



INFORMATIONAL MEMORANDUM

TO: **Public Safety Committee**
FROM: **Jack Pace, DCD Director**
BY: **Nora Gierloff, Deputy DCD Director**
CC: **Mayor Ekberg**
DATE: **August 29, 2017**
SUBJECT: **Code Enforcement Process Update**

ISSUE

Should TMC Chapter 8.45 and other code sections that reference it be revised to update and streamline the code enforcement process?

BACKGROUND

TMC Chapter 8.45 Enforcement contains two alternatives for enforcing violations of the Tukwila Municipal Code – civil infractions and violation notice and orders. Either process is available to the City staff pursuing the violation. The proposed changes would move all future DCD Code Enforcement actions to the Notice of Violation process. Civil infractions would still be available to the Police Department.

In the past our Code Enforcement Officers had received limited commissions from the Police Department and used a police ticket book to write civil infractions (fines) for some code violations. This was cumbersome for Code Enforcement, confusing for the public who received what looks like a traffic ticket in the mail and required that these infractions pass through the Police Department before moving to the Municipal Court. Code Enforcement has been working with the Prosecutor and City Attorney to develop a more streamlined and effective enforcement process.

DISCUSSION

After reviewing the current code provisions Code Enforcement staff and the City Attorney have developed a more efficient approach using the Notice of Violation and Order process. Appeals are held by the Hearing Examiner so do not require the involvement of the Police Department or the Courts, speeding review times. Other changes include:

- Codifying our current practice of sending a courtesy “Request for Compliance” letter on new violations
- Adding a repeat violator clause that allows us to move directly to a Notice of Violation with increased penalties
- Removing the extra step of issuing an Emergency Order for urgent violations
- Moving appeal fees into a separate fee resolution so that they can eventually be included in a Citywide fee schedule
- Increasing appeal fees to cover the City’s cost as they were unchanged since 2006
- Adding a Notice of Assessment to provide due process for appeals of fines
- Creating a separate Chapter 8.48 for the Unfit Dwellings, Buildings and Structures regulations
- Updating references to Chapter 8.45 and removing certain references to civil infractions throughout the Tukwila Municipal Code

FINANCIAL IMPACT

No budget changes requested.

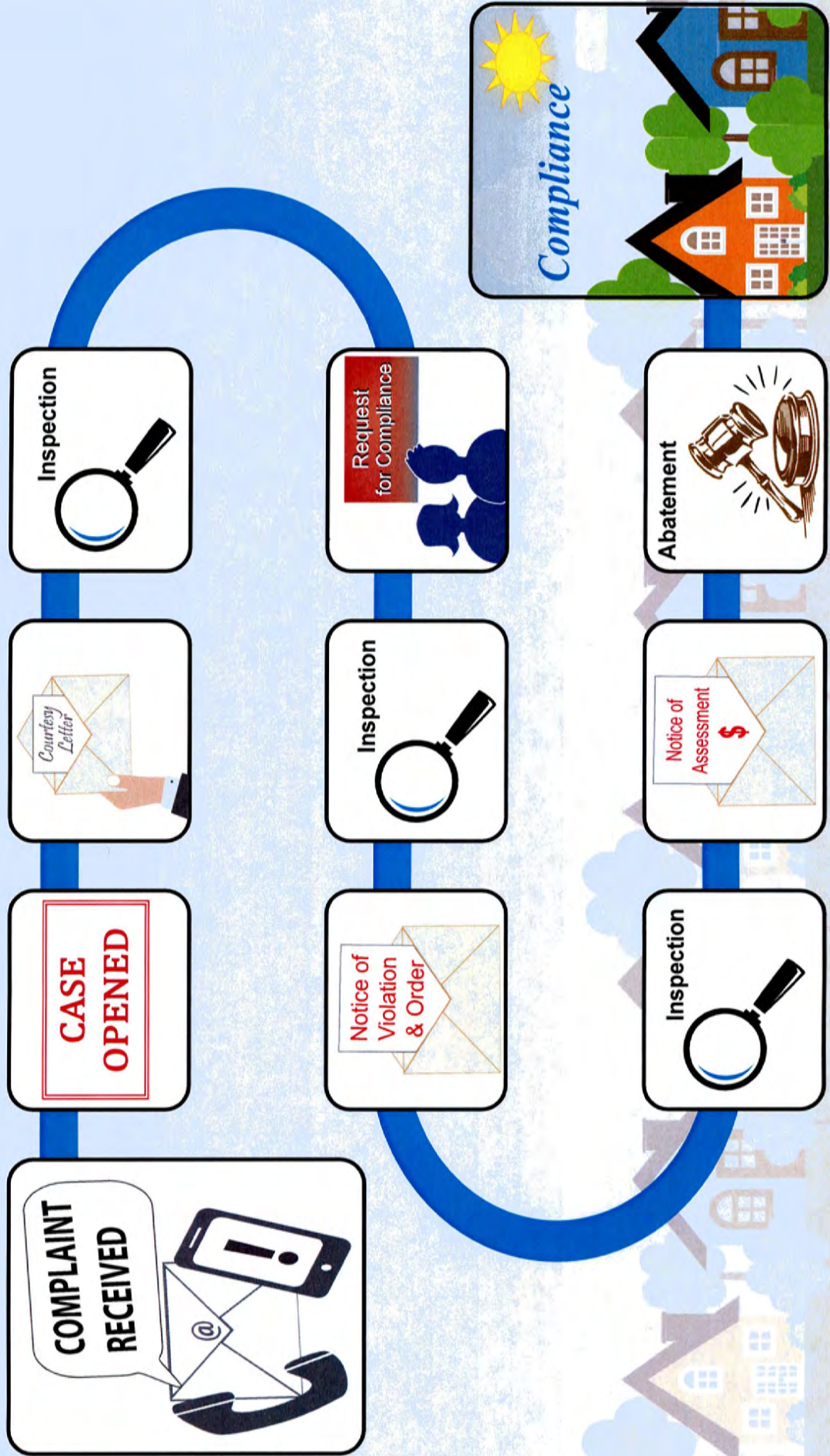
RECOMMENDATION

The Council is being asked to approve the ordinances and resolution and consider these items at the September 11, 2017 Committee of the Whole meeting and on the consent agenda at the subsequent September 18, 2017 Regular Meeting.

ATTACHMENTS

- A. Code Enforcement Process Flyer
- B. Ordinance Repealing and Replacing TMC 8.45
- C. Ordinance Establishing a new Chapter 8.48
- D. Ordinance Amending Various TMC Sections that Reference TMC 8.45
- E. Appeal Fee Resolution

CODE ENFORCEMENT- FLOWCHART



DRAFT

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, REPEALING VARIOUS ORDINANCES AS CODIFIED IN TUKWILA MUNICIPAL CODE CHAPTER 8.45, "ENFORCEMENT"; REENACTING TUKWILA MUNICIPAL CODE CHAPTER 8.45, "ENFORCEMENT," TO CLARIFY AND STREAMLINE THE CODE ENFORCEMENT PROCESS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council finds that effective enforcement of Tukwila's municipal code is essential to maintaining and enhancing the quality of life in the City; and

WHEREAS, the City Council desires to update and streamline the enforcement process for code violations, while maintaining due process for property owners, residents and businesses; and

WHEREAS, addressing most code violations through the Notice of Violation and Order process will allow for more timely and efficient resolutions; and

WHEREAS, the City Council desires to provide an accelerated enforcement process with higher penalties for repeat code violators; and

WHEREAS, the City Council desires to retain the ability of Code Enforcement Officers to tailor enforcement penalties and timelines to address the specific facts of a case, while maintaining consistency and predictability; and

WHEREAS, the City Council desires to address unfit dwellings, buildings and structures in a separate chapter of the Tukwila Municipal Code; and

WHEREAS, as a procedural action, this ordinance is exempt from State Environmental Policy Act (SEPA) review;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Repealer. Ordinance No. 1838 §2, as codified in multiple sections of Tukwila Municipal Code (TMC) Chapter 8.45, "Enforcement" (TMC Sections 8.45.010, 8.45.020, 8.45.030, 8.45.040, 8.45.050, 8.45.060, 8.45.070, 8.45.080, 8.45.090 and 8.45.100), is hereby repealed.

Section 2. Repealer. Ordinance No. 2120 §2, as codified at TMC Section 8.45.090, "Appeal to Hearing Examiner," is hereby repealed.

Section 3. Repealer. Ordinance No. 2125, as codified in multiple sections of TMC Chapter 8.45, "Enforcement" (TMC Sections 8.45.010, 8.45.040, 8.45.045, 8.45.050, 8.45.060, 8.45.080, 8.45.090, 8.45.100 and 8.45.105), is hereby repealed.

Section 4. Repealer. Ordinance No. 2373, as codified at TMC Section 8.45.030, "Violations," is hereby repealed.

Section 5. TMC Chapter 8.45 Reenacted. Tukwila Municipal Code (TMC) Chapter 8.45 is hereby reenacted to read as follows:

CHAPTER 8.45 ENFORCEMENT

Sections:

8.45.010	Purpose
8.45.020	Scope
8.45.030 <u>8.45.020</u>	Violations
8.45.040 <u>8.45.030</u>	Enforcement
8.45.040 <u>8.45.05</u>	Voluntary Correction and Limited Right to Enter Property
8.45.050	<u>Investigation and Request for Compliance</u>
8.45.060	Civil Infraction
8.45.070	Violation <u>Notice of Violation and Order</u>
8.45.060	Time In Which To Comply
8.45.080	Repeat Violations
8.45.070 <u>8.45.090</u>	Stop Work Orders
8.45.080 <u>8.45.100</u>	Abatement <u>Emergency Orders</u>
8.45.090 <u>8.45.110</u>	Appeal To Hearing Examiner
8.45.100 <u>8.45.120</u>	Penalties
8.45.105 <u>8.45.130</u>	Abatement by the City
8.45.110	Additional Enforcement Mechanism
8.45.120	RCW Chapter 35.80 Adopted
8.45.130	Improvement Officer and Appeals Commission Designated
8.45.140	Improvement Officer Authority — Issuance of Complaint
8.45.150	Service of Complaint
8.45.160	Complaint Hearing
8.45.170	Determination, Findings of Fact, and Order
8.45.180	Appeal to Appeals Commission
8.45.190	Appeal to Superior Court
8.45.200	Recommendation/Penalties
8.45.210	Tax Lien
8.45.220	Salvage

Section 6. TMC Section 8.45.010 is hereby reenacted to read as follows:

8.45.010 Purpose

The purpose of TMC Chapter 8.45 is to establish an efficient system to enforce the development, land use, and public health regulations of the City; to provide an opportunity for a prompt hearing and decision on alleged violations of these regulations; to establish penalties for violations, including abatement of any affected properties; and to collect all costs associated with abatement, including relocation/assistance expenses, pursuant to TMC Chapter 8.46.

~~8.45.020 Scope~~

~~The procedures set forth in TMC Chapter 8.45 shall be utilized to enforce violations of the Tukwila Municipal Code, as such violations are described within the Code, and as this chapter is referenced throughout the Code.~~

Section 7. TMC Section 8.45.020 is hereby reenacted to read as follows:

8.45.030020 Violations

A. Failure to comply with any applicable civil provision of the Tukwila Municipal Code shall be enforced through the procedures set forth in TMC Chapter 8.45. In the event of a conflict between this chapter and any other provision of the Code, the more specific provision shall apply.

B. In addition to specific civil violations enumerated throughout the Tukwila Municipal Code, the following actions are unlawful and are subject to enforcement through this chapter:

1. It is unlawful for any person to initiate, maintain, or cause to be initiated or maintained, the use of any structure, land or property within the City without first obtaining the permits or authorizations required for the use by the applicable provisions of any of the Tukwila Municipal Code.

~~B.—~~2. It is unlawful for any person to use, construct, locate, demolish or cause to be used, constructed, located, or demolished, any structure, land, or property within the City in any manner that is not permitted by the terms of any permit or authorization issued pursuant to the applicable provisions of the Tukwila Municipal Code.

~~C.—~~It is unlawful for any person to engage in or conduct business within the City of Tukwila without first obtaining appropriate business licensing.

~~D.—~~3. It is unlawful to remove or deface any sign, notice, complaint or order required by or posted in accordance with TMC Chapter 8.45.

4. It is unlawful to misrepresent any material fact in any application, plans, or other information submitted to obtain any building or construction authorization. and

3. ~~Fail to comply with any of the requirements of an order to cease activity issued under TMC Chapter 8.45 or issued pursuant to authority provided in other chapters of the Tukwila Municipal Code.~~

E. ~~It is unlawful to:~~

1. ~~Maintain, allow, permit or fail to prevent a nuisance as defined in TMC Chapter 8.28 or as defined throughout the Tukwila Municipal Code; and~~

2. ~~Fail to comply with any applicable provisions of the Tukwila Municipal Code, including, but not limited to, the regulations and requirements found in the following chapters of the Tukwila Municipal Code, as now in effect or as may be amended hereafter:~~

Chapter	Title
5.04 Licenses Generally	"Business Licenses and Regulations"
8.22 Noise	"Public Peace, Morals and Safety"
9.32 Abandoned and Junked Motor Vehicles	"Vehicles and Traffic"
9.44 Commute Trip Reduction Plan and Program Requirements	"Vehicles and Traffic"
14.06 Backflow Prevention Assemblies	"Water and Sewers"
14.16 Sewer Charges	"Water and Sewers"
16.04 Buildings and Construction	"Buildings and Construction"
16.16 International Fire Code	"Buildings and Construction"
16.52 Flood Plain Management	"Buildings and Construction"
16.54 Grading	"Buildings and Construction"
17.28 Exceptions, Penalties, Severability, Liability	"Subdivisions and Plats"
19.12 Permits	"Sign and Visual Communication Code"

Section 8. TMC Section 8.45.030 is hereby reenacted to read as follows:

8.45.040030 Enforcement

A. The Code Enforcement Officer(s) is/are the person(s) authorized by the Mayor to enforce the civil provisions of the Tukwila Municipal Code.

B. The Code Enforcement Officer shall have the responsibility for enforcement of TMC Chapter 8.45. The Code Enforcement Officer may call upon the Police, Fire, Building, Public Works or other appropriate City departments to assist in enforcement. The Code Enforcement Officer may seek assistance from outside agencies or private contractors, should the need exist. As used in TMC Chapter 8.45, "Code Enforcement Officer" shall also mean his or her duly authorized designee.

C. TMC Chapter 8.45 shall be enforced for the benefit of the health, safety, and welfare of the general public, and not for the benefit of any particular person or class of persons.

D. It is the intent of TMC Chapter 8.45 to place the obligation for complying with its requirements upon the owner, occupier, tenant, manager, agent, or other person responsible for the condition of land and buildings situated within the City of Tukwila and within the scope of the Tukwila Municipal Code.

E. No provision or any term used in TMC Chapter 8.45 is intended to impose any duty upon the City or any of its officers or employees ~~which~~ that would subject them to damages in a civil action.

F. "Person responsible for the condition" and "person responsible," as used in this chapter means any person who is required by the applicable regulation to comply therewith, or who commits any act or omission that is a violation or causes or permits a violation to occur or remain upon property in the City, and includes but is not limited to owner(s), lessor(s), tenant(s), manager(s), agent(s) or other person(s) entitled to control, use and/or occupy property where a violation occurs.

Section 9. TMC Section 8.45.040 is hereby reenacted to read as follows:

8.45.045040 Voluntary Correction and Limited Right to Enter Property

A. *APPLICABILITY.* While it is the City's desire to obtain voluntary correction pursuant to TMC Chapter 8.45, compliance is not a prerequisite for pursuing any of the other remedies for correction in TMC Chapter 8.45, or any remedies available in law or equity. This section may apply whenever the Code Enforcement Officer determines that a nuisance or code violation has occurred or is occurring.

B. *GENERAL.* The Code Enforcement Officer may attempt to secure voluntary correction by contacting the owner, occupier, tenant, manager, agent, or other person responsible for the condition ~~of land and buildings situated within the City of Tukwila and,~~ where possible, explaining the violation and requesting correction.

C. *VOLUNTARY CORRECTION AND LIMITED RIGHT OF ENTRY AGREEMENT.*

A Voluntary Correction and Limited Right of Entry Agreement may be entered into between the City of Tukwila – acting through the applicable department director – and the owner, occupier, tenant, manager, agent, or other person responsible for the condition of land and buildings situated within the City of Tukwila, for resolution of the violation. The Voluntary Correction and Limited Right of Entry Agreement is a contract between the City of Tukwila and the owner, occupier, tenant, manager, agent, or other person responsible for the condition of land and buildings, under which such person agrees to abate the violation cited by the City, within a specified time and according to specified conditions. The Voluntary Correction and Limited Right of Entry Agreement may include the following:

1. The name and address of the person responsible for the violation;
2. The street address or other description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring;
3. A description of the violation and a reference to the regulation that has been violated;
4. The necessary corrective action to be taken, and a date or time by which correction must be completed;
5. An agreement by the person responsible for the violation that the City may inspect the premises as may be necessary to determine compliance with the Voluntary Correction and Limited Right of Entry Agreement; and
6. An agreement by the person responsible for the violation that the City may abate the violation, and recover its costs and expenses as described in TMC ~~Section 8.45.105~~ 8.45.130 and/or a monetary penalty pursuant to TMC Chapter 8.45 from the person responsible for the violation, if the terms of the Voluntary Correction and Limited Right of Entry Agreement are not satisfied.

Section 10. TMC Section 8.45.050 is hereby reenacted to read as follows:

8.45.050 Investigation and Request for Compliance: ~~Civil Infraction and Violation Notice and Order~~

A. *AUTHORITY:* Upon presentation of proper credentials, the Code Enforcement Officer may, with the consent of the owner or occupier of a building or premises, enter at reasonable times any building or premises in order to perform the duties imposed by TMC Chapter 8.45.

B. *INVESTIGATION:* The Code Enforcement Officer may investigate any structure or use which he or she reasonably believes does not comply with the applicable standards and requirements of the Tukwila Municipal Code.

C. *REQUEST FOR COMPLIANCE:* Upon receipt of a complaint regarding a potential code violation of a non-emergency nature, the Code Enforcement Officer may send a Request for Compliance to the owner, tenant, occupier, manager, agent, or other person responsible for the alleged violation documenting the complaint and seeking

voluntary compliance. The Code Enforcement Officer may issue a written Request for Compliance in any manner reasonably sufficient to give notice to the person(s) responsible, such as by mail, e-mail or posting the Request on the subject property. The Code Enforcement Officer may, in his or her discretion, issue multiple Requests for Compliance in an attempt to resolve code violations prior to issuing a civil infraction, Notice of Violation and Order or taking other enforcement action.

D. Nothing in this section prohibits the Code Enforcement Officer from immediately issuing a civil infraction, Notice of Violation and Order or taking other enforcement action without first issuing a Request for Compliance, when the circumstances warrant more expeditious correction or when the person(s) responsible is a repeat offender.

Section 11. TMC Section 8.45.060 is hereby reenacted to read as follows:

8.45.060 Civil Infraction

~~C. CIVIL INFRACTIONS:~~ For violations deemed civil infractions, if after investigation or after the complaint of residents or others, the Code Enforcement Officer has probable cause to believe that the applicable standards or requirements of the Tukwila Municipal Code have been violated, the Code Enforcement Officer may issue a civil infraction in accordance with Chapter 7.80 RCW, which is incorporated herein by this reference, upon the owner, tenant, occupier, manager, agent, or other person(s) responsible for the condition.

Section 12. TMC Section 8.45.070 is hereby reenacted to read as follows:

8.45.070 Notice of Violation and Order

~~DA. VIOLATION NOTICE OF VIOLATION AND ORDER:~~ Alternatively, For all other civil violations of the Tukwila Municipal Code, after investigation or based upon the complaint of residents or others, upon the Code Enforcement Officer determining that a violation of the TMC exists, the Code Enforcement Officer may serve a Violation Notice of Violation and Order upon the owner, tenant, occupier, manager, agent, and/or other person(s) responsible for the condition. The Violation Notice of Violation and Order shall contain the following information:

1. A citation to the statement of each standard, code provision or requirement violated, along with a description of the specific violation present;
2. The corrective action, if any, that is necessary to comply with the standards, code provision or requirement;
3. The date by which the corrective action(s) shall be completed by the person(s) responsible ("compliance date")~~A reasonable time for compliance;~~ and
4. An explanation of the appeal process and the specific information required to file an appeal.

~~EB. SERVICE OF A VIOLATION NOTICE OF VIOLATION AND ORDER:~~ A Violation Notice of Violation and Order shall be served on the ~~owner, tenant, occupier, manager, agent, or other person(s)~~ responsible for the condition by personal service registered mail, or, if after reasonable attempts personal service cannot be achieved, certified mail with return receipt requested, addressed to the last known address of such person. If, after a reasonable search and reasonable efforts are made to obtain service, the whereabouts of the person(s) is unknown or service cannot be accomplished and the Code Enforcement Officer makes an affidavit to that effect, then service of the notice upon such person(s) may be made by:

1. Publishing the notice once each week for two consecutive weeks in the City's official newspaper; and

2. Mailing a copy of the notice to each person named on the Violation Notice of Violation and Order by first class mail to the last known address if known or, if unknown, to the address of the property involved in the proceedings; and

~~3. F. POSTING:~~ A copy of the notice shall be posted at a conspicuous place on the property, unless posting the notice is not physically possible.

~~GC. AMENDMENT:~~ A Violation Notice of Violation and Order may be amended at any time in order to:

1. Correct clerical errors; or
2. Cite additional authority for a stated violation.

~~8.45.060 Time in Which to Comply~~

~~A. CIVIL INFRACTIONS:~~ Civil infractions may be issued by the City's Code Enforcement Officer and shall be processed in accordance with Chapter 7.80 RCW, which is incorporated herein by reference. The Tukwila Municipal Court shall have jurisdiction over all civil infractions issued under TMC Chapter 8.45.

~~B. DETERMINATION OF TIME FOR COMPLIANCE WITH NOTICES OF VIOLATION:~~ Persons receiving a Violation Notice and Order shall rectify the code violations identified within the time period specified by the Code Enforcement Officer pursuant to TMC 8.45.050.

~~GD. ORDER BECOMES FINAL UNLESS APPEALED:~~ Unless an appeal is filed with the Code Enforcement Officer for hearing before the Hearing Examiner in accordance with TMC Section 8.45.090A 8.45.110, the Violation Notice of Violation and Order shall become the final administrative order of the Code Enforcement Officer.

~~E. RECORDING:~~ A copy of the notice may be filed and recorded with the King County Recorder.

Section 13. TMC Section 8.45.080 is hereby reenacted to read as follows:

8.45.080 Repeat Violations

A. DEFINITION: "Repeat violation" means a violation of the same or similar regulation in any location by the same person responsible or on the same property for which either: (1) voluntary compliance previously has been sought within two years; -or (2) a Notice of Violation and Order has been issued within two years.

B. PROCEDURE: The Code Enforcement Officer may immediately issue a Notice of Violation and Order when a repeat violation occurs.

C. PENALTY: For repeat violations that occur within two years of a previous violation, the Code Enforcement Officer or Hearing Examiner may impose the following penalties:

1. For the first repeat violation, the penalty may equal up to \$1,000 per day;
2. For the second repeat violation, the penalty may equal up to \$2,000 per day;
3. For the third repeat violation, the penalty may equal up to \$3,000 per day;
4. For the fourth repeat violation, the penalty may equal up to \$4,000 per day;
and
5. For each additional repeat violation that may occur beyond the fourth repeat violation, the penalty may equal up to \$5,000 per day.

Section 14. TMC Section 8.45.090 is hereby reenacted to read as follows:

8.45.070090 Stop Work Orders

Whenever a continuing violation of this Code will materially impair the Code Enforcement Officer's ability to secure compliance with this Code, or when the continuing violation threatens the health or safety of the public, the Code Enforcement Officer may issue a Stop Work Order specifying the violation and prohibiting any work or other activity at the site. Any violation of a Stop Work Order may be prosecuted with a Notice of Violation and Order, and is hereby declared to be a public nuisance, -and -The Code Enforcement Officer is authorized to enjoin or abate such public nuisance summarily by any legal or equitable means as may be available. The City shall assess the cost of abatement, including any and all legal fees incurred by the City attendant thereto, and any fine levied jointly and severally against the responsible parties, the subject property or both. The costs for the injunction or abatement, including any and all penalties and legal fees incurred by the City, shall be recovered by the City from the owner, tenant, occupant, manager, agent, or other responsible person(s) responsible in the manner provided by law.

Section 15. TMC Section 8.45.100 is hereby reenacted to read as follows:

8.45.080100 Emergency OrdersAbatement

~~Whenever any use or activity in violation of the Tukwila Municipal Code threatens the health and safety of the occupants of the premises or any member of the public, the Code Enforcement Officer may issue an Emergency Order directing that the use or activity be discontinued and the condition causing the threat to the public health and safety be corrected. The Emergency Order shall specify the time for compliance and shall be posted in a conspicuous place on the property, if posting is physically possible. Any condition or violation described in the Emergency Order a Notice of Violation and Order which that is not corrected within the time specified therein is hereby declared to be a public nuisance. and The Code Enforcement Officer is authorized to enjoin or abate such nuisance summarily by any legal or equitable means as may be available. The City shall assess the cost of abatement, including any and all legal fees incurred by the City attendant thereto, and any fine levied jointly and severally against the responsible parties, the subject property or both. The costs for the injunction or abatement, including any and all penalties and legal fees incurred by the City, shall be recovered by the City from the person(s) responsible, in the manner provided by law. All costs of such abatement shall be recovered from the owner, tenant, occupant, manager, agent, or other person responsible, in the manner provided by law.~~

Section 16. TMC Section 8.45.110 is hereby reenacted to read as follows:

8.45.090110 Appeal to Hearing Examiner

A. ~~The person(s) responsible incurring the penalty described in~~ named on a ~~Violation Notice of Violation and Order~~ issued by the Code Enforcement Officer, pursuant to TMC ~~Section 8.45.050~~ 8.45.070, may ~~obtain an appeal of the Notice by requesting such appeal within 10 calendar days after receiving or otherwise being served with the Notice pursuant to TMC Section 8.45.050~~ 8.45.070. When the last day of the period so computed is a Saturday, Sunday, or a Federal or City holiday, the period shall run until 4:30 PM on the next business day. The request shall be in writing and include the applicable appeal fee as specified in the City's fee schedule adopted by resolution of the City Council. Upon receipt of the appeal request, the Code Enforcement Officer shall schedule an appeal hearing before the Hearing Examiner. Notice of the hearing shall be sent to the appellant and/or the person(s) named on the ~~Violation Notice of Violation and Order~~ under the procedures described in TMC ~~Section 8.45.050~~ 8.45.070, or as may be otherwise requested by the appealing party.

~~B. The appeal fee for a Violation Notice and Order in an LDR zone shall be \$100.00, and in all other zones shall be \$200.00.~~

~~C.~~ B. At or after the appeal hearing, the Hearing Examiner may:

1. Sustain the ~~Violation Notice of Violation and Order~~;
2. Withdraw the ~~Violation Notice of Violation and Order~~;

3. Continue the review to a date certain for receipt of additional information; or
4. Modify the ~~Violation~~ Notice of Violation and Order, which may include an extension of the compliance date.

~~DC.~~ The Hearing Examiner shall issue a written decision within 14 days of the date of the completion of the review, and shall cause the same to be sent to the person(s) named on the ~~Violation~~ Notice of Violation and Order under the same procedures described in TMC ~~Section 8.45.050E~~ 8.45.070 or as otherwise directed by the appealing party.

~~ED.~~ The decision of the Hearing Examiner shall be final and conclusive unless appealed. An appeal of the decision of the Hearing Examiner must be filed with superior court within 21 calendar days from the date the Hearing Examiner's decision was mailed to the person(s) responsible to whom the Notice of Violation and Order was directed, or is thereafter barred. ~~In order to appeal the decision of the Hearing Examiner, a person with standing to appeal must file a land use petition, as provided in RCW 36.70C (Land Use Petition Act), within 21 days of the issuance of the Hearing Examiner's decision. The cost for transcription of all records ordered certified by the superior court for such review shall be borne by the appellant.~~

Section 17. TMC Section 8.45.120 is hereby reenacted to read as follows:

8.45.100120 Penalties

A. VIOLATIONS OF THE TUKWILA MUNICIPAL CODE:

1. ~~Civil Infraction:~~ Civil Infraction: Any person violating or failing to comply with the provisions of the Tukwila Municipal Code, may be issued a civil infraction citation pursuant to TMC ~~8.45.050C~~. Each civil infraction shall carry with it a monetary penalty of \$100.00 for the first violation, \$175.00 for a second violation of the same nature or a continuing violation, and \$250.00 for a third or subsequent violation of the same nature or a continuing violation.

2. ~~Violation Notice of Violation and Order:~~ Violation Notice of Violation and Order:

a. ~~Any person violating or failing to comply with the provisions of the Tukwila Municipal Code may, in the alternative, be issued a~~ Violation Notice of Violation and Order that shall carry with it a cumulative monetary penalty of \$500.00 \$250.00 per day for each violation from the date set for compliance date until compliance with the Violation Notice of Violation and Order is achieved.

b. ~~In addition to any penalty which may be imposed by the City, any person violating or failing to comply with any of the provisions of the Tukwila Municipal Code shall be liable for damage to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to the violation.~~

☞ The Code Enforcement Officer shall have the discretion to impose penalties in an amount lower than those set forth ~~above~~ herein, taking into account the mitigating factors described below:-

- (1) Was the responsible party willful or knowing of the violation?
- (2) Was the responsible party unresponsive in correcting the violation?
- (3) Was there improper operation or maintenance?
- (4) Does the violation provide economic benefit for noncompliance?
- (5) Does the discharge result in adverse economic impact to others?
- (6) Will cleanup activities be able to fully mitigate or remediate the impacts?
- (7) Is there a history of violations?
- (8) Were there unforeseeable circumstances that precluded compliance?
- (9) Did the responsible party make a good-faith effort to comply?

3. *Liability for Damages:* In addition to any penalty that may be imposed by the City, any person violating or failing to comply with any of the provisions of the Tukwila Municipal Code shall be liable for all damage to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to the violation.

4. Responsibility for violations of the codes enforced under this chapter and the penalties imposed in this section are joint and several, and the City is not prohibited from taking action against a party where other persons may also be potentially responsible for a violation, nor is the City required to take action against all persons potentially responsible for a violation.

45. *Notice of Assessment:* Within 30 days of the compliance date, either set by a Notice of Violation and Order or an Order of the Hearing Examiner, whichever is later, the Code Enforcement Officer shall issue a Notice of Assessment identifying the penalties imposed under this chapter for any remaining uncorrected violations, as well as any other costs and/or damages assessed against the person(s) responsible, pursuant to this chapter. Notices of Assessment shall be served in the same manner as service of a Notice of Violation and Order.

a. **Assessment Appeal:** A person receiving a Notice of Assessment may appeal the fines stated therein within 10 calendar days after the date the Notice is served. When the last day of the period so computed is a Saturday, Sunday, or a Federal or City holiday, the period shall run until 4:30 PM on the next business day. The request shall be in writing and include the applicable appeal fee as identified in the City's fee schedule adopted by resolution of the City Council. Upon receipt of the appeal request, the Code Enforcement Officer shall schedule an appeal hearing before the Hearing Examiner. Notice of the hearing shall be sent to the appellant and/or the person(s) named on the

Notice of Assessment under the same manner as the procedures described in TMC Section 8.45.070B, or as may be otherwise requested by the appealing party.

b. **Appeal Hearing:** At or after the appeal hearing, the Hearing Examiner may sustain the assessment, withdraw the assessment if the violation(s) have been corrected or reduce the assessment amount. The Hearing Examiner shall issue a written decision within 14 days of the date of the completion of the review, and shall cause the same to be sent to the person(s) named on the Notice of Assessment under the same procedures described in TMC Section 8.45.070B, or as otherwise directed by the appealing party.

c. The decision of the Hearing Examiner shall be final and conclusive unless appealed. Any judicial review of the Hearing Examiner's order shall be brought in superior court within 21 days of issuance of the Hearing Examiner's decision.

d. **Subsequent Notices of Assessment:** The Code Enforcement Officer shall issue additional notices of assessment in 30-day increments until a violation is corrected. Each subsequent notice of assessment may be appealed in the same manner as described in TMC Section 8.45.110; provided, however, that any such appeal shall be limited to only those penalties incurred since the issuance of the preceding Notice of Assessment.

e6. The penalty imposed by this section under a ~~Violation~~ Notice of Violation and Order may be collected by civil action brought in the name of the City. The Code Enforcement Officer may notify the City Attorney of the name of any person subject to the penalty, and the City Attorney may, with the assistance of the Code Enforcement Officer, take appropriate action to collect the penalty, including but not limited to attachment of a lien to the property.

B. ADDITIONAL RELIEF: The Code Enforcement Officer may seek legal or equitable relief to enjoin any acts or practices and abate any condition which constitutes or will constitute a violation of the Tukwila Municipal Code. The remedies provided in TMC Chapter 8.45 are cumulative and shall be in addition to any other remedy provided by law.

~~G. **SUBDIVISION VIOLATIONS:** Any person, firm, corporation, association, or any agent of any person, firm, corporation, or association who violates any provision of RCW 58.17 or Tukwila Municipal Code Title 17, "Subdivisions", relating to the sale, offer for sale, lease, or transfer of any lot, tract, or parcel of land, shall be guilty of a gross misdemeanor; and each sale, offer for sale, lease or transfer of each separate lot, tract, or parcel of land in violation of any provision of RCW 58.17 or Tukwila Municipal Code Title 17, "Subdivisions", shall be deemed a separate and distinct offense.~~

~~D.C. **CONTINUED DUTY TO CORRECT.** Payment of a monetary penalty pursuant to TMC Chapter 8.45 does not relieve the person to whom the Infraction or ~~Violation~~ Notice of Violation and Order was issued of the duty to correct the violation.~~

Section 18. TMC Section 8.45.130 is hereby reenacted to read as follows:

8.45.130 Abatement by the City

A. *ABATEMENT.* The City may abate nuisance or code violations when:

1. The terms of the Voluntary Correction and Limited Right of Entry Agreement have not been met; or

2. A ~~Violation~~ Notice of Violation and Order has been issued and the required correction has not been completed by the date specified in the ~~Violation~~ Notice of Violation and Order; or

3. A written decision issued by the City's Hearing Examiner has not been complied with by the date specified in the written decision; or

4. The nuisances or code violations are subject to summary abatement as provided for in TMC ~~Section 8.45.105B~~ 8.45.130B.

B. *SUMMARY ABATEMENT.* Whenever any nuisance or code violation causes a condition, the continued existence of which constitutes an immediate threat to the public health, safety or welfare or to the environment, the City may summarily and without prior notice abate the condition. Notice of such abatement, including the reason for it, shall be given to the person(s) responsible for the violation as soon as reasonably possible after the abatement. No right of action shall lie against the City or its agents, officers, or employees for actions reasonably taken to prevent or cure any such immediate threats, but neither shall the City be entitled to recover any costs incurred for summary abatement, prior to the time that actual notice of same is provided to the ~~owner, occupier, tenant, manager, agent, or other~~ person(s) responsible for the condition of land and buildings.

C. *AUTHORIZED ACTION BY THE CITY.* Using any lawful means, the City may enter upon the subject property and may remove or correct the condition that is subject to abatement. Prior to or during such abatement, the City may seek such judicial process as it deems necessary to effect the removal or correction of such condition, including but not limited to obtaining an injunction or warrant of abatement.

D. *INTERFERENCE.* Any person who knowingly obstructs, impedes, or interferes with the City or its agents, or with the person responsible for the violation, in the performance of duties imposed by TMC Chapter 8.45, shall be guilty of a misdemeanor punishable by imprisonment not exceeding 90 days and a fine not exceeding \$1,000.00.

E. *RECOVERY OF COSTS AND EXPENSES.* All costs and expenses incurred by the City during abatement of ~~nuisance or code violations~~ shall be ~~billed~~ assessed to the ~~owner, occupier, tenant, manager, agent, or other~~ person(s) responsible for the condition of land and buildings, and responsibility for all costs and expenses is joint and several. Such costs and expenses may include, but are not limited to, the following ~~legal and abatement~~ expenses:

1. "Legal expenses," for purposes of TMC Chapter 8.45, shall include but are not limited to the following:

a. Personnel costs, both direct and indirect, including attorney's fees and all costs incurred by the City Attorney's office or its designee to abate nuisances and code violations;

b. Actual and incidental expenses and costs incurred by the City in preparing notices, contracts, court pleadings, and all other necessary documents required to abate nuisances and code violations; and

c. All costs associated with retention and use of expert witness or consultants during the course of abatement.

2. "Abatement expenses," for purposes of TMC Chapter 8.45, shall include but are not limited to the following:

a. Costs incurred by the City for preparation of notices, contracts, and related documents necessary to abate nuisance or code violations;

b. All costs associated with inspection of the property and monitoring of said property consistent with orders of compliance issued by the City's Hearing Examiner or a Court of competent jurisdiction;

c. All costs incurred by the City for hauling, storage, disposal or removal of vegetation, trash, debris, dangerous structures or structures unfit for human habitation pursuant to the International Building Code and/or International Property Maintenance Code, potential vermin habitat or fire hazards, junk vehicles, obstructions to the public right-of-way, and setback obstructions;

d. All costs incurred by law enforcement or related enforcement agencies necessary to assist the City during abatement of nuisance or code violations; and

e. All relocation/assistance costs pursuant to TMC Chapter 8.46.

F. *INTEREST.* All costs incurred by the City during abatement of nuisance and code violations may include interest in amount as prescribed by law. ~~Interest shall start to accrue on the 30th day from mailing of the invoice pursuant to TMC 8.45-105E-2.e.~~

G. *LIEN – AUTHORIZED.* The City shall have a lien for any monetary penalty imposed, the cost of any abatement proceedings under TMC Chapter 8.45, and all other related costs including attorney and expert witness fees, against the real property on which the monetary penalty was imposed or any of the work of abatement was performed.

Section 19. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

Section 20. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

Section 21. Effective Date. This ordinance or a summary thereof shall be published in the official newspaper of the City, and shall take effect and be in full force five days after passage and publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at a Regular Meeting thereof this _____ day of _____, 2017.

ATTEST/AUTHENTICATED:

Christy O'Flaherty, MMC, City Clerk

Allan Ekberg, Mayor

APPROVED AS TO FORM BY:

Rachel B. Turpin, City Attorney

Filed with the City Clerk: _____
Passed by the City Council: _____
Published: _____
Effective Date: _____
Ordinance Number: _____

DRAFT

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, REPEALING ORDINANCE NO. 2067, AS CODIFIED IN VARIOUS SECTIONS OF TUKWILA MUNICIPAL CODE CHAPTER 8.45, "ENFORCEMENT"; ADOPTING A NEW CHAPTER OF THE TUKWILA MUNICIPAL CODE TO CONSOLIDATE PROCEDURES FOR ENFORCEMENT ISSUES RELATED TO UNFIT DWELLINGS, BUILDINGS AND STRUCTURES, TO BE CODIFIED AS TUKWILA MUNICIPAL CODE CHAPTER 8.48; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council finds that effective enforcement of Tukwila's municipal code is essential to maintaining and enhancing the quality of life in the City; and

WHEREAS, the City Council desires to update and streamline the enforcement process for code violations, while maintaining due process for property owners, residents and businesses; and

WHEREAS, the City Council desires to address unfit dwellings, buildings and structures in a separate chapter of the Tukwila Municipal Code; and

WHEREAS, as a procedural action, this ordinance is exempt from State Environmental Policy Act (SEPA) review;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Repealer. Ordinance No. 2067, as codified in multiple sections of TMC Chapter 8.45, "Enforcement" (TMC Sections 8.45.110, 8.45.120, 8.45.130, 8.45.140, 8.45.150, 8.45.160, 8.45.170, 8.45.180, 8.45.190, 8.45.200, 8.45.210 and 8.45.220), is hereby repealed in its entirety.

Section 2. Chapter 8.48 of the Tukwila Municipal Code Established. A chapter of the Tukwila Municipal Code entitled "Unfit Dwellings, Buildings and Structures," to be codified as Tukwila Municipal Code (TMC) Chapter 8.48, is hereby established to read as follows:

**CHAPTER 8.48
UNFIT DWELLINGS, BUILDINGS AND STRUCTURES**

Sections:

- 8.48.010 Additional Enforcement Mechanism for Unfit Dwellings, Buildings and Structures
- 8.48.020 Improvement Officer and Appeals Commission Designated
- 8.48.030 Improvement Officer Authority – Issuance of Complaint
- 8.48.040 Service of Complaint
- 8.48.050 Complaint Hearing
- 8.48.060 Determination, Findings of Fact, and Order
- 8.48.070 Appeal to Appeals Commission
- 8.48.080 Appeal to Superior Court
- 8.48.090 Recommendation/Penalties
- 8.48.100 Tax Lien
- 8.48.110 Salvage

Section 3. The TMC section entitled "Additional Enforcement Mechanism" is hereby recodified as TMC Section 8.48.010, to read as follows:

8.45.110 8.48.010 Additional Enforcement Mechanism for Unfit Dwellings, Buildings and Structures

A. In addition to, and in combination with, the enforcement methods set forth in TMC Chapter 8.45 and elsewhere in the Tukwila Municipal Code, unfit dwelling, building and structure violations, as defined by Chapter 35.80 RCW, violations of the Tukwila Municipal Code may be enforced under the provisions set forth in TMC 8.45.110 through 8.45.220 this chapter.

~~8.45.120 RCW Chapter 35.80 Adopted~~

B. RCW Chapter 35.80, "Unfit Dwellings, Buildings, and Structures", as it currently exists or is hereinafter amended, is hereby adopted.

Section 4. The TMC section entitled "Improvement Officer and Appeals Commission Designated" is hereby recodified as TMC Section 8.48.020, to read as follows:

8.45.130 8.48.020 Improvement Officer and Appeals Commission Designated

The Code Enforcement Officer, and the Code Enforcement Officer's designee, is designated as the City's "Improvement Officer," and shall have the full scope of authority granted to that official under Chapter 35.80 RCW. The City of Tukwila Hearing Examiner is designated as the City's "Appeals Commission," and shall have the full scope of authority granted to that commission under Chapter 35.80 RCW.

Section 5. The TMC section entitled “Improvement Officer Authority – Issuance of Complaint” is hereby recodified as TMC Section 8.48.030, to read as follows:

~~8.45.140~~ **8.48.030 Improvement Officer Authority – Issuance of Complaint**

If, after a preliminary investigation of any dwelling, building, structure or premises, the Improvement Officer finds that it is unfit for human habitation or other use, the Improvement Officer may issue a complaint conforming to the provisions of RCW 35.80.030, stating in what respects such dwelling, building, structure or premises is unfit for human habitation or other use. In determining whether a dwelling, building, structure or premises should be repaired or demolished, the Improvement Officer shall be guided by the Tukwila Municipal Code and such other codes adopted pursuant to the Tukwila Municipal Code as the Improvement Officer deems applicable, in particular the most recent edition of the International Property Maintenance Code.

Section 6. The TMC section entitled “Service of Complaint” is hereby recodified as TMC Section 8.48.040, to read as follows:

~~8.45.150~~ **8.48.040 Service of Complaint**

A complaint issued under ~~TMC this chapter 8.45~~ shall be served on the parties and posted on the subject property pursuant to RCW 35.80.030, and shall also be filed with the King County Auditor. All complaints or other documents posted on the subject property shall remain in place until the complaint has been resolved. For purposes of service, such complaints or other documents are deemed effective on the day of posting.

Section 7. The TMC section entitled “Complaint Hearing” is hereby recodified as TMC Section 8.48.050, to read as follows:

~~8.45.160~~ **8.48.050 Complaint Hearing**

Not less than 10 days nor more than 30 days after serving a complaint, the Improvement Officer shall hold a hearing conforming to the provisions of RCW 35.80.030, at which all parties in interest shall be given the right to appear in person, to bring witnesses, and to give testimony regarding the complaint. At any time prior to or at the time of the hearing, any party may file an answer to the complaint. The Improvement Officer shall adopt procedural rules governing the procedure of such hearing, which shall be available for public inspection at the Tukwila Department of Community Development.

Section 8. The TMC section entitled "Determination, Findings of Fact, and Order" is hereby recodified as TMC Section 8.48.060, to read as follows:

~~8.45.170~~ **8.48.060 Determination, Findings of Fact, and Order**

Within 10 days of the complaint hearing, the Improvement Officer shall issue a Determination, Findings of Fact, and Order stating the Improvement Officer's determination as to whether the subject dwelling, building, structure or premises is unfit for human habitation or other use; the findings of fact supporting the determination; and an order specifying the actions necessary to address any unfitness, and a deadline for completing the actions. The Determination, Findings of Fact, and Order shall be served and posted as set forth in TMC ~~Section 8.45.150~~ 8.48.040, and if no appeal is filed within the deadline specified in TMC ~~Section 8.45.180~~ 8.48.070, a copy of the Determination, Findings of Fact, and Order shall be filed with the King County Auditor.

Section 9. The TMC section entitled "Appeal to Appeals Commission" is hereby recodified as TMC Section 8.48.070, to read as follows:

~~8.45.180~~ **8.48.070 Appeal to Appeals Commission**

Within 30 days of service of a Determination, Findings of Fact, and Order, any party may file an appeal to the Appeals Commission. Such an appeal shall be governed by the City of Tukwila Hearing Examiner's procedural rules, except that the Appeals Commission shall conduct a hearing on the appeal and issue a ruling within 60 days from the date the appeal is filed; and if the Appeals Commission issues any oral findings of fact, the ruling shall contain a transcript of such findings in addition to any findings issued at the time of the ruling. The ruling shall be served and posted as set forth in TMC ~~Section 8.45.150~~ 8.48.040, and if no appeal is filed within the deadline specified in TMC ~~Section 8.45.190~~ 8.48.080, a copy of the ruling shall be filed with the King County Auditor.

Section 10. The TMC section entitled "Appeal to Superior Court" is hereby recodified as TMC Section 8.48.080, to read as follows:

~~8.45.190~~ **8.48.080 Appeal to Superior Court**

Any person affected by a Determination, Findings of Fact, and Order issued by the Improvement Officer, who has brought an appeal before the Appeals Commission pursuant to TMC ~~Section 8.45.180~~ 8.48.070 may, within 30 days after the Appeals Commission's ruling has been served and posted pursuant to TMC ~~Section 8.45.150~~ 8.48.040, petition the King County Superior Court for an injunction restraining the Improvement Officer from carrying out the provisions of the Determination, Findings of Fact, and Order. In all such proceedings, the Court is authorized to affirm, reverse or modify the order, and such trial shall be heard de novo.

Section 11. The TMC section entitled "Remediation/Penalties" is hereby recodified as TMC Section 8.48.090, to read as follows:

~~8.45.200~~ 8.48.090 **Remediation/Penalties**

If a party, following exhaustion of the party's rights to appeal, fails to comply with the Determination, Findings of Fact, and Order, the Improvement Officer may direct or cause the subject dwelling, building, structure or premises to be repaired, altered, improved, vacated, and closed, removed, or demolished pursuant to Chapter 35.80 RCW.

Section 12. The TMC section entitled "Tax Lien" is hereby recodified as TMC Section 8.48.100, to read as follows:

~~8.45.210~~ 8.48.100 **Tax Lien**

The cost of any action taken by the Improvement Officer under TMC ~~Section 8.45.200~~ 8.48.090 shall be assessed against the subject property pursuant to Chapter 35.80 RCW. Upon certification by the City of Tukwila Finance Director that the assessment amount is due and owing, the King County Treasurer shall enter the amount of such assessment upon the tax rolls against the subject property pursuant to the provisions of RCW 35.80.030.

Section 13. The TMC section entitled "Salvage" is hereby recodified as TMC Section 8.48.110, to read as follows:

~~8.45.220~~ 8.48.110 **Salvage**

Materials from any dwelling, building, structure, or premises removed or demolished by the Improvement Officer shall, if possible, be salvaged and sold as if the materials were surplus property of the City of Tukwila, and the funds received from the sale shall be credited against the cost of the removal or demolition; and ~~if there be~~ any balance remaining, ~~it~~ shall be paid to the parties entitled thereto, as determined by the Improvement Officer, after deducting the costs incident thereto.

Section 14. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

Section 15. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

Section 16. Effective Date. This ordinance or a summary thereof shall be published in the official newspaper of the City, and shall take effect and be in full force five days after passage and publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at a Regular Meeting thereof this _____ day of _____, 2017.

ATTEST/AUTHENTICATED:

Christy O'Flaherty, MMC, City Clerk

Allan Ekberg, Mayor

APPROVED AS TO FORM BY:

Rachel B. Turpin, City Attorney

Filed with the City Clerk: _____
Passed by the City Council: _____
Published: _____
Effective Date: _____
Ordinance Number: _____

DRAFT

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, AMENDING VARIOUS ORDINANCES AS CODIFIED IN MULTIPLE TITLES OF THE TUKWILA MUNICIPAL CODE, TO INCORPORATE HOUSEKEEPING CODE AMENDMENTS RELATED TO UPDATES TO TUKWILA MUNICIPAL CODE CHAPTER 8.45, "ENFORCEMENT;" PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council finds that effective enforcement of Tukwila's municipal code is essential to maintaining and enhancing the quality of life in the City; and

WHEREAS, the City Council desires to update and streamline the enforcement process for code violations, while maintaining due process for property owners, residents and businesses; and

WHEREAS, addressing most code violations through the Notice of Violation and Order process will allow for more timely and efficient resolutions; and

WHEREAS, updates to Tukwila Municipal Code Chapter 8.45, "Enforcement," require correcting references to that chapter throughout other sections of the Tukwila Municipal Code; and

WHEREAS, as a procedural action this ordinance is exempt from State Environmental Policy Act (SEPA) review;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Ordinance No. 2315 §1 (part), as codified at Tukwila Municipal Code (TMC) Section 5.04.114, "Violations," is hereby amended to eliminate TMC Section 5.04.114, "Violations," in its entirety.

5.04.114 Violations

~~Per TMC Section 8.45.030.C, it is unlawful for any person or persons to engage in or conduct business within the City of Tukwila without first obtaining appropriate business licensing.~~

Section 2. Ordinance No. 2315 §1 (part), as codified at TMC Section 5.04.115, "Penalties," is hereby amended to read as follows:

5.04.115 Penalties

Any violation of this chapter, or failure to comply with any of the requirements of this chapter, shall be subject to enforcement and penalties as prescribed in TMC Chapter 8.45 and the issuance of a Notice of Violation in accordance with TMC Section 8.45.070 ~~to the penalties prescribed in Chapter 8.45 of the Tukwila Municipal Code ("Enforcement") and shall be imposed pursuant to the procedures and conditions set forth in that chapter.~~

Section 3. Ordinance No. 2281 §1 (part), as codified at TMC Section 5.06.200, "Penalties," is hereby amended to read as follows:

5.06.200 Penalties

A. Violations of the provisions of this chapter shall be subject to enforcement and penalties as prescribed in TMC Chapter 8.45 and the issuance of a Notice of Violation in accordance with TMC Section 8.45.070 ~~deemed civil infractions subject to the provisions of TMC Section 8.45.050 and the monetary penalties specified in Section 5.06.200.C.~~

B. Any violation of this chapter that constitutes an immediate health or safety threat shall constitute a public nuisance.

C. ~~Any person who violates any of the provisions of this chapter shall, upon a determination that a violation has been committed, be assessed monetary penalties as follows:~~

- ~~1. First civil penalty: \$250.00.~~
- ~~2. Second civil penalty: \$500.00.~~
- ~~3. Third and each subsequent civil penalty: \$1,000.00.~~

~~D. Each day that a property or person is not in compliance with the provisions of this chapter may constitute a separate violation of this chapter.~~

~~E. The code official shall have the authority to waive or reduce monetary penalties. Such waiver or reduction in monetary penalties shall be based on the code official's finding that compliance has been obtained and that further penalties are punitive assessments that serve no purpose.~~

~~F. In addition to the penalties above, the City shall not issue or shall revoke the unit's business license and require that the unit be vacated until the unit is brought into compliance.~~

~~G. The penalties set forth in this chapter are not exclusive. The City may avail itself of any other remedies provided by law.~~

Section 4. Ordinance No. 2293 §16, as codified at TMC Section 8.22.150, "Violation – Penalty," **subparagraph A**, is hereby amended to read as follows:

8.22.150 Violation – Penalty

A. Every person, entity, firm or corporation who is determined to be in violation of this chapter has committed a civil infraction and shall be subject to the provisions of TMC Section ~~8.45.050~~ 8.45.060. The monetary penalties are set forth below:

1. First civil penalty, \$250.00.
2. Second civil penalty, \$500.00.
3. Third and subsequent violations shall be misdemeanors, the maximum penalty for which shall be 90 days in jail or a fine of \$1,000.00 or both fine and imprisonment.
4. At such time that two civil penalties have been assessed within a one-year period, City-issued permits and/or licenses for the site or the site activity may be suspended or revoked until the condition is corrected.
5. Each day that a property or person is not in compliance with the provisions of this chapter may constitute a separate violation of this chapter.

Section 5. Ordinance No. 2045 §1 (part), as codified at TMC Section 8.24.010, "Definitions," is hereby amended to read as follows:

8.24.010 Definitions

As used in TMC Chapter 8.24, the following definitions shall have the meanings set forth below:

1. "Code Enforcement Officer" is Tukwila's Code Enforcement Officer or his or her designee as set forth in TMC ~~Section 8.45.040~~ 8.45.030, or an officer of the Tukwila Police Department.
2. "Hearing Examiner" is that person authorized by TMC Chapter 2.76 to hear appeals and other matters as set forth therein, or his or her designee.

3. "Junk vehicle" is a vehicle that meets three or more of the following requirements:

- a. Is three years old or older;
- b. Is extensively damaged, such damage including but not limited to any of the following: a broken window or windshield; or missing wheels, tires, motor, or transmission;
- c. Is apparently inoperable;
- d. Is without valid, current license plates or is unregistered; or
- e. Has an approximate fair market value equal only to the approximate value of the scrap in it. "Junk vehicle" also includes a partially disassembled vehicle or individual parts of vehicles no longer attached to one another.

4. "Repeat violator" is a person, entity or agent thereof, who has received a ~~Civil Infraction Citation, a Notice of Violation, or any combination thereof~~ for the same property two times within one calendar year.

Section 6. Ordinance No. 2045 §1 (part), as codified at TMC Section 8.24.030, "Violation Notification Process," is hereby amended to read as follows:

8.24.030 Violation Notification Process

~~A two-tiered system of enforcement is authorized pursuant to TMC Chapter 8.24. The Code Enforcement Officer is authorized to use either system of enforcement in its discretion, and nothing in TMC 8.24.030 shall require the Code Enforcement Authority to proceed under a particular system.~~

~~1A.~~ The Code Enforcement Officer is authorized to issue and serve a ~~Civil Infraction Citation pursuant to TMC 8.45.050C, or a Notice of Violation pursuant to TMC Section 8.45.050D 8.45.070,~~ upon reasonable belief that a violation of one or more provisions of TMC Chapter 8.24 has occurred.

~~2B.~~ The ~~Civil Infraction Citation or~~ Notice of Violation shall be issued to the property owner of record upon which land, as shown on the last equalized assessment roll, a vehicle deemed to be in violation of TMC Chapter 8.24 is located; and to the last registered and legal owner of record of such vehicle, unless the vehicle is in such condition or location that identification numbers are not available or accessible by the Code Enforcement Officer to determine ownership.

~~3C.~~ The ~~Civil Infraction Citation or~~ Notice of Violation shall be delivered by mailing a copy of the ~~Civil Infraction Citation~~ to such person, at his/her last known address as determined by the Code Enforcement Officer.

4. ~~A Civil Infraction Citation shall contain substantially the following information:~~
 - a. ~~The name and address of the person to whom the citation is issued;~~
 - b. ~~The location of the subject property by address, or other description sufficient for identification of the subject property;~~
 - c. ~~A description of the vehicle and its location;~~
 - d. ~~Instructions for requesting a contested hearing or mitigation hearing before the Municipal Court, and a statement that if any of the persons to whom the Civil Infraction Citation is issued wish to contest the violation or request a mitigation hearing, they must request that hearing pursuant to said instructions;~~
 - e. ~~A statement that if the persons to whom the Civil Infraction Citation is issued fail to respond, fail to appear at the hearing or, in the case of a contested hearing, fail to demonstrate at the hearing that the citation should not be sustained, the Court shall impose fines pursuant to TMC 8.24.060; and~~
 - f. ~~A statement that the owner of the land upon which the vehicle is located may provide a written statement in time for consideration at the hearing and deny responsibility for the presence of the vehicle on the land, with his or her reasons for the denial, as provided in TMC 8.24.040.~~

5D. A Notice of Violation shall contain substantially the following information:

- a1. The name and address of the person to whom the Notice of Violation is issued;
- b2. The location of the subject property by address or other description sufficient for identification of the subject property;
- c3. A description of the vehicle and its location, and the reasons for which the City deems it to be a public nuisance in violation of TMC Chapter 8.24;
- d4. A statement of the corrective action that the Code Enforcement Officer believes necessary to comply with the provisions of TMC Chapter 8.24, and a date by which compliance is required in order to avoid further enforcement action by the Code Enforcement Officer;
- e5. A statement that if any of the persons to whom the Notice of Violation is issued wish to contest the Notice of Violation, they must request a hearing before the Hearing Examiner pursuant to TMC Section 8.24.040;
- f6. A statement that if the persons to whom the Notice of Violation is issued fail to complete the corrective action and provide notice of same to the Code Enforcement Officer by the date for compliance specified in the Notice of Violation, fail to appear at the hearing, or fail to demonstrate at the hearing that the Notice of Violation should not be sustained, the City or its designee shall remove, impound and dispose of or sell the vehicle, and will assess all costs of administration and removal against the owner of the property upon which the vehicle is located or otherwise attempt to collect such costs from the owner of the vehicle; and

g7. A statement that the owner of the land upon which the vehicle is located may provide a written statement, in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land with his or her reasons for the denial, as provided in TMC Section 8.24.040.

Section 7. Ordinance No. 2045 §1 (part), as codified at TMC Section 8.24.040, "Hearing," is hereby amended to read as follows:

8.24.040 Hearing

A hearing on a Notice of Violation shall be held before the Hearing Examiner in accordance with the provisions set forth in TMC ~~Section 8.45.090~~ 8.45.110, and the Hearing Examiner shall have the same powers as set forth therein. The time limit for an appeal of a Notice of Violation is 10 days as set forth in TMC ~~Section 8.45.090A~~ 8.45.110.A. If a request for a hearing is received, a notice giving the time, location and date of the hearing shall be mailed, by certified mail with a five-day return receipt requested, to the owner of the land as shown on the last equalized assessment roll, and to the vehicle's last registered and legal owner of record, unless the vehicle is in such condition that identification numbers are not available to determine ownership. The owner of the land on which the vehicle is located may appear in person at the hearing or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with his or her reasons for the denial. If it is determined at the hearing that the vehicle was placed on the land without the consent of the landowner and that he/she has not subsequently given consent without protest in the presence of the vehicle, then the Hearing Examiner shall not assess costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect the cost from the property owner.

Section 8. Ordinance No. 2045 §1 (part), as codified at TMC Section 8.24.050, "Order of the Hearing Examiner—Violation," is hereby amended to read as follows:

8.24.050 Order of the Hearing Examiner—Violation

The decision issued by the Hearing Examiner shall be issued and sent to the persons named in the Notice of Violation pursuant to TMC ~~Section 8.45.090C~~ 8.45.110.C. Thereafter, violation of TMC Chapter 8.24 shall constitute a misdemeanor, and a separate misdemeanor shall be committed for each day that an order is violated.

Section 9. Ordinance No. 2045 §1 (part), as codified at TMC Section 8.24.060, "Monetary Penalty," is hereby amended to read as follows:

8.24.060 Monetary Penalty

The monetary penalty for the first and second Civil Infraction Citation issued pursuant to TMC Chapter 8.24 shall be assessed in the amounts set forth in TMC ~~8.45.100A.1~~. The monetary penalty for violation of the Notice of Violation issued pursuant to TMC Chapter 8.24 shall be assessed in the amounts set forth in TMC ~~Chapter 8.45.100A.2.(a)~~. Payment of a monetary penalty pursuant to TMC Chapter 8.24 does not relieve the person(s) to whom the ~~civil infraction citation~~ Notice of Violation was issued of the duty to

correct the violation or preclude the City from taking action to abate the situation as provided herein. The monetary penalty constitutes an obligation of the person(s) to whom the ~~Civil Infraction Citation or Notice of Violation~~ is issued. ~~Any monetary penalty assessed must be paid to the City within fifteen calendar days of the effective date of the violation's Hearing Examiner's order.~~

Section 10. Ordinance Nos. 2144 §1 and 1837 §2 (part), as codified at TMC Section 8.28.010, "Declaration of Nuisance," are hereby amended to read as follows:

8.28.010 Declaration of Nuisance

A All violations of development, land use, licensing and public health ordinances are found and declared to be nuisances.

B. Unless otherwise provided, violations of this chapter and any violations of this code deemed a "nuisance" or a "public nuisance" shall be subject to enforcement and penalties as prescribed in TMC Chapter 8.45 and the issuance of a Notice of Violation in accordance with TMC Section 8.45.070.

CB. The following are declared to be public nuisances: buildings and structures that are determined by the City's Building Official to be vacant and so old, dilapidated or have become so out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure (collectively referred to as a "Vacant Building").

Section 11. Ordinance No. 2481 §2, as codified at TMC Section 8.28.020, "International Property Maintenance Code Adopted," **subparagraphs B.5 and B.6**, is hereby amended to read as follows:

5. IPMC Section 111 is hereby repealed in its entirety. Any person directly affected by a decision of the code official or a Notice of Violation Notice and Order or a civil infraction, or any other order issued under this code or TMC Chapter 8.45, shall have the right to appeal to the City Hearing Examiner or the Municipal Court as set forth in TMC Chapter 8.45. In addition to, or in lieu of, any other state or local provisions for the recovery of costs or penalties incurred or assessed under TMC Chapter 8.45, the City Treasurer may, pursuant to RCW 35.80.030(1)(h), certify to the King County Treasurer an assessment amount equal to the costs of abatement, removal, or repair of the property and/or any associated penalties and collections to the tax rolls against the property for the current year and the same shall become a part of the general taxes for that year, to be collected at the same time and with interest at such rates and in such manner as provided for in RCW 84.56.020.

6. IPMC Section 112.4 is hereby repealed in its entirety. Violations shall be subject to enforcement and penalties as prescribed in TMC Chapter 8.45 shall be and the issuance of a Notice of Violation in accordance with TMC Section 8.45.070 according to TMC Chapter 8.45.

Section 12. Ordinance No. 2396 §1, as codified at TMC Section 8.28.030, "Vacant Buildings, Structures and Premises," is hereby amended to eliminate subparagraph 8.28.030.E, "Enforcement," in its entirety.

8.28.030 Vacant Buildings, Structures and Premises

~~E. Enforcement.~~

- ~~1. Enforcement of this section shall be in accordance with TMC Chapter 8.45.~~
- ~~2. The owner of an abandoned premise, vacant nuisance building, or vacant nuisance premises, shall be subject to the penalties set forth in TMC Chapter 8.45.~~
- ~~3. Should a Violation Notice and Order be issued pursuant to TMC Chapter 8.45 and if compliance has not been achieved within 30 days from the date of the Violation Notice, the Code Official may proceed with abatement of the nuisance in accordance with TMC Section 8.45.105. The costs of such abatement, including any unpaid penalties, shall be recovered through a lien against the property.~~
- ~~4. Owners of chronic nuisance buildings or premises shall immediately and without notice be cited with penalties in accordance with TMC Section 8.45.100.~~

Section 13. Ordinance No. 2122 §1 (part), as codified at TMC Section 8.46.050, "Penalty," is hereby amended to read as follows:

8.46.050 Penalty

Failure by the landlord to repay the City for the advanced relocation assistance within 60 days shall result in the assessment of civil penalties in the amount of \$50 per day for each displaced tenant. In addition, interest shall accrue at the maximum legal rate of interest permitted under RCW 19.52.020, commencing 30 days after the date the City first advanced relocation assistance funds to the displaced tenant(s). The City shall also be entitled to attorney's fees and costs arising from any legal action taken to recover unpaid relocation assistance, penalties and interest. The City may also recover advanced relocation assistance, penalties and interest pursuant to TMC ~~Section 8.45.200~~ 8.48.090, "Remediation/Penalties."

Section 14. Ordinance No. 2526 §6, as codified at TMC Section 8.47.050, "Enforcement," is hereby amended to read as follows:

8.47.050 Enforcement

Violations of the provisions of this chapter shall be subject to enforcement and penalties as prescribed in TMC Chapter 8.45 and the issuance of a Notice of Violation in accordance with TMC Section ~~8.45.050~~ 8.45.070 shall be adopted by reference herein, and shall apply to violations of this chapter.

Section 15. Ordinance No. 2526 §7, as codified at TMC Section 8.47.060, "Penalties," is hereby amended to eliminate TMC Section 8.47.060, "Penalties," in its entirety.

8.47.060 Penalties

~~A. Any person violating or failing to comply with the provisions of this chapter may be issued a civil infraction citation pursuant to TMC Section 8.45.050.C. Each civil infraction shall carry with it a monetary penalty of \$1,000 for the first violation, and \$2,500 for the second violation by the same person within a two-year period.~~

~~B. Any order imposing a civil penalty pursuant to TMC Section 8.47.060.A. shall summarize the factual and legal basis for the violation and notify the recipient of the right to appeal the penalty pursuant to TMC Section 8.45.090.~~

Section 16. Ordinance Nos. 1838 §6, and 1370 §1 (part), as codified at TMC Section 9.32.200, "Penalties," are hereby amended to read as follows:

9.32.200 Penalties

Any violation of any provision, or failure to comply with any of the requirements of this chapter, shall be subject to enforcement and penalties as prescribed in TMC Chapter 8.45 and the issuance of a Notice of Violation in accordance with TMC Section 8.45.070.

Section 17. Ordinance Nos. 2503 §3, 2402 §4, 2171 §1 (part) and 2121 §1 (part), as codified at TMC Section 16.04.250, "Procedures applicable to all construction permits," **subparagraph I, "Violations,"** are hereby amended to read as follows:

16.04.250 Procedures applicable to all construction permits

I. Violations. ~~Whenever the authority having jurisdiction determines that there are~~ Violations of this code shall be subject to enforcement and penalties as prescribed in TMC Chapter 8.45 and the issuance of a Notice of Violation in accordance with TMC Section 8.45.070 ~~a written notice shall be issued to confirm such findings. Any Notice of Violation issued pursuant to this code shall be served upon the owner, operator, occupant or other person responsible for the condition or violation, either by personal service or mail, or by delivering the same to and leaving it with some person of responsibility upon the premises. For unattended or abandoned locations, a copy of such Notice of Violation shall be posted on the premises in a conspicuous place, at or near the entrance to such premises, and the Notice of Violation shall be mailed by registered or certified mail, with return receipt requested, to the last known address of the owner, occupant or both.~~

Section 18. Ordinance Nos. 2503 §3, 2402 §4, 2171 §1 (part), and 2121 §1 (part), as codified at TMC Section 16.04.250, "Procedures applicable to all construction permits," are hereby amended to eliminate subparagraph 16.04.250.J, "Penalties," in its entirety.

~~J. Penalties. Any person, firm or corporation who shall willfully violate or fails to comply with a Notice of Violation is liable for the monetary penalties prescribed in TMC Section 8.45.100.A.2.~~

Section 19. Ordinance No. 2517 §6, as codified at TMC Section 16.54.065, "Seasonal Limitation Period," **subparagraph E.**, is hereby amended to read as follows:

16.54.065 Seasonal Limitation Period

E. If, during the course of construction activity or soil disturbance during the seasonal limitation period, silt-laden runoff violating standards in the Surface Water Design Manual leaves the construction site or if clearing and grading limits or erosion and sediment control measures shown in the approved plan are not maintained, a Violation Notice and Order shall be issued in accordance with TMC Section ~~8.45.050~~ 8.45.070.

Section 20. TMC Section 17.28.015 is hereby established to read as follows:

17.28.015 Sale, lease or transfer of land in violation of this chapter

Any person, firm, corporation, association, or any agent of any person, firm, corporation, or association who violates any provision of RCW 58.17 or Tukwila Municipal Code Title 17, "Subdivisions and Plats", relating to the sale, offer for sale, lease, or transfer of any lot, tract, or parcel of land, shall be guilty of a gross misdemeanor; and each sale, offer for sale, lease or transfer of each separate lot, tract, or parcel of land in violation of any provision of RCW 58.17 or Tukwila Municipal Code Title 17, "Subdivisions and Plats", shall be deemed a separate and distinct offense.

Section 21. Ordinance Nos. 1838 §16, and 1833 §1 (part), as codified at TMC Section 17.28.020, "Penalties," are hereby amended to read as follows:

17.28.020 Penalties

Any other violation of any provision, or failure to comply with any of the requirements of this chapter, shall be subject to the terms and conditions of enforcement and penalties as prescribed in TMC Chapter 8.45 ("Enforcement") and the issuance of a Notice of Violation in accordance with TMC Section 8.45.070.

Section 22. Ordinance Nos. 2518 §9 and 2443 §25, as codified at TMC Section 18.28.240, "General Landscaping," **subparagraph B.9.**, are hereby amended to read as follows:

B. 9. Maintenance and Pruning.

a. Any landscaping required by this chapter shall be retained and maintained by the property owner for the life of the project in conformance with the intent of the approved landscape plan and this chapter. Maintenance shall include keeping all planting areas free of weeds and trash and replacing any unhealthy or dead plant materials.

b. Pruning of trees is only allowed for the health of the tree, to maintain sight distances or sight lines into commercial areas, or if interfering with overhead utilities. All pruning must be done in accordance with American National Standards Institute (ANSI) A-300 specifications. No tree planted by a property owner or the City to fulfill landscape requirements, or any existing tree, may be topped or removed without prior approval from the City. If a tree is topped or removed without approval, it shall be replaced with a new tree that meets the intent of this chapter within 120 days or the property owner will be subject to code enforcement ~~action and penalties as prescribed in~~ per TMC Chapter 8.45 and the issuance of a Notice of Violation pursuant to in accordance with TMC Section 8.45.070. Options at the Director's discretion are to require replacement of the tree with a new tree of similar species that will achieve a similar canopy size at maturity, replace the tree with multiple smaller diameter trees of an appropriate species (only if there are limitations on space or conflicts with utility infrastructure), and/or require an in-lieu fee for off-site tree replacement.

Section 23. Ordinance No. 2346 §15, as codified at TMC Section 18.44.150, "Enforcement and Penalties," is hereby amended to read as follows:

18.44.150 Enforcement and Penalties

A. **Violations.** The following actions shall be considered violations of this chapter:

1. To use, construct or demolish any structure, or to conduct clearing, earth-moving, construction or other development not authorized under a Substantial Development Permit, Conditional Use Permit or Variance Permit, where such permit is required by this chapter.

2. Any work which is not conducted in accordance with the plans, conditions, or other requirements in a permit approved pursuant to this chapter, provided that the terms or conditions are stated in the permit or the approved plans.

3. To remove or deface any sign, notice, complaint or order required by or posted in accordance with this chapter.

4. To misrepresent any material fact in any application, plans or other information submitted to obtain any shoreline use or development authorization.

5. To fail to comply with the requirements of this chapter.

B. **Enforcement.** It shall be the duty of the Director to enforce this chapter, and any violation of any provision of the SMP or failure to comply with any of the requirements of this chapter shall be subject to enforcement and penalties as prescribed in TMC Chapter 8.45 and the issuance of a Notice of Violation in accordance with TMC Section 8.45.070~~the terms and conditions of TMC Chapter 8.45.~~

C. **Inspection Access.**

1. For the purpose of inspection for compliance with the provisions of a permit or this chapter, authorized representatives of the Director may enter all sites for which a permit has been issued.

2. Upon completion of all requirements of a permit, the applicant shall request a final inspection by contacting the planner of record. The permit process is complete upon final approval by the planner.

D. Penalties.

~~1.—Any violation of any provision of the SMP, or failure to comply with any of the requirements of this chapter shall be subject to the penalties prescribed in Chapter 8.45 of the Tukwila Municipal Code (“Enforcement”) and shall be imposed pursuant to the procedures and conditions set forth in that chapter.~~

~~2.—Penalties assessed for violations of the SMP shall be determined by TMC Chapter 8.45.100, Penalties.~~

~~3.—~~**No Defense.** It shall not be a defense to the prosecution for failure to obtain a permit required by this chapter, that a contractor, subcontractor, person with responsibility on the site, or person authorizing or directing the work, erroneously believed a permit had been issued to the property owner or any other person.

E. Remedial Measures Required. In addition to penalties provided in TMC Chapter 8.45, the Director may require any person conducting work in violation of this chapter to mitigate the impacts of unauthorized work by carrying out remedial measures.

1. Remedial measures must conform to the policies and guidelines of this chapter and the Shoreline Management Act.

2. The cost of any remedial measures necessary to correct violation(s) of this chapter shall be borne by the property owner and/or applicant.

F. Injunctive Relief.

1. Whenever the City has reasonable cause to believe that any person is violating or threatening to violate this chapter or any rule or other provisions adopted or issued pursuant to this chapter, it may, either before or after the institution of any other action or proceeding authorized by this ordinance, institute a civil action in the name of the City for injunctive relief to restrain the violation or threatened violation. Such action shall be brought in King County Superior Court.

2. The institution of an action for injunctive relief under this section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violations of the Master Program.

G. Abatement. Any use, structure, development or work that occurs in violation of this chapter, or in violation of any lawful order or requirement of the Director pursuant to this section, shall be deemed to be a public nuisance and may be abated in the manner provided by ~~the~~ Tukwila Municipal Code Chapter 8.45-105.

Section 24. Ordinance Nos. 2479 §8 and 2407 §10, as codified at TMC Section 18.50.210, "Marijuana Related Uses," are hereby amended to read as follows:

18.50.210 Marijuana Related Uses

A. The production, processing and retailing of marijuana is and remains illegal under federal law. Nothing herein or as provided elsewhere in the ordinances of the City of Tukwila is an authorization to circumvent federal law or provide permission to any person or entity to violate federal law. Only state-licensed marijuana producers, marijuana processors, and marijuana retailers may locate in the City of Tukwila and then only pursuant to a license issued by the State of Washington. The purposes of these provisions is solely to acknowledge the enactment by the state Liquor and Cannabis Board of a state licensing procedure and to permit, but only to the extent required by state law, marijuana producers, processors, and retailers to operate in designated zones of the City.

B. Marijuana production, processing, selling or delivery.

1. The production, processing, selling, or delivery of marijuana, marijuana-infused products, or useable marijuana may not be conducted in association with any business establishment, dwelling unit, or home occupation located in any of the following areas:

- Low Density Residential
- Medium Density Residential
- High Density Residential
- Mixed Use Office
- Office
- Residential Commercial Center
- Neighborhood Commercial Center
- Regional Commercial
- Regional Commercial Mixed Use
- Tukwila Urban Center
- Commercial/Light Industrial
- Light Industrial
- Manufacturing Industrial Center/Light
- Manufacturing Industrial Center/Heavy

2. Violations.

a. Any person violating or failing to comply with the provisions of this section of the Tukwila Municipal Code shall be subject to enforcement as prescribed in TMC Chapter 8.45 and the issuance of a Notice of Violation and Order, in accordance with TMC Section 8.45.070, that shall carry with it a cumulative monetary penalty of \$1,000.00 per day for each violation from the date set for compliance until compliance with the Notice of Violation and Order is achieved.

b. In addition to any penalty that may be imposed by the City, any person violating or failing to comply with this section shall be liable for all damage to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to the violation.

c. Any penalties imposed under this section may be doubled should the violation(s) occur within 1,000 feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade to which admission is not restricted to persons aged 21 years or older, as such terms are defined in WAC 314-55-010 as now enacted or hereafter amended.

C. Growth of medical marijuana for the personal medical use of an individual qualifying patient as defined in RCW 69.51A.010 is subject to strict compliance with all state regulations, procedures and restrictions as set forth or hereafter adopted at RCW Chapter 69.51A.

D. The establishment, location, operation, licensing, maintenance or continuation of a cooperative, as described in Chapter 69.51 RCW, or medical cannabis collective gardens or dispensaries as described in RCW 69.51A.085, is prohibited in all zones of the City. Any person who violates this subsection (TMC Section 18.50.210.D) shall be guilty of a gross misdemeanor and shall be punished by a fine not to exceed \$5,000.00, or by imprisonment in jail for a term not exceeding one year, or by both such fine and imprisonment.

E. Any violation of this section is declared to be a public nuisance per se, and, in addition to any other remedy provided by law or equity, may be abated by the City under the applicable provisions of this code or state law. Such violations shall be enforced and appealed with the procedures set forth in ~~Tukwila Municipal Code~~TMC Chapter 8.45. Each day any violation of this section occurs or continues shall constitute a separate offense.

~~F. Penalties:~~

~~1. **Civil Infraction.** Any person violating or failing to comply with this section of the Tukwila Municipal Code, may be issued a civil infraction citation pursuant to TMC Section 8.45.050.C. Each civil infraction shall carry with it a monetary penalty of \$200.00 for the first violation, \$350.00 for a second violation of the same nature or a continuing violation, and \$500.00 for a third or subsequent violation of the same nature or a continuing violation.~~

~~2. **Violation Notice and Order.**~~

~~a. In the alternative, any person violating or failing to comply with the provisions of this section of the Tukwila Municipal Code may be issued a Violation Notice and Order, as set forth in TMC Chapter 8.45, that shall carry with it a cumulative monetary penalty of \$1,000.00 per day for each violation from the date set for compliance until compliance with the Violation Notice and Order is achieved.~~

~~b. In addition to any penalty that may be imposed by the City, any person violating or failing to comply with this section shall be liable for all damage to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to the violation.~~

~~c. Any penalties imposed under this section may be doubled should the violation(s) occur within 1,000 feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade to which admission is not restricted to persons aged 21 years or older, as such terms are defined in WAC 314-55-010 as now enacted or hereafter amended.~~

~~d. The penalty imposed by this section under a Violation Notice and Order constitutes a personal obligation of the person(s) responsible for the violation, and may be collected by civil action brought in the name of the City. In addition, the monetary penalties or costs assessed pursuant to this chapter may be assessed against the property that is the subject of the enforcement action.~~

~~e. The Code Enforcement Officer shall have the discretion to impose penalties in an amount lower than those set forth above.~~

~~3. **Additional Relief.** The City may seek legal or equitable relief to enjoin any acts or practices and abate any condition which constitutes or will constitute a violation of this section of the Tukwila Municipal Code. The remedies and penalties provided herein are cumulative and shall be in addition to any other remedy provided by law.~~

Section 25. Ordinance No. 1758 §1, as codified at TMC Section 18.96.110, "Penalty," is hereby amended to read as follows:

18.96.110 Penalty

Any violation of any provision, or failure to comply with any of the requirements of this chapter, shall be subject to enforcement and penalties as prescribed in TMC Chapter 8.45 and the issuance of a Notice of Violation in accordance with TMC Section 8.45.070the terms and conditions of TMC Chapter 8.45.

Section 26. Ordinance No. 2303 §3, as codified at TMC Section 19.12.170, "Sign Code Violations," is hereby amended to read as follows:

19.12.170 Sign Code Violations

A. It is the responsibility of a property owner and/or business owner to ensure the provisions of this code are met on any real property they own or control. The City shall issue a warning to any property owner where illegal permanent or temporary signs have been installed or where permanent or temporary signs have been installed without first obtaining a permit. Each day that an unlawful sign remains will be deemed a separate violation and shall be subject to the issuance of fines of not more than \$500 per day per violation.

~~B. If the City undertakes legal proceedings to enforce the terms of this code under the authority of Chapter 8.45, the City shall have the right to recover its costs and expenses (including attorney fees, expert witness fees and costs) and/or a monetary penalty pursuant to this code.~~

~~C. The City shall have the right to remove any signs illegally placed within the City's right-of-way, easements under City control or property owned and/or controlled by the City. No duty is created to require the City to remove such signs. The City shall retain all signs removed from the City's right-of-way for 10 days. The owner of the signs may retrieve the signs from the City and pay a \$50-per-sign fee to the City to recover a portion of the City's cost in removing the illegal signs. Once the 10-day period has expired, the City shall have the right to dispose of the signs.~~

~~D. Any violation of this code shall be considered a public nuisance and subject to enforcement and penalties as prescribed by TMC Chapter 8.45 and the issuance of a Notice of Violation in accordance with TMC Section 8.45.070.~~

Section 27. Ordinance No. 2303 §3, as codified at TMC Section 19.12.180, "Business License and Affidavit Requirement," is hereby amended to read as follows:

19.12.180 Business License and Affidavit Requirement

A. Any sign contractor who does business within the City must first obtain a business license from the City. As part of the business license registration, the contractor shall sign an affidavit acknowledging they have read the City's Sign Code, specifically:

1. Section 19.12.020, "Sign Permits Required."
2. Chapter 19.36, "Non-Conforming Provisions."

B. Any sign contractor who possesses a City business license and violates the requirements of this code shall be subject to finer enforcement and penalties under as prescribed by TMC Chapter 8.45 and the issuance of a Notice of Violation in accordance with TMC Section 8.45.070. The City shall also revoke the business license of the sign contractor and the City shall not permit a new business license to be issued for at least one year, ~~per Section pursuant to TMC Section 5.04.110.~~

C. Any sign contractor found operating in the City without a Tukwila business license shall be subject to a fine not less than \$1,000. Additionally, the City shall report the violation to the State for further enforcement action. Any contractor who has a business license revoked or has fines issued shall have the right to appeal such actions to the Hearing Examiner, pursuant to TMC Section 5.04.112.

Section 28. TMC Section 19.24.090 is hereby established to read as follows:

19.24.090 Violations

Any violation of this chapter, or failure to comply with any of the requirements of this chapter, shall be subject to enforcement and penalties as prescribed in TMC Chapter 8.45 and the issuance of a Notice of Violation in accordance with TMC Section 8.45.070.

Section 29. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

Section 30. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

Section 31. Effective Date. This ordinance or a summary thereof shall be published in the official newspaper of the City, and shall take effect and be in full force five days after passage and publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at a Regular Meeting thereof this _____ day of _____, 2017.

ATTEST/AUTHENTICATED:

Christy O'Flaherty, MMC, City Clerk

Allan Ekberg, Mayor

APPROVED AS TO FORM BY:

Rachel B. Turpin, City Attorney

Filed with the City Clerk: _____

Passed by the City Council: _____

Published: _____

Effective Date: _____

Ordinance Number: _____

DRAFT

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, ADOPTING A FEE SCHEDULE FOR TUKWILA MUNICIPAL CODE CHAPTERS 8.45, "ENFORCEMENT," AND 8.48, "UNFIT DWELLINGS, BUILDINGS AND STRUCTURES."

WHEREAS, the City Council intends to remove specific amounts for fees and charges from the Tukwila Municipal Code in favor of a City-wide fee resolution; and

WHEREAS, the City Council intends to repeal and replace the existing Tukwila Municipal Code (TMC) Chapter 8.45 and establish a new TMC Chapter 8.48; and

WHEREAS, the specific fee amounts to appeal violations currently listed in TMC Chapter 8.45 will not be included in the updated ordinance; and

WHEREAS, the appeal fees have not been increased since 2006; and

WHEREAS, the current appeal fees do not cover the cost to conduct an appeal before the Hearing Examiner; and

WHEREAS, City policy is to recover the direct cost of appeals;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. Appeals of violations of Tukwila Municipal Code (TMC) Chapter 8.45, "Enforcement," and TMC Chapter 8.48, "Unfit Dwellings, Buildings and Structures," shall be charged to appellants according to the following fee schedule:

Type of appeal	Fee
Fee to appeal a Notice of Violation and Order <i>TMC Section 8.45.110</i>	\$300
Fee to appeal a Notice of Assessment <i>TMC Section 8.45.120</i>	\$300
Fee to appeal a Determination, Findings of Fact and Order <i>TMC Section 8.48.070</i>	\$300

Section 2. Credit Card Surcharge. If payment is made by credit card, a processing fee of 3% will be added to the total order.

Section 3. Effective Date. This resolution and the fee schedule contained herein shall be effective upon adoption.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at a Regular Meeting thereof this _____ day of _____, 2017.

ATTEST/AUTHENTICATED:

Christy O'Flaherty, MMC, City Clerk

Dennis Robertson, Council President

APPROVED AS TO FORM BY:

Filed with the City Clerk: _____

Passed by the City Council: _____

Resolution Number: _____

Rachel B. Turpin, City Attorney