

ORDINANCE NO. 2104

AN ORDINANCE ADDING CHAPTER 8.12
TO THE NEWPORT MUNICIPAL CODE
RELATED TO AUTHORITY AND PROCEDURES
FOR THE USE OF THE OREGON HOUSING RECEIVERSHIP ACT
IN THE CITY OF NEWPORT

Whereas, Title VIII of the Newport Municipal Code addresses nuisances and offenses; and

Whereas, the City Council has discussed and directed staff to prepare an ordinance providing the authority and procedures for the use of the Oregon Housing Receivership Act (ORS 105.420 - 105.455) by the City of Newport; and

Whereas, Chapter 8.12 of the Newport Municipal Code is hereby adopted, by Ordinance No. 2104, to provide the authority and procedures for the use of the Oregon Housing Receivership Act (ORS 105.420 - 105.455) by the City of Newport.

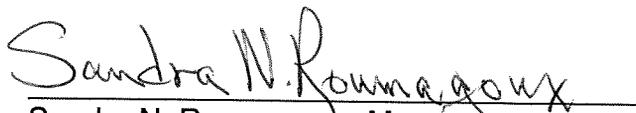
The City of Newport ordains as follows:

Section 1. Chapter 8.12 is hereby added to the Newport Municipal Code as provided in Attachment A to this Ordinance.

Section 2. Effective Date. This ordinance will become effective thirty days after adoption.

Adopted by the Newport City Council on October 17, 2016.

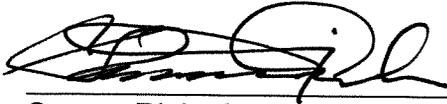
Signed by the Mayor on October 8, 2016.


Sandra N. Roumagoux, Mayor

ATTEST:


Margaret M. Hawker, City Recorder

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read "Steven Rich", written over a horizontal line.

Steven Rich, City Attorney

ATTACHMENT A

8.12.010 Purpose and Scope

The purpose of this Chapter is to establish authority and procedures for the use of the Oregon Housing Receivership Act (ORS 105.420 to 105.455), and shall apply to all residential property.

8.12.015 Integration

The Oregon Rules of Civil Procedure, and Uniform Trial Court Rules, as amended hereafter, shall apply to all judicial proceedings authorized hereby, including matters related to the applications, petitions, orders, and judgments necessary and useful for the accomplishment of the purposes described herein.

8.12.020 Authority

- A. When the City Manager finds that any residential property is in violation of provisions of the Newport Municipal Code, and believes that a violation is a threat to public health, safety, or welfare, the City Manager may apply to a court of competent jurisdiction for the appointment of a receiver to perform an abatement. As used in this Chapter, abatement shall mean the demolition or removal or correction of any condition at a property that violates any provision of the Newport Municipal Code as well as the making of other improvements or corrections as are needed to rehabilitate the property or structure.
- B. In administering the provisions of this Chapter, the City Manager's authority shall include, but is not limited to:
 - 1. The selection of properties;
 - 2. The selection of appropriate receivers; and
 - 3. The establishment of written rules and procedures as are deemed necessary or useful for the administration of this Chapter.

8.12.030 Selection of Properties

In identifying properties where the city may seek appointment of a receiver, the City Manager shall consider those properties that have, at a minimum, the following characteristics:

- A. A violation of any provision of the Newport Municipal Code that threatens the public health, safety, or welfare.
- B. The owner has not acted in a timely manner to correct the violations; and

- C. Abatement of the violations on this property would further the Housing Goals, Policies, and Implementation Measures of the City of Newport as articulated in the City's Comprehensive Plan.

8.12.040 Notice to Interested Parties and Application

- A. At least 60 days prior to the filing of an application for appointment of a receiver, the City Manager shall cause a notice to be sent by regular mail to all interested parties of record in the subject property.
- B. The notice shall give the date upon which the city has the right to apply to a court of competent jurisdiction for the receiver, and in addition shall:
 - 1. State the address and legal description of the property;
 - 2. List the code violations which give rise to the proposed application; and
 - 3. Give the name, address, and telephone number of an officer or official of the city who can provide additional information concerning the violations and their remedy.
- C. If no interested party has taken any action to foreclose their security interest, or taken other significant actions to cure the identified violation(s), within 60 days of the date of the notice, the City Manager may thereafter apply for the appointment of a receiver.

8.12.050 Selection of Receivers

In selecting specific receivers, the City Manager shall choose a Housing Authority, a city department, an urban renewal agency, or a private not-for-profit corporation, the primary purpose of which is the improvement of housing conditions within the city. In making the selection, the City Manager shall consider, at a minimum, the following:

- A. The location of the property relative to other properties owned or managed by the receiver.
- B. The receiver's experience in rehabilitating and managing similar types of property.
- C. The receiver's capacity to take on additional property management responsibilities.

8.12.060 Powers of a Receiver

A receiver appointed by the court pursuant to the Oregon Housing Receivership

Act shall have all lawful authority to do any or all of the following, including without limitation, unless specifically limited by the court:

- A. Take possession and control of the property, including the right to enter, modify and terminate tenancies pursuant to ORS Chapters 90 and 105, and to charge and collect rents and apply rents collected to the costs incurred due to the receivership.
- B. Negotiate contracts and pay all expenses associated with the operation and conservation of the property, including, but not limited to all utility, fuel, custodial, repair, rehabilitation, and insurance costs.
- C. Pay all accrued property taxes, penalties, assessments, and other charges imposed on the property by a unit of government, as well as any charge of like nature accruing during the pendency of the receivership.
- D. Dispose of all abandoned personal property found on the property pursuant to ORS Chapter 90.
- E. Enter into contracts and pay for the performance of any work necessary to complete the abatement.
- F. Enter into financing agreements with public or private lenders and encumber the property so as to have monies available to correct the conditions at the property giving rise to the abatement.
- G. Charge an administrative fee at an hourly rate approved by the court or at a rate of 15 percent of the total cost of abatement, whichever the court deems more appropriate.
- H. Seek direction from or approval of the court for any action that the receiver deems necessary.

8.12.070 Plan and Estimate

Within 30 days after appointment by the court, a receiver shall submit to the City Manager a written plan for the abatement. The City Manager shall approve the plan before the receiver commences work on the abatement.

8.12.080 Recordkeeping

The receiver shall keep a record of all monies received and expended, and all costs and obligations incurred, in performing the abatement and managing the property, including any charges as compensation for the receiver. Records shall be kept in a form as shall be agreed upon by the receiver and the City Manager, and copies shall be provided to the City Manager upon request. Periodic progress reports on the abatement shall be provided to the City Manager in a form as agreed upon by

the receiver and City Manager upon request of the City Manager. In the absence of agreement as to the form of the report, the City Manager may prescribe the form.

8.12.090 Purchasing

All abatement work done under this Chapter is exempt from the purchasing and contracting provisions of the Newport Municipal Code and the city's Public Contracting Rules.

8.12.100 Liens

All monies expended and all costs and obligations incurred by the receiver in performing the abatement shall be reviewed by the court for reasonableness and their necessity in performing the abatement. To the extent that the court finds the monies, costs, or obligations to be reasonable and necessary, it shall issue an order or final judgment reciting this fact as well as the amount found to be reasonable and necessary.

8.12.110 Foreclosure

In the event that the lien created pursuant to the terms of this Chapter and the Oregon Housing Receivership Act is not paid in a timely fashion, the receiver, or their assignee, or other successor in interest, may bring a suit or action in foreclosure as provided for by law, including ORS 223.505 et. seq.

8.12.120 Termination of Receivership

The receivership authorized pursuant to the terms of this Chapter and the Oregon Housing Receivership Act shall terminate only by an order or final judgment of the court after a showing by an interested party, or the receiver, that:

- A. The abatement has been completed;
- B. The costs and obligations incurred due to the abatement have been paid by an interested party or a lien has been filed pursuant to 8.12.100 of this Chapter; and
- C. The interested party will manage the property in conformance with the applicable provisions of the Newport Municipal Code, and consistent with directives and determinations of the court.