



## Staff Report

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**File #:** 16-249

**Version:** 1

**Date:** 9/26/2016

**Item #:** 6.a.

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**TO:** Mayor and City Council

**THROUGH:** Steve Powers, City Manager

**FROM:** Mike Niblock, Fire Chief

**SUBJECT:**

Notice of proposed administrative rulemaking by the Fire Department to establish a matrix for the imposition of civil penalties for violations of the City's Fire Code.

Ward(s): All Wards

Councilor(s): All Councilors

Neighborhood(s): All Neighborhoods

**ISSUE:**

Notice of proposed administrative rulemaking for the establishment of a matrix and instructions to guide the City's Fire Code officials in determining the amounts of civil penalties to impose in enforcement matters pursuant to Salem Revised Code (SRC) 20J.150. This notice is being given pursuant to SRC 20J.040(a)(3).

**RECOMMENDATION:**

Information Only.

**SUMMARY AND BACKGROUND:**

SRC 20J.150 provides criteria to be considered in determining the appropriate amount of any civil penalty. The proposed rule will provide a matrix and instructions for its use to determine the correct amounts of any civil penalty for violations of the Fire Code. Adoption of the rule will provide clear and consistent penalties in enforcement matters.

**FACTS AND FINDINGS:**

SRC 20J.150 provides five (5) criteria to consider in determining the amount of a civil penalty to be imposed. These criteria include: the gravity and magnitude of the violation; whether the violation was accidental or was the result of the person's negligent, knowing, or intentional acts; the person's

cooperativeness in correcting the violation; whether the person has taken appropriate steps to prevent future violations; and any similar prior violations. The general nature of these criteria could result in the imposition of civil penalties that are not consistent. The proposed civil penalty matrix will assure that civil penalties are consistent and that the City's citizens are treated fairly, equally, and uniformly.

The authority to promulgate administrative rules is granted under SRC 2.200 and SRC 20J.030. SRC 20J.040 outlines the procedure for adopting an administrative rule. This procedure requires providing notice of the proposed rulemaking to the City Council along with other methods of public notice. Adopting the proposed matrix by administrative rule allows interested persons to be included in the rulemaking process and is in the public interest.

Council has the authority to review a proposed administrative rule. Council's review authority is limited to determining whether the proposed rule is within the scope of the code authority, whether the rule is duplicative or, or conflicts with, another rule or law, or if the proposed rule is outside of staff's administrative rulemaking authority.

On June 27, 2016, the Council reviewed the proposed Administrative Rules for the Fire Department regarding enforcement of the Fire Code. This version of the Administrative Rules incorporates necessary edits to ensure appropriate enforcement of the Fire Code by City personnel. The public notice for the proposed administrative rule change was posted on July 27, 2016 and all public comments were due by August 10, 2016. The City did not receive any public comments related to the proposed administrative rule change.

Greg Hadley  
Assistant Chief of Operations

**Attachments:**

1. Administrative Rules for Fire Code Enforcement  
09/02/2016