrete, metal or some equally impermeable material and in a manner that excludes rats and mice therefrom.

***Unfit for human habitation. A building or structure that, as found by the enforcing officer, is unfit for human habitation due to unsanitary conditions; infestation; accumulation of filth or contamination; lack of required ventilation, illumination, or 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.***

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

***Unsecured. Unlocked or otherwise open to entry.***

**Vegetation.** Plant life, including but not limited to, trees, shrubs, flowers, weeds and grass.

**Wildlife.** Deer, raccoon, wild turkey, bear, cougar, coyote, and wolf.

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**6.010** **Nuisances Affecting the Public.** The following are nuisances which may be abated as provided in this code:

(a) Animal carcasses, etc. The deposition of an animal carcass or part thereof, or any excrement or sewage, or industrial waste, or any putrid, nauseous, decaying, deleterious, offensive, or dangerous substance in a stream, well, spring, brook, ditch, pond, river, or other inland waters within the city, or the placing of such substances in such position that high water or natural seepage will carry the same into such waters.

(b) Attractive nuisances. No owner or person in charge of property shall permit **an attractive nuisance** thereon[:

1. ~~Unguarded machinery, equipment, or other devices which are attractive, dangerous, and accessible to children.~~

2. ~~Lumber, logs, or pilings placed or stored in a manner so as to be attractive, dangerous, and accessible to children.~~

3. ~~An open pit, quarry, cistern, or other excavation without safeguards or barriers to prevent such places from being used by children.~~

4. ~~An open, vacant structure which is attractive, dangerous and accessible to children or which is used for habitation by trespassers.~~

~~This section shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children.]~~

(c) Debris. An accumulation of decomposed animal or vegetable matter, garbage, rubbish, manure, offal, ashes, discarded containers, waste, paper, debris, trash, hay, grass, straw, weeds, litter, rags, or other refuse matter or substance which by itself in conjunction with other substances is deleterious to public health or comfort, or is unsightly, or creates an offensive odor.

(d) Fences.

1. A fence, barrier, partition or obstruction electrically charged or connected with any electric source in such a manner as to transmit an electrical shock or charge to any person, animal or thing which might come in contact therewith.

2. A barbed-wire fence along a sidewalk or public way except barbed-wire placed on top of fences to prevent access o enclosed hazardous areas or facilities, or barbed-wire on fences in an AG Agricultural District.

(e) Iceboxes and other containers. An abandoned, unattended or discarded icebox, refrigerator or other container accessible to children which has an airtight door, or lock which may not be released for opening from the inside. This definition does not include iceboxes, refrigerators, or other containers offered for sale by commercial establishments provided that the same are kept within enclosures from which children are excluded at all times except business hours.

(f) Odors. ~~[Premises which are in such a state or condition as to cause an offensive odor or which are in an unsanitary condition.]~~ **Causing or**

***permitting any persistent odors, which are offensive to individuals of normal sensitivity and which adversely impact or unreasonably interfere with the use and enjoyment of property, to emanate across any parcel or property line. In determining whether an odor is offensive to individuals of normal sensitivity the enforcing officer may consider factors including, but not limited to, the following:***

- 1. Frequency of the odor;***
  - 2. Duration of the odor;***
  - 3. Strength or intensity of the odors;***
  - 4. Number of people impacted;***
  - 5. The suitability of each party's use to the character of the locality in which it is conducted;***
  - 6. Extent and character of the harm to complainants;***
  - 7. The source's ability to prevent or avoid harm.***
- (g) Privies, etc. A privy, vault, cesspool, septic tank or drain which emits a noisome and offensive smell, or which is prejudicial to public health.
- (h) Stagnant water. An accumulation of stagnant or impure water which affords or might afford a breeding place for mosquitoes or other insects.
- (i) Vegetation. Any vegetation on public or private property that:
1. Is a hazard to pedestrian or vehicular use of a sidewalk or street by obstructing passage or vision. The hazards include but are not limited to:
    - (a) Vegetation that encroaches upon or overhangs a pedestrian way or adjacent curb strip lower than nine feet or encroaches upon or overhangs a street lower than 15 feet.
    - (b) Vegetation which obstructs motorist or pedestrian view of traffic, traffic signs and signals, street lights and name signs, or other safety fixtures or markings placed in the public way.
  2. Is a hazard to the public or to persons or property on or near the property where the vegetation is located.
  3. Is obnoxious as defined in section 6.815(1).
  4. Is an obstruction of access to and use of any public facilities placed within the public way.
  5. Is an obstruction of drainage facilities in the public way, including but not limited to roadside ditches, street curbs and gutters, catchbasins and culverts.
  6. The roots of which have entered a sewer, lateral sewer or house connection and are stopping, restricting or retarding the flow of sewage therein.
- (j) Vision obstructions. Any vegetation, structure, mounding of earth or other physical obstruction:
1. Which encroaches upon the vision clearance area defined in subsection 9.0500 of this code; or
  2. Which is higher than 18 inches above the crown of the adjacent roadway in that portion of the right of way between the property

line and the curb line within 35 feet from the intersection of curb lines, if extended, at any street intersection or within 15 feet from the intersection of the curb line with an alley. If no curb exists, no such use of the right of way shall be made within 25 feet of the corner of the private property closest to the street intersection.

- (k) Sidewalk accumulations. An accumulation of leaves, snow, ice, rubbish and other litter or any obstruction upon a sidewalk.
- (l) Unused driveways. Driveway approaches as defined in section 7.400 which are no longer in use.
- (m) Graffiti. Notwithstanding the definition of "graffiti" in section 6.005 of this code, neither the city nor a property owner shall be required to abate graffiti that consists of inscriptions, words, figures or designs that are etched or scratched into window or other glass of a public or private building.
- (n) Unlawful erosion. A violation of sections 6.625 to 6.645 of this code, the rules adopted thereunder, the erosion prevention permit or a condition thereon. Unlawful erosion includes the impacts of such erosion, on-site or off-site.
- (o) Failure to maintain stormwater facilities. A violation of sections 6.600 through 6.615 of this code, the Stormwater Management Manual adopted by administrative order of the city manager as authorized by section 9.6790 of this code, or an operations and maintenance agreement.
- (p) Others. Any other thing, substance, condition, or activity prohibited by state law, common law, this code, other ordinances, or which is determined by the council to be injurious or detrimental to the public health, safety, or welfare of the city.
- (q) **Derelict structures. *Causing or allowing a derelict structure to exist on any premises.***
- (r) **Building interiors. *Failing to maintain the interior of a dwelling in a clean and sanitary condition and free from any accumulation of rubbish or garbage so as not to breed insects and rodents, produce dangerous or offensives gases, odors and bacteria, or other unsanitary conditions, or create a fire hazard.***

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**6.116 Receivership authority. *In addition to, and not in lieu of, any other provision in this chapter, when the enforcing officer finds residential property in violation of section 6.010(q) of this chapter or in violation of Eugene Code Chapter 8, and believes that the violation is a threat to the public's health, welfare and safety, and the owner has not acted in a timely manner to correct the violations, the enforcing officer may apply to a court of competent jurisdiction for the appointment of a receiver to perform an abatement.***

# EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



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## Work Session: Eugene Recycling Program

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Meeting Date: November 28, 2018  
Department: Planning and Development  
[www.eugene-or.gov](http://www.eugene-or.gov)

Agenda Item Number: 2  
Staff Contact: Michael Wisth  
Contact Telephone Number: 541-682-6835

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### **ISSUE STATEMENT**

The City made adjustments to what recyclables are allowed in local collection in response to changes in international policies related to importation of recyclable materials, primarily mixed paper and plastics. While the current international situation shows no sign of changing, the City continues to monitor the situation, work with partners, and develop educational programming to help residents manage the current recycling limitations and the changes it has necessitated. This work session was requested by Councilor Syrett and approved by the council this summer.

### **BACKGROUND**

In 2017, China launched an initiative known as The National Sword, which eliminated Chinese manufacturing facilities that generate excessive pollution and implemented strict cleanliness standards on recyclable material imports, significantly impacting the markets for these materials. These new standards have had a significant and long-lasting impact on recycling in Eugene, Oregon and throughout the Western United States and Canada.

In April of 2018, in response to worsening recycling market conditions and in close collaboration with our licensed haulers, the City of Eugene restricted certain items from the recycling stream, primarily plastic tubs, and limited collectable plastic bottles to narrow-necked drinking bottles (soda, water, etc). In September of 2018, solid waste collection rates were raised, in part, to adjust for the increased cost of disposing and processing recyclable materials. Furthermore, the duration the National Sword continues to depress markets, slow processing and create significant backlogs of recyclable materials. While many long-term solutions are in discussion across the State, there is no expectation of short-term relief.

While the depression of the markets and its ongoing effects remains a developing situation, the City of Eugene, Lane County, the Department of Environmental Quality, and our haulers continue to work closely, exchange information and coordinate efforts.

At this work session, staff will discuss the impacts of the National Sword in further detail, the City's changes to the recycling stream, outreach and educational efforts, developments in response to these recycling issues, and residential food waste.

**RELATED CITY POLICIES**

The City of Eugene regulates licensed garbage and recycling hauling activities within the city limits. These activities are guided by Oregon Revised Statutes as well as the Eugene City Code. In particular, ORS 459A outlines the “Opportunity to Recycle” for all Oregonians and sets a baseline for counties’ and their affiliated municipalities’ garbage diversion rates. The Lane County goal is to achieve 63 percent diversion on an annual basis by 2020. Outside of this statewide policy, waste reduction and diversion is included as an action item within Eugene’s Climate and Energy Action Plan and the City’s Climate Recovery Ordinance.

**COUNCIL OPTIONS**

This is an informational work session.

**CITY MANAGER’S RECOMMENDATION**

None required at this time

**SUGGESTED MOTION**

None required at this time

**ATTACHMENTS**

None

**FOR MORE INFORMATION**

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Staff E-Mail: [mwisth@eugene-or.gov](mailto:mwisth@eugene-or.gov)